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107TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 107–624

TRADE ACT OF 2002

JULY 26, 2002.—Ordered to be printed

Mr. THOMAS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 3009]

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3009), to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Act of 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) DIVISION A.—Trade Adjustment Assistance.

(2) DIVISION B.—Bipartisan Trade Promotion Authority.

(3) DIVISION C.—Andean Trade Preference Act.

(4) DIVISION D.—Extension of Certain Preferential Trade Treatment and Other Provisions.

(5) DIVISION E.—Miscellaneous Provisions.

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

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

Sec. 101. Short title.

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TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

Sec. 111. Reauthorization of trade adjustment assistance program.
Sec. 112. Filing of petitions and provision of rapid response assistance; expedited review of petitions by secretary of labor.
Sec. 113. Group eligibility requirements.
Sec. 114. Qualifying requirements for trade readjustment allowances.
Sec. 115. Waivers of training requirements.
Sec. 116. Amendments to limitations on trade readjustment allowances.
Sec. 117. Annual total amount of payments for training.
Sec. 118. Provision of employer-based training.
Sec. 119. Coordination with title I of the Workforce Investment Act of 1998.
Sec. 120. Expenditure period.
Sec. 121. Job search allowances.
Sec. 122. Relocation allowances.
Sec. 123. Repeal of NAFTA transitional adjustment assistance program.
Sec. 124. Demonstration project for alternative trade adjustment assistance for older workers.
Sec. 125. Declaration of policy; sense of Congress.

Subtitle B—Trade Adjustment Assistance For Firms

Sec. 131. Reauthorization of program.

Subtitle C—Trade Adjustment Assistance For Farmers

Sec. 141. Trade adjustment assistance for farmers.
Sec. 142. Conforming amendments.
Sec. 143. Study on TAA for fishermen.

Subtitle D—Effective Date

Sec. 151. Effective date.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

Sec. 201. Credit for health insurance costs of individuals receiving a trade readjustment allowance or a benefit from the Pension Benefit Guaranty Corporation.
Sec. 202. Advance payment of credit for health insurance costs of eligible individuals.
Sec. 203. Health insurance assistance for eligible individuals.

TITLE III—CUSTOMS REAUTHORIZATION

Sec. 301. Short title.

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

Sec. 311. Authorization of appropriations for noncommercial operations, commercial operations, and air and marine interdiction.
Sec. 312. Antiterrorist and illicit narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and the Gulf Coast seaports.
Sec. 313. Compliance with performance plan requirements.

CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

Sec. 321. Authorization of appropriations for program to prevent child pornography/child sexual exploitation.

CHAPTER 3—MISCELLANEOUS PROVISIONS

Sec. 331. Additional Customs Service officers for United States-Canada Border.
Sec. 332. Study and report relating to personnel practices of the Customs Service.
Sec. 333. Study and report relating to accounting and auditing procedures of the Customs Service.
Sec. 334. Establishment and implementation of cost accounting system; reports.
Sec. 335. Study and report relating to timeliness of prospective rulings.
Sec. 336. Study and report relating to customs user fees.

Sec. 337. Fees for customs inspections at express courier facilities.
Sec. 338. National Customs Automation Program.
Sec. 339. Authorization of appropriations for customs staffing.

CHAPTER 4—ANTITERRORISM PROVISIONS

Sec. 341. Immunity for United States officials that act in good faith.
Sec. 342. Emergency adjustments to offices, ports of entry, or staffing of the customs service.
Sec. 343. Mandatory advanced electronic information for cargo and other improved Customs reporting procedures.
Sec. 343A. Secure systems of transportation.
Sec. 344. Border search authority for certain contraband in outbound mail.
Sec. 345. Authorization of appropriations for reestablishment of customs operations in New York City.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

Sec. 351. GAO audit of textile transshipment monitoring by Customs Service.
Sec. 352. Authorization of appropriations for textile transshipment enforcement operations.
Sec. 353. Implementation of the African Growth and Opportunity Act.

Subtitle B—Office of the United States Trade Representative

Sec. 361. Authorization of appropriations.

Subtitle C—United States International Trade Commission

Sec. 371. Authorization of appropriations.

Subtitle D—Other Trade Provisions

Sec. 381. Increase in aggregate value of articles exempt from duty acquired abroad by United States residents.
Sec. 382. Regulatory audit procedures.
Sec. 383. Payment of duties and fees.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

Sec. 2101. Short title and findings.
Sec. 2102. Trade negotiating objectives.
Sec. 2103. Trade agreements authority.
Sec. 2104. Consultations and assessment.
Sec. 2105. Implementation of trade agreements.
Sec. 2106. Treatment of certain trade agreements for which negotiations have already begun.
Sec. 2107. Congressional Oversight Group.
Sec. 2108. Additional implementation and enforcement requirements.
Sec. 2109. Committee staff.
Sec. 2110. Conforming amendments.
Sec. 2111. Report on impact of trade promotion authority.
Sec. 2112. Interests of small business.
Sec. 2113. Definitions.

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

Sec. 3101. Short title.
Sec. 3102. Findings.
Sec. 3103. Articles eligible for preferential treatment.
Sec. 3104. Termination.
Sec. 3105. Report on Free Trade Agreement with Israel.
Sec. 3106. Modification of duty treatment for tuna.
Sec. 3107. Trade benefits under the caribbean basin economic recovery act.
Sec. 3108. Trade benefits under the African Growth and Opportunity Act.

DIVISION D—EXTENSION OF CERTAIN PREFERENTIAL TRADE TREATMENT

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

Sec. 4101. Extension of generalized system of preferences.
Sec. 4102. Amendments to generalized system of preferences.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

Sec. 5101. Wool provisions.
Sec. 5102. Duty suspension on wool.

Subtitle B—Other Provisions

Sec. 5201. Fund for WTO dispute settlements.
Sec. 5202. Certain steam or other vapor generating boilers used in nuclear facilities.
Sec. 5203. Sugar tariff-rate quota circumvention.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 101. SHORT TITLE.

This division may be cited as the "Trade Adjustment Assistance Reform Act of 2002".

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

SEC. 111. REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking "October 1, 1998, and ending September 30, 2001," each place it appears and inserting "October 1, 2001, and ending September 30, 2007,".

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "October 1, 1998, and ending September 30, 2001" and inserting "October 1, 2001, and ending September 30, 2007,".

(c) TERMINATION.—Section 285 of the Trade Act of 1974 is amended to read as follows:

"SEC. 285. TERMINATION.

"(a) ASSISTANCE FOR WORKERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after September 30, 2007.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before September 30, 2007, the worker is—

"(A) certified as eligible for trade adjustment assistance benefits under chapter 2 of this title; and

"(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.

"(b) OTHER ASSISTANCE.—

"(1) ASSISTANCE FOR FIRMS.—Technical assistance may not be provided under chapter 3 after September 30, 2007.

"(2) ASSISTANCE FOR FARMERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 6 after September 30, 2007.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), an agricultural commodity producer (as defined in section 291(2)) shall continue to receive adjustment assistance benefits and other benefits under chapter 6, for any week for which the agricultural commodity producer meets the eligibility requirements of chapter 6, if on or before September 30, 2007, the agricultural commodity producer is—

"(i) certified as eligible for adjustment assistance benefits under chapter 6; and

"(ii) is otherwise eligible to receive adjustment assistance benefits under such chapter 6.".

SEC. 112. FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.

(a) FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE.—Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended to read as follows:

"(a)(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed simultaneously with the Secretary and with the Governor of the State in which such workers' firm or subdivision is located by any of the following:

"(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

"(B) The certified or recognized union or other duly authorized representative of such workers.

"(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker unit established under title I of such Act, on behalf of such workers.

"(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

"(A) ensure that rapid response assistance, and appropriate core and intensive services (as described in section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864)) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

"(B) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

"(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.".

(b) EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.—Section 223(a) of such Act (19 U.S.C. 2273(a)) is amended in the first sentence by striking "60 days" and inserting "40 days".

SEC. 113. GROUP ELIGIBILITY REQUIREMENTS.

(a) TRADE ADJUSTMENT ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(A) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall

be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; and

"(2)(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

"(ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

"(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

"(B)(i) there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

"(ii)(I) the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

"(II) the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

"(III) there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.";

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

"(b) ADVERSELY AFFECTED SECONDARY WORKERS.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

"(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article that was the basis for such certification (as defined in subsection (c) (3) and (4)); and

"(3) either—

"(A) the workers' firm is a supplier and the component parts it supplied to the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

"(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contrib-

uted importantly to the workers' separation or threat of separation determined under paragraph (1).".

(b) DEFINITIONS.—Section 222(c) of such Act, as redesignated by paragraph (1)(A), is amended—

(1) in the matter preceding paragraph (1), by striking "subsection (a)(3)" and inserting "this section"; and

(2) by adding at the end the following:

"(3) DOWNSTREAM PRODUCER.—The term 'downstream producer' means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm, if the certification of eligibility under subsection (a) is based on an increase in imports from, or a shift in production to, Canada or Mexico.

"(4) SUPPLIER.—The term 'supplier' means a firm that produces and supplies directly to another firm (or subdivision) component parts for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm.".

SEC. 114. QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES.

(a) CLARIFICATION OF CERTAIN REDUCTIONS.—Section 231(a)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2291(a)(3)(B)) is amended by inserting after "any unemployment insurance" the following: ", except additional compensation that is funded by a State and is not reimbursed from any Federal funds,".

(b) ENROLLMENT IN TRAINING REQUIREMENT.—Section 231(a)(5)(A) of such Act (19 U.S.C. 2291(a)(5)(A)) is amended—

(1) by inserting "(i)" after "(A)";

(2) by adding "and" after the comma at the end; and

(3) by adding at the end the following:

"(ii) the enrollment required under clause (i) occurs no later than the latest of—

"(I) the last day of the 16th week after the worker's most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2),

"(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker,

"(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period, or

"(IV) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c),".

SEC. 115. WAIVERS OF TRAINING REQUIREMENTS.

(a) IN GENERAL.—Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

"(c) WAIVERS OF TRAINING REQUIREMENTS.—

"(1) ISSUANCE OF WAIVERS.—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

"(A) RECALL.—The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

"(B) MARKETABLE SKILLS.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

"(C) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

"(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

"(ii) a private pension sponsored by an employer or labor organization.

"(D) HEALTH.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

"(E) ENROLLMENT UNAVAILABLE.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

"(F) TRAINING NOT AVAILABLE.—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

"(2) DURATION OF WAIVERS.—

"(A) IN GENERAL.—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

"(B) REVOCATION.—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

"(3) AGREEMENTS UNDER SECTION 239.—

"(A) ISSUANCE BY COOPERATING STATES.—Pursuant to an agreement under section 239, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1).

"(B) SUBMISSION OF STATEMENTS.—An agreement under section 239 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.".

(b) CONFORMING AMENDMENT.—Section 231(a)(5)(C) of such Act (19 U.S.C. 2291(a)(5)(C)) is amended by striking "certified".

SEC. 116. AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) INCREASE IN MAXIMUM NUMBER OF WEEKS.—Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) in paragraph (2), by inserting after "104-week period" the following: "(or, in the case of an adversely affected worker who requires a program of remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 236, the 130-week period)"; and

(2) in paragraph (3), by striking "26" each place it appears and inserting "52".

(b) SPECIAL RULE RELATING TO BREAK IN TRAINING.—Section 233(f) of the Trade Act of 1974 (19 U.S.C. 2293(f)) is amended in the matter preceding paragraph (1) by striking "14 days" and inserting "30 days".

(c) ADDITIONAL WEEKS FOR INDIVIDUALS IN NEED OF REMEDIAL EDUCATION.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end the following:

"(g) Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 which includes a program of remedial education (as described in section 236(a)(5)(D)), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter.".

SEC. 117. ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING.

Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$80,000,000" and all that follows through "$70,000,000" and inserting "$220,000,000".

SEC. 118. PROVISION OF EMPLOYER-BASED TRAINING.

(a) IN GENERAL.—Section 236(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)(A)) is amended to read as follows:

"(A) employer-based training, including—

"(i) on-the-job training, and

"(ii) customized training,".

(b) REIMBURSEMENT.—Section 236(c)(8) of such Act (19 U.S.C. 2296(c)(8)) is amended to read as follows:

"(8) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training,".

(c) DEFINITION.—Section 236 of such Act (19 U.S.C. 2296) is amended by adding at the end the following new subsection:

"(f) For purposes of this section, the term 'customized training' means training that is—

"(1) designed to meet the special requirements of an employer or group of employers;

"(2) conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and

"(3) for which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training, as determined by the Secretary.".

SEC. 119. COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998.

Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting before the period at the end of the first sentence the following: ", including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c))".

SEC. 120. EXPENDITURE PERIOD.

Section 245 of the Trade Act of 1974 (19 U.S.C. 2317), as amended by section 111(a) of this Act, is further amended by amending subsection (b) to read as follows:

"(b) PERIOD OF EXPENDITURE.—Funds obligated for any fiscal year to carry out activities under sections 235 through 238 may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years.".

SEC. 121. JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended to read as follows:

"SEC. 237. JOB SEARCH ALLOWANCES.

"(a) JOB SEARCH ALLOWANCE AUTHORIZED.—

"(1) IN GENERAL.—An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for payment of a job search allowance.

"(2) APPROVAL OF APPLICATIONS.—The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

"(A) ASSIST ADVERSELY AFFECTED WORKER.—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

"(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

"(C) APPLICATION.—The worker has filed an application for the allowance with the Secretary before—

"(i) the later of—

"(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

"(II) the 365th day after the date of the worker's last total separation; or

"(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

"(b) AMOUNT OF ALLOWANCE.—

"(1) IN GENERAL.—An allowance granted under subsection (a) shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.

"(2) MAXIMUM ALLOWANCE.—Reimbursement under this subsection may not exceed $1,250 for any worker.

"(3) ALLOWANCE FOR SUBSISTENCE AND TRANSPORTATION.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b) (1) and (2).

"(c) EXCEPTION.—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.".

SEC. 122. RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended to read as follows:

"SEC. 238. RELOCATION ALLOWANCES.

"(a) RELOCATION ALLOWANCE AUTHORIZED.—

"(1) IN GENERAL.—Any adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

"(2) CONDITIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:

"(A) ASSIST AN ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

"(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

"(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

"(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—

"(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

"(ii) has obtained a bona fide offer of such employment.

"(E) APPLICATION.—The worker filed an application with the Secretary before—

"(i) the later of—

"(I) the 425th day after the date of the certification under subchapter A of this chapter; or

"(II) the 425th day after the date of the worker's last total separation; or

"(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

"(b) AMOUNT OF ALLOWANCE.—The relocation allowance granted to a worker under subsection (a) includes—

"(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2) specified in regulations prescribed by the Secretary, incurred in transporting the worker, the worker's family, and household effects; and

"(2) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $1,250.

"(c) LIMITATIONS.—A relocation allowance may not be granted to a worker unless—

"(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

"(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 236(b) (1) and (2).".

SEC. 123. REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subchapter D of chapter 2 of title II of such Act (19 U.S.C. 2331) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 225(b) (1) and (2) of the Trade Act of 1974 (19 U.S.C. 2275(b) (1) and (2)) is amended by striking "or subchapter D" each place it appears.

(2) Section 249A of such Act (19 U.S.C. 2322) is repealed.

(3) The table of contents of such Act is amended—

(A) by striking the item relating to section 249A; and

(B) by striking the items relating to subchapter D of chapter 2 of title II.

(4) Section 284(a) of such Act is amended by striking "or section 250(c)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to petitions filed under chapter 2 of title II of the Trade Act of 1974, on or after the date that is 90 days after the date of enactment of this Act.

(2) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker receiving benefits under chapter 2 of title II of the Trade Act of 1974 shall continue to receive (or be eligible to receive) benefits and services under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the amendments made by this section take effect under subsection (a), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date.

SEC. 124. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

(a) DEMONSTRATION PROGRAM.—Chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by striking section 246 and inserting the following new section:

"SEC. 246. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish an alternative trade adjustment assistance program for older workers that provides the benefits described in paragraph (2).

"(2) BENEFITS.—

"(A) PAYMENTS.—A State shall use the funds provided to the State under section 241 to pay, for a period not to exceed 2 years, to a worker described in paragraph (3)(B), 50 percent of the difference between—

"(i) the wages received by the worker from reemployment; and

"(ii) the wages received by the worker at the time of separation.

"(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of the Internal Revenue Code of 1986, as added by section 201 of the Trade Act of 2002.

"(3) ELIGIBILITY.—

"(A) FIRM ELIGIBILITY.—

"(i) IN GENERAL.—The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 221 to request that the group of workers be certified for the alternative trade adjustment assistance program under this section at the time the petition is filed.

"(ii) CRITERIA.—In determining whether to certify a group of workers as eligible for the alternative trade adjustment assistance program, the Secretary shall consider the following criteria:

"(I) Whether a significant number of workers in the workers' firm are 50 years of age or older.

"(II) Whether the workers in the workers' firm possess skills that are not easily transferable.

"(III) The competitive conditions within the workers' industry.

"(iii) DEADLINE.—The Secretary shall determine whether the workers in the group are eligible for the alternative trade adjustment assistance program by the date specified in section 223(a).

"(B) INDIVIDUAL ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

"(i) is covered by a certification under subchapter A of this chapter;

"(ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

"(iii) is at least 50 years of age; and

"(iv) earns not more than $50,000 a year in wages from reemployment;

"(v) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

"(vi) does not return to the employment from which the worker was separated.

"(4) TOTAL AMOUNT OF PAYMENTS.—The payments described in paragraph (2)(A) made to a worker may not exceed $10,000 per worker during the 2-year eligibility period.

"(5) LIMITATION ON OTHER BENEFITS.—Except as provided in section 238(a)(2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this title.

"(b) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) after the date that is 5 years after the date on which such program is implemented by the State.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) on the termination date described in paragraph (1) shall continue to receive such payments provided that the worker meets the criteria described in subsection (a)(3)(B).".

(b) TABLE OF CONTENTS.—The Trade Act of 1974 (U.S.C. et seq.) is amended in the table of contents by inserting after the item relating to section 245 the following new item:

"Sec. 246. Demonstration project for alternative trade adjustment assistance for older workers.".

SEC. 125. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) DECLARATION OF POLICY.—Congress reiterates that, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974, workers are eligible for transportation, childcare, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Labor, working independently and in conjunction with the States, should, in accordance with section 225 of the Trade Act of 1974, provide more specific information about benefit allowances, training, and other employment services, and the petition and application procedures (including appropriate filing dates) for such allowances, training, and services, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974 to workers who are applying for, or are certified to receive, assistance under that program, including information on all other Federal assistance available to such workers.

Subtitle B—Trade Adjustment Assistance For Firms

SEC. 131. REAUTHORIZATION OF PROGRAM.

Section 256(b) of chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to the Secretary $16,000,000 for each of fiscal years 2003 through 2007, to carry out the Secretary's functions under this chapter in connection with furnishing adjustment assistance to firms. Amounts appropriated under this subsection shall remain available until expended.".

Subtitle C—Trade Adjustment Assistance For Farmers

SEC. 141. TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.

(a) IN GENERAL.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by adding at the end the following new chapter:

"CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

"SEC. 291. DEFINITIONS.

"In this chapter:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity (including livestock) in its raw or natural state.

"(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

"(3) CONTRIBUTED IMPORTANTLY.—

"(A) IN GENERAL.—The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) DETERMINATION OF CONTRIBUTED IMPORTANTLY.—The determination of whether imports of articles like or directly competitive with an agricultural commodity with respect to which a petition under this chapter was filed contributed importantly to a decline in the price of the agricultural commodity shall be made by the Secretary.

"(4) DULY AUTHORIZED REPRESENTATIVE.—The term 'duly authorized representative' means an association of agricultural commodity producers.

"(5) NATIONAL AVERAGE PRICE.—The term 'national average price' means the national average price paid to an agricultural commodity producer for an agricultural commodity in a marketing year as determined by the Secretary.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 292. PETITIONS; GROUP ELIGIBILITY.

"(a) IN GENERAL.—A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Reg-

ister that the Secretary has received the petition and initiated an investigation.

"(b) HEARINGS.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

"(c) GROUP ELIGIBILITY REQUIREMENTS.—The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(1) that the national average price for the agricultural commodity, or a class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such agricultural commodity, or such class of goods, for the 5 marketing years preceding the most recent marketing year; and

"(2) that increases in imports of articles like or directly competitive with the agricultural commodity, or class of goods within the agricultural commodity, produced by the group contributed importantly to the decline in price described in paragraph (1).

"(d) SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.—A group of agricultural commodity producers certified as eligible under section 293 shall be eligible to apply for assistance under this chapter in any qualified year after the year the group is first certified, if the Secretary determines that—

"(1) the national average price for the agricultural commodity, or class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is equal to or less than the price determined under subsection (c)(1); and

"(2) the requirements of subsection (c)(2) are met.

"(e) DETERMINATION OF QUALIFIED YEAR AND COMMODITY.—In this chapter:

"(1) QUALIFIED YEAR.—The term 'qualified year', with respect to a group of agricultural commodity producers certified as eligible under section 293, means each consecutive year after the year in which the group is certified and in which the Secretary makes the determination under subsection (c) or (d), as the case may be.

"(2) CLASSES OF GOODS WITHIN A COMMODITY.—In any case in which there are separate classes of goods within an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 296.

"SEC. 293. DETERMINATIONS BY SECRETARY OF AGRICULTURE.

"(a) IN GENERAL.—As soon as practicable after the date on which a petition is filed under section 292, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 292 (c) or (d), as the case may be, and shall, if the group meets the re-

quirements, issue a certification of eligibility to apply for assistance under this chapter covering agricultural commodity producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this chapter begins.

"(b) NOTICE.—Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary's reasons for making the determination.

"(c) TERMINATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the agricultural commodity covered by the certification is no longer attributable to the conditions described in section 292, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary's reasons for making such determination.

"SEC. 294. STUDY BY SECRETARY OF AGRICULTURE WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.

"(a) IN GENERAL.—Whenever the International Trade Commission (in this chapter referred to as the 'Commission') begins an investigation under section 202 with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

"(1) the number of agricultural commodity producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and

"(2) the extent to which the adjustment of such producers to the import competition may be facilitated through the use of existing programs.

"(b) REPORT.—Not later than 15 days after the day on which the Commission makes its report under section 202(f), the Secretary shall submit a report to the President setting forth the findings of the study described in subsection (a). Upon making the report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of the report published in the Federal Register.

"SEC. 295. BENEFIT INFORMATION TO AGRICULTURAL COMMODITY PRODUCERS.

"(a) IN GENERAL.—The Secretary shall provide full information to agricultural commodity producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this title.

"(b) NOTICE OF BENEFITS.—

"(1) IN GENERAL.—The Secretary shall mail written notice of the benefits available under this chapter to each agricultural commodity producer that the Secretary has reason to believe is covered by a certification made under this chapter.

"(2) OTHER NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to agricultural commodity producers that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.

"(3) OTHER FEDERAL ASSISTANCE.—The Secretary shall also provide information concerning procedures for applying for and receiving all other Federal assistance and services available to workers facing economic distress.

"SEC. 296. QUALIFYING REQUIREMENTS FOR AGRICULTURAL COMMODITY PRODUCERS.

"(a) IN GENERAL.—

"(1) REQUIREMENTS.—Payment of a trade adjustment allowance shall be made to an adversely affected agricultural commodity producer covered by a certification under this chapter who files an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 293, if the following conditions are met:

"(A) The producer submits to the Secretary sufficient information to establish the amount of agricultural commodity covered by the application filed under subsection (a) that was produced by the producer in the most recent year.

"(B) The producer certifies that the producer has not received cash benefits under any provision of this title other than this chapter.

"(C) The producer's net farm income (as determined by the Secretary) for the most recent year is less than the producer's net farm income for the latest year in which no adjustment assistance was received by the producer under this chapter.

"(D) The producer certifies that the producer has met with an Extension Service employee or agent to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity, including—

"(i) information regarding the feasibility and desirability of substituting 1 or more alternative commodities for the adversely affected agricultural commodity; and

"(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity by the producer, including yield and marketing improvements.

"(2) LIMITATIONS.—

"(A) ADJUSTED GROSS INCOME.—

"(i) IN GENERAL.—Notwithstanding any other provision of this chapter, an agricultural commodity producer shall not be eligible for assistance under this chapter in any year in which the average adjusted gross income of the producer exceeds the level set forth in section 1001D of the Food Security Act of 1985.

"(ii) CERTIFICATION.—To comply with the limitation under subparagraph (A), an individual or entity shall provide to the Secretary—

"(I) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the producer does not exceed the level set forth in section 1001D of the Food Security Act of 1985; or

"(II) information and documentation regarding the adjusted gross income of the producer through other procedures established by the Secretary.

"(B) COUNTER-CYCLICAL PAYMENTS.—The total amount of payments made to an agricultural producer under this chapter during any crop year may not exceed the limitation on counter-cyclical payments set forth in section 1001(c) of the Food Security Act of 1985.

"(C) DEFINITIONS.—In this subsection:

"(i) ADJUSTED GROSS INCOME.—The term 'adjusted gross income' means adjusted gross income of an agricultural commodity producer—

"(I) as defined in section 62 of the Internal Revenue Code of 1986 and implemented in accordance with procedures established by the Secretary; and

"(II) that is earned directly or indirectly from all agricultural and nonagricultural sources of an individual or entity for a fiscal or corresponding crop year.

"(ii) AVERAGE ADJUSTED GROSS INCOME.—

"(I) IN GENERAL.—The term 'average adjusted gross income' means the average adjusted gross income of a producer for each of the 3 preceding taxable years.

"(II) EFFECTIVE ADJUSTED GROSS INCOME.—In the case of a producer that does not have an adjusted gross income for each of the 3 preceding taxable years, the Secretary shall establish rules that provide the producer with an effective adjusted gross income for the applicable year.

"(b) AMOUNT OF CASH BENEFITS.—

"(1) IN GENERAL.—Subject to the provisions of section 298, an adversely affected agricultural commodity producer described in subsection (a) shall be entitled to adjustment assistance under this chapter in an amount equal to the product of—

"(A) one-half of the difference between—

"(i) an amount equal to 80 percent of the average of the national average price of the agricultural commodity covered by the application described in subsection (a) for the 5 marketing years preceding the most recent marketing year, and

"(ii) the national average price of the agricultural commodity for the most recent marketing year, and

"(B) the amount of the agricultural commodity produced by the agricultural commodity producer in the most recent marketing year.

"(2) SPECIAL RULE FOR SUBSEQUENT QUALIFIED YEARS.—The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price of the agricultural commodity shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

"(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed $10,000.

"(d) LIMITATIONS ON OTHER ASSISTANCE.—An agricultural commodity producer entitled to receive a cash benefit under this chapter—

"(1) shall not be eligible for any other cash benefit under this title, and

"(2) shall be entitled to employment services and training benefits under part II of subchapter B of chapter 2.

"SEC. 297. FRAUD AND RECOVERY OF OVERPAYMENTS.

"(a) IN GENERAL.—

"(1) REPAYMENT.—If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this chapter to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

"(A) the payment was made without fault on the part of such person; and

"(B) requiring such repayment would be contrary to equity and good conscience.

"(2) RECOVERY OF OVERPAYMENT.—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter.

"(b) FALSE STATEMENT.—A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter—

"(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

"(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

"(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

"(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this chapter to which the person was not entitled.

"(c) NOTICE AND DETERMINATION.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the Secretary has been made, notice of the determination and an opportunity for a fair

hearing thereon has been given to the person concerned, and the determination has become final.

"(d) PAYMENT TO TREASURY.—Any amount recovered under this section shall be returned to the Treasury of the United States.

"(e) PENALTIES.—Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter shall be fined not more than $10,000 or imprisoned for not more than 1 year, or both.

"SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed $90,000,000 for each of the fiscal years 2003 through 2007 to carry out the purposes of this chapter.

"(b) PROPORTIONATE REDUCTION.—If in any year the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be reduced proportionately.".

(b) EFFECTIVE DATE.—The amendments made by this title shall take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 142. CONFORMING AMENDMENTS.

(a) JUDICIAL REVIEW.—

(1) Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended—

(A) by inserting "an agricultural commodity producer (as defined in section 291(2)) aggrieved by a determination of the Secretary of Agriculture under section 293," after "section 251 of this title,"; and

(B) in the second sentence of subsection (a) and in subsections (b) and (c), by striking "or the Secretary of Commerce" each place it appears and inserting ", the Secretary of Commerce, or the Secretary of Agriculture".

(b) CHAPTERS 6.—The table of contents for title II of the Trade Act of 1974, as amended by subparagraph (A), is amended by inserting after the items relating to chapter 5 the following:

"CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

"Sec. 291. Definitions.
"Sec. 292. Petitions; group eligibility.
"Sec. 293. Determinations by Secretary of Agriculture.
"Sec. 294. Study by Secretary of Agriculture when International Trade Commission begins investigation.
"Sec. 295. Benefit information to agricultural commodity producers.
"Sec. 296. Qualifying requirements for agricultural commodity producers.
"Sec. 297. Fraud and recovery of overpayments.
"Sec. 298. Authorization of appropriations.".

SEC. 143. STUDY ON TAA FOR FISHERMEN.

Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall conduct a study and report to Congress regarding whether a trade adjustment assistance program is appropriate and feasible for fishermen. For purposes of the preceding sentence, the term "fishermen" means any person who is engaged in commercial fishing or is a United States fish processor.

Subtitle D—Effective Date

SEC. 151. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in sections 123(c) and 141(b), and subsections (b), (c), and (d) of this section, the amendments made by this division shall apply to petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 on or after the date that is 90 days after the date of enactment of this Act.

(b) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker shall continue to receive (or be eligible to receive) trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date, if on or before such date, the worker—

(1) was certified as eligible for trade adjustment assistance benefits under such chapter as in effect on such date; and

(2) would otherwise be eligible to receive trade adjustment assistance benefits under such chapter as in effect on such date.

(c) WORKERS WHO BECAME ELIGIBLE DURING QUALIFIED PERIOD.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, any worker who would have been eligible to receive trade adjustment assistance or other benefits under chapter 2 of title II of the Trade Act of 1974 during the qualified period if such chapter 2 had been in effect during such period, shall be eligible to receive trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the worker meets the eligibility requirements of such chapter 2 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term "qualified period" means the period beginning on January 11, 2002, and ending on the date that is 90 days after the date of enactment of this Act.

(d) ADJUSTMENT ASSISTANCE FOR FIRMS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, and except as provided in paragraph (2), any firm that would have been eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act if 1974 during the qualified period if such chapter 3 had been in effect during such period, shall be eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the firm meets the eligibility requirements of such chapter 3 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term "qualified period" means the period beginning on October 1, 2001, and ending on the date that is 90 days after the date of enactment of this Act.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201. CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENEFIT FROM THE PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and inserting after section 34 the following new section:

"SEC. 35. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 65 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

"(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible coverage month' means any month if—

"(A) as of the first day of such month, the taxpayer—

"(i) is an eligible individual,

"(ii) is covered by qualified health insurance, the premium for which is paid by the taxpayer,

"(iii) does not have other specified coverage, and

"(iv) is not imprisoned under Federal, State, or local authority, and

"(B) such month begins more than 90 days after the date of the enactment of the Trade Act of 2002.

"(2) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1)(A) shall be treated as met with respect to any month if at least 1 spouse satisfies such requirements.

"(c) ELIGIBLE INDIVIDUAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible individual' means—

"(A) an eligible TAA recipient,

"(B) an eligible alternative TAA recipient, and

"(C) an eligible PBGC pension recipient.

"(2) ELIGIBLE TAA RECIPIENT.—The term 'eligible TAA recipient' means, with respect to any month, any individual who is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974 or who would be eligible to receive such allowance if section 231 of such Act were applied without regard to subsection (a)(3)(B) of such section. An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.

"(3) ELIGIBLE ALTERNATIVE TAA RECIPIENT.—The term 'eligible alternative TAA recipient' means, with respect to any month, any individual who—

"(A) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and

"(B) is receiving a benefit for such month under section 246(a)(2) of such Act.

An individual shall continue to be treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible alternative TAA recipient by reason of the preceding sentence.

"(4) ELIGIBLE PBGC PENSION RECIPIENT.—The term 'eligible PBGC pension recipient' means, with respect to any month, any individual who—

"(A) has attained age 55 as of the first day of such month, and

"(B) is receiving a benefit for such month any portion of which is paid by the Pension Benefit Guaranty Corporation under title IV of the Employee Retirement Income Security Act of 1974.

"(d) QUALIFYING FAMILY MEMBER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying family member' means—

"(A) the taxpayer's spouse, and

"(B) any dependent of the taxpayer with respect to whom the taxpayer is entitled to a deduction under section 151(c).

Such term does not include any individual who has other specified coverage.

"(2) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as described in paragraph (1)(B) with respect to the custodial parent (within the meaning of section 152(e)(1)) and not with respect to the noncustodial parent.

"(e) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified health insurance' means any of the following:

"(A) Coverage under a COBRA continuation provision (as defined in section 9832(d)(1)).

"(B) State-based continuation coverage provided by the State under a State law that requires such coverage.

"(C) Coverage offered through a qualified State high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act).

"(D) Coverage under a health insurance program offered for State employees.

"(E) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

"(F) Coverage through an arrangement entered into by a State and—

"(i) a group health plan (including such a plan which is a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974),

"(ii) an issuer of health insurance coverage,

"(iii) an administrator, or

"(iv) an employer.

"(G) Coverage offered through a State arrangement with a private sector health care coverage purchasing pool.

"(H) Coverage under a State-operated health plan that does not receive any Federal financial participation.

"(I) Coverage under a group health plan that is available through the employment of the eligible individual's spouse.

"(J) In the case of any eligible individual and such individual's qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual became separated from the employment which qualified such individual for—

"(i) in the case of an eligible TAA recipient, the allowance described in subsection (c)(2),

"(ii) in the case of an eligible alternative TAA recipient, the benefit described in subsection (c)(3)(B), or

"(iii) in the case of any eligible PBGC pension recipient, the benefit described in subsection (c)(4)(B).

For purposes of this subparagraph, the term 'individual health insurance' means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

"(2) REQUIREMENTS FOR STATE-BASED COVERAGE.—

"(A) IN GENERAL.—The term 'qualified health insurance' does not include any coverage described in subparagraphs (B) through (H) of paragraph (1) unless the State involved has elected to have such coverage treated as qualified health insurance under this section and such coverage meets the following requirements:

"(i) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs credit eligibility certificate described in section 7527 and pays the remainder of such premium.

"(ii) NO IMPOSITION OF PREEXISTING CONDITION EXCLUSION.—No pre-existing condition limitations are imposed with respect to any qualifying individual.

"(iii) NONDISCRIMINATORY PREMIUM.—The total premium (as determined without regard to any subsidies) with respect to a qualifying individual may not be greater than the total premium (as so determined) for a similarly situated individual who is not a qualifying individual.

"(iv) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

"(B) QUALIFYING INDIVIDUAL.—For purposes of this paragraph, the term 'qualifying individual' means—

"(i) an eligible individual for whom, as of the date on which the individual seeks to enroll in the coverage described in subparagraphs (B) through (H) of paragraph (1), the aggregate of the periods of creditable coverage (as defined in section 9801(c)) is 3 months or longer and who, with respect to any month, meets the requirements of clauses (iii) and (iv) of subsection (b)(1)(A); and

"(ii) the qualifying family members of such eligible individual.

"(3) EXCEPTION.—The term 'qualified health insurance' shall not include—

"(A) a flexible spending or similar arrangement, and

"(B) any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

"(f) OTHER SPECIFIED COVERAGE.—For purposes of this section, an individual has other specified coverage for any month if, as of the first day of such month—

"(1) SUBSIDIZED COVERAGE.—

"(A) IN GENERAL.—Such individual is covered under any insurance which constitutes medical care (except insurance substantially all of the coverage of which is of excepted benefits described in section 9832(c)) under any health plan maintained by any employer (or former employer) of the taxpayer or the taxpayer's spouse and at least 50 percent of the cost of such coverage (determined under section 4980B) is paid or incurred by the employer.

"(B) ELIGIBLE ALTERNATIVE TAA RECIPIENTS.—In the case of an eligible alternative TAA recipient, such individual is either—

"(i) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (e)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse, or

"(ii) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

"(C) TREATMENT OF CAFETERIA PLANS.—For purposes of subparagraphs (A) and (B), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d)).

"(2) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

"(A) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

"(B) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

"(3) CERTAIN OTHER COVERAGE.—Such individual—

"(A) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

"(B) is entitled to receive benefits under chapter 55 of title 10, United States Code.

"(g) SPECIAL RULES.—

"(1) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—With respect to any taxable year, the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a) shall be reduced (but not below zero) by the aggregate amount paid on behalf of such taxpayer under section 7527 for months beginning in such taxable year.

"(2) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

"(3) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

"(4) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(5) BOTH SPOUSES ELIGIBLE INDIVIDUALS.—The spouse of the taxpayer shall not be treated as a qualifying family member for purposes of subsection (a), if—

"(A) the taxpayer is married at the close of the taxable year,

"(B) the taxpayer and the taxpayer's spouse are both eligible individuals during the taxable year, and

"(C) the taxpayer files a separate return for the taxable year.

"(6) MARITAL STATUS; CERTAIN MARRIED INDIVIDUALS LIVING APART.—Rules similar to the rules of paragraphs (3) and (4) of section 21(e) shall apply for purposes of this section.

"(7) INSURANCE WHICH COVERS OTHER INDIVIDUALS.—For purposes of this section, rules similar to the rules of section 213(d)(6) shall apply with respect to any contract for qualified health insurance under which amounts are payable for coverage of an individual other than the taxpayer and qualifying family members.

"(8) TREATMENT OF PAYMENTS.—For purposes of this section—

"(A) PAYMENTS BY SECRETARY.—Payments made by the Secretary on behalf of any individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

"(B) PAYMENTS BY TAXPAYER.—Payments made by the taxpayer for eligible coverage months shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

"(9) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section, section 6050T, and section 7527.".

(b) PROMOTION OF STATE HIGH RISK POOLS.—Title XXVII of the Public Health Service Act is amended by inserting after section 2744 the following new section:

"SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.

"(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (c)(1) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of the enactment of this section for the State's costs of creation and initial operation of such a pool.

"(b) MATCHING FUNDS FOR OPERATION OF POOLS.—

"(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

"(A) restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates;

"(B) offers a choice of two or more coverage options through the pool; and

"(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool;

the Secretary shall provide, from the funds appropriated under subsection (c)(2) and allotted to the State under paragraph (2), a grant of up to 50 percent of the losses incurred by the State in connection with the operation of the pool.

"(2) ALLOTMENT.—The amounts appropriated under subsection (c)(2) for a fiscal year shall be made available to the States in accordance with a formula that is based upon the number of uninsured individuals in the States.

"(c) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

"(1) $20,000,000 for fiscal year 2003 to carry out subsection (a); and

"(2) $40,000,000 for each of fiscal years 2003 and 2004 to carry out subsection (b).

Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year. Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

"(d) QUALIFIED HIGH RISK POOL AND STATE DEFINED.—For purposes of this section, the term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2) and the term 'State' means any of the 50 States and the District of Columbia.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 35 of such Code".

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 35. Health insurance costs of eligible individuals.
"Sec. 36. Overpayments of tax.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(2) STATE HIGH RISK POOLS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 202. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

"(a) GENERAL RULE.—Not later than August 1, 2003, the Secretary shall establish a program for making payments on behalf of certified individuals to providers of qualified health insurance (as defined in section 35(e)) for such individuals.

"(b) LIMITATION ON ADVANCE PAYMENTS DURING ANY TAXABLE YEAR.—The Secretary may make payments under subsection (a) only to the extent that the total amount of such payments made on behalf of any individual during the taxable year does not exceed 65 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

"(c) CERTIFIED INDIVIDUAL.—For purposes of this section, the term 'certified individual' means any individual for whom a qualified health insurance costs credit eligibility certificate is in effect.

"(d) QUALIFIED HEALTH INSURANCE COSTS CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, the term 'qualified health insurance costs credit eligibility certificate' means any written statement that an individual is an eligible individual (as defined in section 35(c)) if such statement provides such information as the Secretary may require for purposes of this section and—

"(1) in the case of an eligible TAA recipient (as defined in section 35(c)(2)) or an eligible alternative TAA recipient (as defined in section 35(c)(3)), is certified by the Secretary of Labor (or by any other person or entity designated by the Secretary), or

"(2) in the case of an eligible PBGC pension recipient (as defined in section 35(c)(4)), is certified by the Pension Benefit Guaranty Corporation (or by any other person or entity designated by the Secretary).".

(b) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Subsection (l) of section 6103 of such Code (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(18) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—The

Secretary may disclose to providers of health insurance for any certified individual (as defined in section 7527(c)) return information with respect to such certified individual only to the extent necessary to carry out the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).".

(2) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Subsection (p) of such section is amended—

(A) in paragraph (3)(A) by striking "or (17)" and inserting "(17), or (18)", and

(B) in paragraph (4) by inserting "or (17)" after "any other person described in subsection (l)(16)" each place it appears.

(3) UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.—Section 7213A(a)(1)(B) of such Code is amended by striking "section 6103(n)" and inserting "subsection (l)(18) or (n) of section 6103".

(c) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

"SEC. 6050T. RETURNS RELATING TO CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

"(a) REQUIREMENT OF REPORTING.—Every person who is entitled to receive payments for any month of any calendar year under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) with respect to any certified individual (as defined in section 7527(c)) shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of each individual referred to in subsection (a),

"(B) the number of months for which amounts were entitled to be received with respect to such individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals),

"(C) the amount entitled to be received for each such month, and

"(D) such other information as the Secretary may prescribe.

"(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

"(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.".

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

"(xi) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting ", or", and by adding after subparagraph (AA) the following new subparagraph:

"(BB) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals).".

(d) CLERICAL AMENDMENTS.—

(1) ADVANCE PAYMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 7527. Advance payment of credit for health insurance costs of eligible individuals.".

(2) INFORMATION REPORTING.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

"Sec. 6050T. Returns relating to credit for health insurance costs of eligible individuals.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 203. HEALTH INSURANCE ASSISTANCE FOR ELIGIBLE INDIVIDUALS.

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) from funds appropriated under section 174(c)—

"(A) to a State or entity (as defined in section 173(c)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals; and

"(B) to a State or entity (as so defined) to carry out subsection (g), including providing assistance to eligible individuals.".

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

"(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE INDIVIDUALS.—

"(1) IN GENERAL.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

"(A) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual's qualifying family members in enrolling in qualified health insurance.

"(B) ADMINISTRATIVE AND START-UP EXPENSES.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in qualified health insurance, including—

"(i) eligibility verification activities;

"(ii) the notification of eligible individuals of available qualified health insurance options;

"(iii) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

"(iv) providing assistance to eligible individuals in enrolling in qualified health insurance;

"(v) the development or installation of necessary data management systems; and

"(vi) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses to carry out clauses (iv) through (ix) of paragraph (2)(A).

"(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g)—

"(A) IN GENERAL.—The term 'qualified health insurance' means any of the following:

"(i) Coverage under a COBRA continuation provision (as defined in section 733(d)(1) of the Employee Retirement Income Security Act of 1974).

"(ii) State-based continuation coverage provided by the State under a State law that requires such coverage.

"(iii) Coverage offered through a qualified State high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act).

"(iv) Coverage under a health insurance program offered for State employees.

"(v) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

"(vi) Coverage through an arrangement entered into by a State and—

"(I) a group health plan (including such a plan which is a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974),

"(II) an issuer of health insurance coverage,

"(III) an administrator, or

"(IV) an employer.

"(vii) Coverage offered through a State arrangement with a private sector health care coverage purchasing pool.

"(viii) Coverage under a State-operated health plan that does not receive any Federal financial participation.

"(ix) Coverage under a group health plan that is available through the employment of the eligible individual's spouse.

"(x) In the case of any eligible individual and such individual's qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual became separated from the employment which qualified such individual for—

"(I) in the case of an eligible TAA recipient, the allowance described in section 35(c)(2) of the Internal Revenue Code of 1986,

"(II) in the case of an eligible alternative TAA recipient, the benefit described in section 35(c)(3)(B) of such Code, or

"(III) in the case of any eligible PBGC pension recipient, the benefit described in section 35(c)(4)(B) of such Code.

For purposes of this clause, the term 'individual health insurance' means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

"(B) REQUIREMENTS FOR STATE-BASED COVERAGE.—

"(i) IN GENERAL.—The term 'qualified health insurance' does not include any coverage described in clauses (ii) through (viii) of subparagraph (A) unless the State involved has elected to have such coverage treated as qualified health insurance under this paragraph and such coverage meets the following requirements:

"(I) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and pays the remainder of such premium.

"(II) NO IMPOSITION OF PREEXISTING CONDITION EXCLUSION.—No pre-existing condition limitations are imposed with respect to any qualifying individual.

"(III) NONDISCRIMINATORY PREMIUM.—The total premium (as determined without regard to any subsidies) with respect to a qualifying individual may not be greater than the total premium (as so determined) for a similarly situated individual who is not a qualifying individual.

"(IV) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

"(ii) QUALIFYING INDIVIDUAL.—For purposes of this subparagraph, the term 'qualifying individual' means—

"(I) an eligible individual for whom, as of the date on which the individual seeks to enroll in clauses (ii) through (viii) of subparagraph (A), the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) is 3 months or longer and who, with respect to any month, meets the requirements of clauses (iii) and (iv) of section 35(b)(1)(A) of such Code; and

"(II) the qualifying family members of such eligible individual.

"(C) EXCEPTION.—The term 'qualified health insurance' shall not include—

"(i) a flexible spending or similar arrangement, and

"(ii) any insurance if substantially all of its coverage is of excepted benefits described in section 733(c) of the Employee Retirement Income Security Act of 1974.

"(3) AVAILABILITY OF FUNDS.—

"(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

"(i) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with respect to the approval or disapproval of such application;

"(ii) in the case of an application of a State or other entity that is disapproved by the Secretary, provide technical assistance, at the request of the State or entity, in a timely manner to enable the State or entity to submit an approved application; and

"(iii) develop procedures to expedite the provision of funds to States and entities with approved applications.

"(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(A) to carry out subsection (a)(4)(A) are available to States and entities throughout the period described in section 174(c)(2)(A).

"(4) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this subsection and subsection (g), the term 'eligible individual' means—

"(A) an eligible TAA recipient (as defined in section 35(c)(2) of the Internal Revenue Code of 1986),

"(B) an eligible alternative TAA recipient (as defined in section 35(c)(3) of the Internal Revenue Code of 1986), and

"(C) an eligible PBGC pension recipient (as defined in section 35(c)(4) of the Internal Revenue Code of 1986),

who, as of the first day of the month, does not have other specified coverage and is not imprisoned under Federal, State, or local authority.

"(5) QUALIFYING FAMILY MEMBER DEFINED.—For purposes of this subsection and subsection (g)—

"(A) IN GENERAL.—The term 'qualifying family member' means—

"(i) the eligible individual's spouse, and

"(ii) any dependent of the eligible individual with respect to whom the individual is entitled to a deduction under section 151(c) of the Internal Revenue Code of 1986.

Such term does not include any individual who has other specified coverage.

"(B) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) of such Code applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as described in subparagraph (A)(ii) with respect to the custodial parent (within the meaning of section 152(e)(1) of such Code) and not with respect to the noncustodial parent.

"(6) STATE.—For purposes of this subsection and subsection (g), the term 'State' includes an entity as defined in subsection (c)(1)(B).

"(7) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

"(A) SUBSIDIZED COVERAGE.—

"(i) IN GENERAL.—Such individual is covered under any insurance which constitutes medical care (except insurance substantially all of the coverage of which is of excepted benefits described in section 9832(c) of the Internal Revenue Code of 1986) under any health plan maintained by any employer (or former employer) of the taxpayer or the taxpayer's spouse and at least 50 percent of the cost of such coverage (determined under section 4980B of such Code) is paid or incurred by the employer.

"(ii) ELIGIBLE ALTERNATIVE TAA RECIPIENTS.—In the case of an eligible alternative TAA recipient (as defined in section 35(c)(3) of the Internal Revenue Code of 1986), such individual is either—

"(I) eligible for coverage under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (2)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of such Code) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse, or

"(II) covered under any such qualified health insurance under which any portion of the cost of

coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

"(iii) TREATMENT OF CAFETERIA PLANS.—For purposes of clauses (i) and (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d) of the Internal Revenue Code of 1986).

"(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

"(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

"(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

"(C) CERTAIN OTHER COVERAGE.—Such individual—

"(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

"(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code.

"(g) INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

"(1) IN GENERAL.—Funds made available to a State or entity under paragraph (4)(B) of subsection (a) may be used by the State or entity to provide assistance and support services to eligible individuals, including health care coverage to the extent provided under subsection (f)(1)(A), transportation, child care, dependent care, and income assistance.

"(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible individual with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Act of 2002) or the unemployment compensation laws of the State where the eligible individual resides.

"(3) HEALTH INSURANCE COVERAGE.—With respect to any assistance provided to an eligible individual with such funds in enrolling in qualified health insurance, the following rules shall apply:

"(A) The State or entity may provide assistance in obtaining such coverage to the eligible individual and to such individual's qualifying family members.

"(B) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

"(4) AVAILABILITY OF FUNDS.—

"(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

"(i) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with respect to the approval or disapproval of such application;

"(ii) in the case of an application of a State or entity that is disapproved by the Secretary, provide technical assistance, at the request of the State or entity, in a timely manner to enable the State or entity to submit an approved application; and

"(iii) develop procedures to expedite the provision of funds to States and entities with approved applications.

"(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(B) to carry out subsection (a)(4)(B) are available to States and entities throughout the period described in section 174(c)(2)(B).

"(5) INCLUSION OF CERTAIN INDIVIDUALS AS ELIGIBLE INDIVIDUALS.—For purposes of this subsection, the term 'eligible individual' includes an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Act of 2002) and is participating in the trade readjustment allowance program under such chapter (as so in effect) or who would be determined to be participating in such program under such chapter (as so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

"(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

"(1) AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002.—There are authorized to be appropriated and appropriated—

"(A) to carry out subsection (a)(4)(A) of section 173, $10,000,000 for fiscal year 2002; and

"(B) to carry out subsection (a)(4)(B) of section 173, $50,000,000 for fiscal year 2002.

"(2) AUTHORIZATION OF APPROPRIATIONS FOR SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated—

"(A) to carry out subsection (a)(4)(A) of section 173, $60,000,000 for each of fiscal years 2003 through 2007; and

"(B) to carry out subsection (a)(4)(B) of section 173—

"(i) $100,000,000 for fiscal year 2003; and

"(ii) $50,000,000 for fiscal year 2004.

"(3) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to—

"(A) paragraphs (1)(A) and (2)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Act of 2002; and

"(B) paragraph (1)(B) and (2)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Act of 2002 and ends on September 30, 2004.".

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting ", other than under subsection (a)(4), (f), and (g)" after "grants".

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) ERISA AMENDMENTS.—Section 605 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165) is amended—

(A) by inserting "(a) IN GENERAL.—" before "For purposes of this part"; and

(B) by adding at the end the following:

"(b) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a), such individual may elect continuation coverage under this part during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

"(2) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

"(3) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

"(A) beginning on the date of the TAA-related loss of coverage, and

"(B) ending on the first day of the 60-day election period described in paragraph (1),

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2), section 2701(c)(2) of the Public Health Service Act, and section 9801(c)(2) of the Internal Revenue Code of 1986.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term 'nonelecting TAA-eligible individual' means a TAA-eligible individual who—

"(i) has a TAA-related loss of coverage; and

"(ii) did not elect continuation coverage under this part during the TAA-related election period.

"(B) TAA-ELIGIBLE INDIVIDUAL.—The term 'TAA-eligible individual' means—

"(i) an eligible TAA recipient (as defined in paragraph (2) of section 35(c) of the Internal Revenue Code of 1986), and

"(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

"(C) TAA-RELATED ELECTION PERIOD.—The term 'TAA-related election period' means, with respect to a TAA-related loss of coverage, the 60-day election period under this part which is a direct consequence of such loss.

"(D) TAA-RELATED LOSS OF COVERAGE.—The term 'TAA-related loss of coverage' means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.".

(2) PHSA AMENDMENTS.—Section 2205 of the Public Health Service Act (42 U.S.C. 300bb–5) is amended—

(A) by inserting "(a) IN GENERAL.—" before "For purposes of this title"; and

(B) by adding at the end the following:

"(b) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a), such individual may elect continuation coverage under this title during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

"(2) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

"(3) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

"(A) beginning on the date of the TAA-related loss of coverage, and

"(B) ending on the first day of the 60-day election period described in paragraph (1),

shall be disregarded for purposes of determining the 63-day periods referred to in section 2701(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 9801(c)(2) of the Internal Revenue Code of 1986.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term 'nonelecting TAA-eligible individual' means a TAA-eligible individual who—

"(i) has a TAA-related loss of coverage; and

"(ii) did not elect continuation coverage under this part during the TAA-related election period.

"(B) TAA-ELIGIBLE INDIVIDUAL.—The term 'TAA-eligible individual' means—

"(i) an eligible TAA recipient (as defined in paragraph (2) of section 35(c) of the Internal Revenue Code of 1986), and

"(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

"(C) TAA-RELATED ELECTION PERIOD.—The term 'TAA-related election period' means, with respect to a TAA-re-

lated loss of coverage, the 60-day election period under this part which is a direct consequence of such loss.

"(D) TAA-RELATED LOSS OF COVERAGE.—The term 'TAA-related loss of coverage' means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.".

(3) IRC AMENDMENTS.—Paragraph (5) of section 4980B(f) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following:

"(C) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

"(i) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subparagraph (A), such individual may elect continuation coverage under this subsection during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

"(ii) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under clause (i) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

"(iii) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to clause (i), the period—

"(I) beginning on the date of the TAA-related loss of coverage, and

"(II) ending on the first day of the 60-day election period described in clause (i),

shall be disregarded for purposes of determining the 63-day periods referred to in section 9801(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 2701(c)(2) of the Public Health Service Act.

"(iv) DEFINITIONS.—For purposes of this subsection:

"(I) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term 'nonelecting TAA-eligible individual' means a TAA-eligible individual who has a TAA-related loss of coverage and did not elect continuation coverage under this subsection during the TAA-related election period.

"(II) TAA-ELIGIBLE INDIVIDUAL.—The term 'TAA-eligible individual' means an eligible TAA recipient (as defined in paragraph (2) of section 35(c)) and an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

"(III) TAA-RELATED ELECTION PERIOD.—The term 'TAA-related election period' means, with respect to a TAA-related loss of coverage, the 60-day

election period under this subsection which is a direct consequence of such loss.

"(IV) TAA-RELATED LOSS OF COVERAGE.—The term 'TAA-related loss of coverage' means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.".

(f) RULE OF CONSTRUCTION.—Nothing in this title (or the amendments made by this title), other than provisions relating to COBRA continuation coverage and reporting requirements, shall be construed as creating any new mandate on any party regarding health insurance coverage.

TITLE III—CUSTOMS REAUTHORIZATION

SEC. 301. SHORT TITLE.

This Act may be cited as the "Customs Border Security Act of 2002".

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 311. AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION.

(a) NONCOMMERCIAL OPERATIONS.—Section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) by striking subparagraph (A), and inserting the following:

"(A) $1,365,456,000 for fiscal year 2003."; and

(2) by striking subparagraph (B), and inserting the following:

"(B) $1,399,592,400 for fiscal year 2004.".

(b) COMMERCIAL OPERATIONS.—

(1) IN GENERAL.—Section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)) is amended—

(A) by striking clause (i), and inserting the following: "(i) $1,642,602,000 for fiscal year 2003."; and

(B) by striking clause (ii), and inserting the following: "(ii) $1,683,667,050 for fiscal year 2004.".

(2) AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Of the amount made available for each of fiscal years 2003 and 2004 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by paragraph (1), $308,000,000 shall be available until expended for each such fiscal year for the development, establishment, and implementation of the Automated Commercial Environment computer system.

(3) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and not later than the end of each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate a report demonstrating that the development and establishment of the Automated Commercial Environment computer system is being carried out in a cost-effective manner and meets the modernization requirements of title VI of the North American Free Trade Agreement Implementation Act.

(c) AIR AND MARINE INTERDICTION.—Section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) is amended—

(1) by striking subparagraph (A), and inserting the following:

"(A) $170,829,000 for fiscal year 2003."; and

(2) by striking subparagraph (B), and inserting the following:

"(B) $175,099,725 for fiscal year 2004.".

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(a)) is amended by adding at the end the following:

"(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).".

SEC. 312. ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 311(a) of this Act, $90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,200,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $13,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2004.—Of the amounts made available for fiscal year 2004 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 311(a) of this Act, $9,000,000 shall be available until expended for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 311(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (G); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 313. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2003 and 2004 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and shall comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to section 312.

CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

SEC. 321. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service $10,000,000 for fiscal year 2003 to carry out the program to prevent child pornography/child sexual exploitation established by the Child Cyber-Smuggling Center of the Customs Service.

(b) USE OF AMOUNTS FOR CHILD PORNOGRAPHY CYBER TIPLINE.—Of the amount appropriated under subsection (a), the Customs Service shall provide 3.75 percent of such amount to the National Center for Missing and Exploited Children for the operation of the child pornography cyber tipline of the Center and for increased public awareness of the tipline.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 331. ADDITIONAL CUSTOMS SERVICE OFFICERS FOR UNITED STATES-CANADA BORDER.

Of the amount made available for fiscal year 2003 under paragraphs (1) and (2)(A) of section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)), as amended by section 311 of this Act, $28,300,000 shall be available until expended for the Customs Service to hire approximately 285 additional Customs Service officers to address the needs of the offices and ports along the United States-Canada border.

SEC. 332. STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE.

(a) STUDY.—The Commissioner of Customs shall conduct a study of current personnel practices of the Customs Service, including an overview of performance standards and the effect and impact of the collective bargaining process on drug interdiction efforts of the Customs Service and a comparison of duty rotation policies of the Customs Service and other Federal agencies that employ similarly situated personnel.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 333. STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE.

(a) STUDY.—(1) The Commissioner of Customs shall conduct a study of actions by the Customs Service to ensure that appropriate training is being provided to Customs Service personnel who are responsible for financial auditing of importers.

(2) In conducting the study, the Commissioner—

(A) shall specifically identify those actions taken to comply with provisions of law that protect the privacy and trade secrets of importers, such as section 552(b) of title 5, United States Code, and section 1905 of title 18, United States Code; and

(B) shall provide for public notice and comment relating to verification of the actions described in subparagraph (A).

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

(a) ESTABLISHMENT AND IMPLEMENTATION.—

(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service.

(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(b) REPORTS.—Beginning on the date of the enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).

SEC. 335. STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the Office of Regulations and Rulings of the Customs Service has made improvements to decrease the amount of time to issue prospective rulings from the date on which a request for the ruling is received by the Customs Service.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

(c) DEFINITION.—In this section, the term "prospective ruling" means a ruling that is requested by an importer on goods that are proposed to be imported into the United States and that relates to the proper classification, valuation, or marking of such goods.

SEC. 336. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is commensurate with the level of services provided by the Customs Service relating to the fee so imposed.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report in classified form containing—

(1) the results of the study conducted under subsection (a); and

(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Customs Service.

SEC. 337. FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES.

(a) IN GENERAL.—Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended as follows:

(1) In subparagraph (A)—

(A) in the matter preceding clause (i), by striking "the processing of merchandise that is informally entered or released" and inserting "the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is less than $2,000 (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930), except such items entered for transportation and exportation or immediate exportation"; and

(B) by striking clause (ii), and inserting the following:

"(ii) Subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility, $.66 per individual airway bill or bill of lading.".

(2) By redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following:

"(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than $.35 and not more than $1.00 per individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

"(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by subparagraph (A)(ii) shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

"(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Cus-

toms Service in accordance with regulations prescribed by the Secretary of the Treasury.

"(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall, in accordance with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

"(III) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2002.

SEC. 338. NATIONAL CUSTOMS AUTOMATION PROGRAM.

Section 411(b) of the Tariff Act of 1930 (19 U.S.C. 1411(b)) is amended by striking the second sentence and inserting the following: "The Secretary may, by regulation, require the electronic submission of information described in subsection (a) or any other information required to be submitted to the Customs Service separately pursuant to this subpart.".

SEC. 339. AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary to provide an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS–9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS–9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS–11 of the General Schedule under such section 5332; and

(2) for the support staff associated with the personnel described in subparagraph (A), at the appropriate GS level of the General Schedule under such section 5332.

CHAPTER 4—ANTITERRORISM PROVISIONS

SEC. 341. IMMUNITY FOR UNITED STATES OFFICIALS THAT ACT IN GOOD FAITH.

(a) IMMUNITY.—Section 3061 of the Revised Statutes (19 U.S.C. 482) is amended—

(1) by striking "Any of the officers" and inserting "(a) Any of the officers"; and

(2) by adding at the end the following:

"(b) Any officer or employee of the United States conducting a search of a person pursuant to subsection (a) shall not be held liable for any civil damages as a result of such search if the officer or employee performed the search in good faith and used reasonable means while effectuating such search.".

(b) REQUIREMENT TO POST POLICY AND PROCEDURES FOR SEARCHES OF PASSENGERS.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of Customs shall ensure that at each Customs border facility appropriate notice is posted that provides a summary of the policy and procedures of the Customs Service for searching passengers, including a statement of the policy relating to the prohibition on the conduct of profiling of passengers based on gender, race, color, religion, or ethnic background.

SEC. 342. EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE.

Section 318 of the Tariff Act of 1930 (19 U.S.C. 1318) is amended—

(1) by striking "Whenever the President" and inserting "(a) Whenever the President"; and

(2) by adding at the end the following:

"(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

"(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

"(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

"(C) Take any other action that may be necessary to respond directly to the national emergency or specific threat.

"(2) Notwithstanding any other provision of law, the Commissioner of Customs, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

"(3) The Secretary of the Treasury or the Commissioner of Customs, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).".

SEC. 343. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND OTHER IMPROVED CUSTOMS REPORTING PROCEDURES.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation.

(2) INFORMATION REQUIRED.—The information required by the regulations promulgated pursuant to paragraph (1) under

the parameters set forth in paragraph (3) shall be such information as the Secretary determines to be reasonably necessary to ensure aviation, maritime, and surface transportation safety and security pursuant to those laws enforced and administered by the Customs Service.

(3) PARAMETERS.—In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

(A) The Secretary shall solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

(E) The regulations shall take into account the extent to which the technology necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. To the extent that the Secretary determines that the necessary technology will not be widely available to particular modes of transportation or other affected parties until after promulgation of the regulations, the regulations shall provide interim requirements appropriate for the technology that is available at the time of promulgation.

(F) The information collected pursuant to the regulations shall be used exclusively for ensuring aviation, maritime, and surface transportation safety and security, and shall not be used for determining entry or for any other commercial enforcement purposes.

(G) The regulations shall protect the privacy of business proprietary and any other confidential information provided to the Customs Service. However, this parameter does not repeal, amend, or otherwise modify other provi-

sions of law relating to the public disclosure of information transmitted to the Customs Service.

(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on aviation, maritime, and surface transportation safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (D).

(I) Where practicable, the regulations shall avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.

(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different classes of affected parties.

(K) With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.

(L) Not later than 15 days prior to promulgation of the regulations, the Secretary shall transmit to the Committees on Finance and Commerce, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth—

(i) the proposed regulations;

(ii) an explanation of how particular requirements in the proposed regulations meet the needs of aviation, maritime, and surface transportation safety and security;

(iii) an explanation of how the Secretary expects the proposed regulations to affect the commercial practices of affected parties; and

(iv) an explanation of how the proposed regulations address particular comments received from interested parties.

(b) DOCUMENTATION OF WATERBORNE CARGO.—Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

"SEC. 431A. DOCUMENTATION OF WATERBORNE CARGO.

"(a) APPLICABILITY.—This section shall apply to all cargo to be exported that is moved by a vessel carrier from a port in the United States.

"(b) DOCUMENTATION REQUIRED.—(1) No shipper of cargo subject to this section (including an ocean transportation intermediary that is a non-vessel-operating common carrier (as defined in section

3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B)) may tender or cause to be tendered to a vessel carrier cargo subject to this section for loading on a vessel in a United States port, unless such cargo is properly documented pursuant to this subsection.

"(2) For the purposes of this subsection, cargo shall be considered properly documented if the shipper submits to the vessel carrier or its agent a complete set of shipping documents no later than 24 hours after the cargo is delivered to the marine terminal operator, but under no circumstances later than 24 hours prior to departure of the vessel.

"(3) A complete set of shipping documents shall include—

"(A) for shipments for which a shipper's export declaration is required, a copy of the export declaration or, if the shipper files such declarations electronically in the Automated Export System, the complete bill of lading, and the master or equivalent shipping instructions, including the Internal Transaction Number (ITN); or

"(B) for shipments for which a shipper's export declaration is not required, a shipper's export declaration exemption statement and such other documents or information as the Secretary may by regulation prescribe.

"(4) The Secretary shall by regulation prescribe the time, manner, and form by which shippers shall transmit documents or information required under this subsection to the Customs Service.

"(c) LOADING UNDOCUMENTED CARGO PROHIBITED.—

"(1) No marine terminal operator (as defined in section 3(14) of the Shipping Act of 1984 (46 U.S.C. App. 1702(14))) may load, or cause to be loaded, any cargo subject to this section on a vessel unless instructed by the vessel carrier operating the vessel that such cargo has been properly documented in accordance with this section.

"(2) When cargo is booked by 1 vessel carrier to be transported on the vessel of another vessel carrier, the booking carrier shall notify the operator of the vessel that the cargo has been properly documented in accordance with this section. The operator of the vessel may rely on such notification in releasing the cargo for loading aboard the vessel.

"(d) REPORTING OF UNDOCUMENTED CARGO.—A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal. For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier's vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

"(e) ASSESSMENT OF PENALTIES.—Whoever is found to have violated subsection (b) of this section shall be liable to the United States for civil penalties in a monetary amount up to the value of the cargo, or the actual cost of the transportation, whichever is greater.

"(f) SEIZURE OF UNDOCUMENTED CARGO.—

"(1) Any cargo that is not properly documented pursuant to this section and has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal operator shall be subject to search, seizure, and forfeiture.

"(2) The shipper of any such cargo is liable to the marine terminal operator and to the ocean carrier for demurrage and other applicable charges for any undocumented cargo which has been notified to or searched or seized by the Customs Service for the entire period the cargo remains under the order and direction of the Customs Service. Unless the cargo is seized by the Customs Service and forfeited, the marine terminal operator and the ocean carrier shall have a lien on the cargo for the amount of the demurrage and other charges.

"(g) EFFECT ON OTHER PROVISIONS.—Nothing in this section shall be construed, interpreted, or applied to relieve or excuse any party from compliance with any obligation or requirement arising under any other law, regulation, or order with regard to the documentation or carriage of cargo.".

(c) SECRETARY.—For purposes of this section, the term "Secretary" means the Secretary of the Treasury. If, at the time the regulations required by subsection (a)(1) are promulgated, the Customs Service is no longer located in the Department of the Treasury, then the Secretary of the Treasury shall exercise the authority under subsection (a) jointly with the Secretary of the Department in which the Customs Service is located.

SEC. 343A. SECURE SYSTEMS OF TRANSPORTATION.

(a) JOINT TASK FORCE.—The Secretary of the Treasury shall establish a joint task force to evaluate, prototype, and certify secure systems of transportation. The joint task force shall be comprised of officials from the Department of Transportation and the Customs Service, and any other officials that the Secretary deems appropriate. The task force shall establish a program to evaluate and certify secure systems of international intermodal transport no later than 1 year after the date of enactment of this Act. The task force shall solicit and consider input from a broad range of interested parties.

(b) PROGRAM REQUIREMENTS.—At a minimum the program referred to in subsection (a) shall require certified systems of international intermodal transport to be significantly more secure than existing transportation programs, and the program shall—

(1) establish standards and a process for screening and evaluating cargo prior to import into or export from the United States;

(2) establish standards and a process for a system of securing cargo and monitoring it while in transit;

(3) establish standards and a process for allowing the United States Government to ensure and validate compliance with the program elements; and

(4) include any other elements that the task force deems necessary to ensure the security and integrity of the international intermodal transport movements.

(c) RECOGNITION OF CERTIFIED SYSTEMS.—

(1) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall recognize certified systems of intermodal transport in the requirements of a national security plan for United

States seaports, and in the provisions requiring planning to reopen United States ports for commerce.

(2) COMMISSIONER OF CUSTOMS.—The Commissioner of Customs shall recognize certified systems of intermodal transport in the evaluation of cargo risk for purposes of United States imports and exports.

(d) REPORT.—Within 1 year after the program described in subsection (a) is implemented, the Secretary of the Treasury shall transmit a report to the Committees on Commerce, Science, and Transportation and Finance of the Senate and the Committees on Transportation and Infrastructure and Ways and Means of the House of Representatives that—

(1) evaluates the program and its requirements;

(2) states the Secretary's views as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than under existing procedures;

(3) states the Secretary's views as to the integrity of the procedures, technology, or systems evaluated as part of the program; and

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology should be incorporated in a nationwide system for certified systems of intermodal transport.

SEC. 344. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by inserting after section 582 the following:

"SEC. 583. EXAMINATION OF OUTBOUND MAIL.

"(a) EXAMINATION.—

"(1) IN GENERAL.—For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service.

"(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

"(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).

"(B) Sections 1461, 1463, 1465, and 1466, and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).

"(C) Section 1003 of the Controlled Substances Import and Export Act (relating to exportation of controlled substances) (21 U.S.C. 953).

"(D) The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

"(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

"(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

"(b) SEARCH OF MAIL NOT SEALED AGAINST INSPECTION AND OTHER MAIL.—Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a Customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

"(c) SEARCH OF MAIL SEALED AGAINST INSPECTION WEIGHING IN EXCESS OF 16 OUNCES.—

"(1) IN GENERAL.—Mail weighing in excess of 16 ounces sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), if there is reasonable cause to suspect that such mail contains one or more of the following:

"(A) Monetary instruments, as defined in section 1956 of title 18, United States Code.

"(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

"(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

"(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

"(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

"(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

"(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).

"(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

"(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

"(K) Merchandise subject to any other law enforced by the Customs Service.

"(2) LIMITATION.—No person acting under the authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

"(A) a search warrant has been issued pursuant to rule 41 of the Federal Rules of Criminal Procedure; or

"(B) the sender or addressee has given written authorization for such reading.

"(d) SEARCH OF MAIL SEALED AGAINST INSPECTION WEIGHING 16 OUNCES OR LESS.—Notwithstanding any other provision of this section, subsection (a)(1) shall not apply to mail weighing 16 ounces or less sealed against inspection under the postal laws and regulations of the United States.".

(b) CERTIFICATION BY SECRETARY.—Not later than 3 months after the date of enactment of this section, the Secretary of State shall determine whether the application of section 583 of the Tariff Act of 1930 to foreign mail transiting the United States that is imported or exported by the United States Postal Service is being handled in a manner consistent with international law and any international obligation of the United States. Section 583 of such Act shall not apply to such foreign mail unless the Secretary certifies to Congress that the application of such section 583 is consistent with international law and any international obligation of the United States.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) CERTIFICATION WITH RESPECT TO FOREIGN MAIL.—The provisions of section 583 of the Tariff Act of 1930 relating to foreign mail transiting the United States that is imported or exported by the United States Postal Service shall not take effect until the Secretary of State certifies to Congress, pursuant to subsection (b), that the application of such section 583 is consistent with international law and any international obligation of the United States.

SEC. 345. AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for the reestablishment of operations of the Customs Service in New York, New York, such sums as may be necessary for fiscal year 2003.

(2) OPERATIONS DESCRIBED.—The operations referred to in paragraph (1) include, but are not limited to, the following:

(A) Operations relating to the Port Director of New York City, the New York Customs Management Center (including the Director of Field Operations), and the Special Agent-In-Charge for New York.

(B) Commercial operations, including textile enforcement operations and salaries and expenses of—

(i) trade specialists who determine the origin and value of merchandise;

(ii) analysts who monitor the entry data into the United States of textiles and textile products; and

(iii) Customs officials who work with foreign governments to examine textile makers and verify entry information.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351. GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE.

(a) GAO AUDIT.—The Comptroller General of the United States shall conduct an audit of the system established and carried out by the Customs Service to monitor transshipment.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and Committee on Finance of the Senate a report that contains the results of the study conducted under subsection (a), including recommendations for improvements to the transshipment monitoring system if applicable.

(c) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this section has occurred when preferential treatment under any provision of law has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of the preceding sentence, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under the provision of law in question.

SEC. 352. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for transshipment (as described in section 351(c)) enforcement operations, outreach, and education of the Customs Service $9,500,000 for fiscal year 2003.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(b) USE OF FUNDS.—Of the amount appropriated pursuant to the authorization of appropriations under subsection (a), the following amounts are authorized to be made available for the following purposes:

(1) IMPORT SPECIALISTS.—$1,463,000 for 21 Customs import specialists to be assigned to selected ports for documentation review to support detentions and exclusions and 1 additional Customs import specialist assigned to the Customs headquarters textile program to administer the program and provide oversight.

(2) INSPECTORS.—$652,080 for 10 Customs inspectors to be assigned to selected ports to examine targeted high-risk shipments.

(3) INVESTIGATORS.—(A) $1,165,380 for 10 investigators to be assigned to selected ports to investigate instances of smuggling, quota and trade agreement circumvention, and use of counterfeit visas to enter inadmissible goods.

(B) $149,603 for 1 investigator to be assigned to the Customs headquarters textile program to coordinate and ensure implementation of textile production verification team results from an investigation perspective.

(4) INTERNATIONAL TRADE SPECIALISTS.—$226,500 for 3 international trade specialists to be assigned to Customs headquarters to be dedicated to illegal textile transshipment policy issues, outreach, education, and other free trade agreement enforcement issues.

(5) PERMANENT IMPORT SPECIALISTS FOR HONG KONG.—$500,000 for 2 permanent import specialist positions and

$500,000 for 2 investigators to be assigned to Hong Kong to work with Hong Kong and other government authorities in Southeast Asia to assist such authorities in pursuing proactive enforcement of bilateral trade agreements.

(6) VARIOUS PERMANENT TRADE POSITIONS.—$3,500,000 for the following:

(A) 2 permanent positions to be assigned to the Customs attaché office in Central America to address trade enforcement issues for that region.

(B) 2 permanent positions to be assigned to the Customs attaché office in South Africa to address trade enforcement issues pursuant to the African Growth and Opportunity Act (title I of Public Law 106–200).

(C) 4 permanent positions to be assigned to the Customs attaché office in Mexico to address the threat of illegal textile transshipment through Mexico and other related issues under the North American Free Trade Agreement Act.

(D) 2 permanent positions to be assigned to the Customs attaché office in Seoul, South Korea, to address the trade issues in the geographic region.

(E) 2 permanent positions to be assigned to the proposed Customs attaché office in New Delhi, India, to address the threat of illegal textile transshipment and other trade enforcement issues.

(F) 2 permanent positions to be assigned to the Customs attaché office in Rome, Italy, to address trade enforcement issues in the geographic region, including issues under free trade agreements with Jordan and Israel.

(7) ATTORNEYS.—$179,886 for 2 attorneys for the Office of the Chief Counsel of the Customs Service to pursue cases regarding illegal textile transshipment.

(8) AUDITORS.—$510,000 for 6 Customs auditors to perform internal control reviews and document and record reviews of suspect importers.

(9) ADDITIONAL TRAVEL FUNDS.—$250,000 for deployment of additional textile production verification teams to sub-Saharan Africa.

(10) TRAINING.—(A) $75,000 for training of Customs personnel.

(B) $200,000 for training for foreign counterparts in risk management analytical techniques and for teaching factory inspection techniques, model law development, and enforcement techniques.

(11) OUTREACH.—$60,000 for outreach efforts to United States importers.

SEC. 353. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.

Of the amount made available for fiscal year 2003 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by section 311(b)(1) of this Act, $1,317,000 shall be available until expended for the Customs Service to provide technical assistance to help sub-Saharan African countries develop and implement effective visa and

anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200), as follows:

(1) TRAVEL FUNDS.—$600,000 for import specialists, special agents, and other qualified Customs personnel to travel to sub-Saharan African countries to provide technical assistance in developing and implementing effective visa and anti-transshipment systems.

(2) IMPORT SPECIALISTS.—$266,000 for 4 import specialists to be assigned to Customs headquarters to be dedicated to providing technical assistance to sub-Saharan African countries for developing and implementing effective visa and anti-transshipment systems.

(3) DATA RECONCILIATION ANALYSTS.—$151,000 for 2 data reconciliation analysts to review apparel shipments.

(4) SPECIAL AGENTS.—$300,000 for 2 special agents to be assigned to Customs headquarters to be available to provide technical assistance to sub-Saharan African countries in the performance of investigations and other enforcement initiatives.

Subtitle B—Office of the United States Trade Representative

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "not to exceed";

(B) by striking clause (i), and inserting the following: "(i) $32,300,000 for fiscal year 2003."; and

(C) by striking clause (ii), and inserting the following: "(ii) $33,108,000 for fiscal year 2004."; and

(2) in subparagraph (B)—

(A) in clause (i), by adding "and" at the end;

(B) by striking clause (ii); and

(C) by redesignating clause (iii) as clause (ii).

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 141(g) of the Trade Act of 1974 (19 U.S.C. 2171(g)) is amended by adding at the end the following:

"(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.".

(c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT U.S. TRADE REPRESENTATIVE FOR CONGRESSIONAL AFFAIRS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2003 for the salaries and expenses of two additional legislative specialist employee positions within the Office of the Assistant United States Trade Representative for Congressional Affairs.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

Subtitle C—United States International Trade Commission

SEC. 371. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended—

(1) by striking clause (i), and inserting the following:

"(i) $54,000,000 for fiscal year 2003."; and

(2) by striking clause (ii), and inserting the following:

"(ii) $57,240,000 for fiscal year 2004.".

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended by adding at the end the following:

"(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.".

Subtitle D—Other Trade Provisions

SEC. 381. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS.

(a) IN GENERAL.—Subheading 9804.00.65 of the Harmonized Tariff Schedule of the United States is amended in the article description column by striking "$400" and inserting "$800".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 382. REGULATORY AUDIT PROCEDURES.

Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended by adding at the end the following:

"(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 592, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries, if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

"(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 520.".

SEC. 383. PAYMENT OF DUTIES AND FEES.

Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)) is amended to read as follows:

"(a) DEPOSIT OF ESTIMATED DUTIES AND FEES.—Unless the entry is subject to a periodic payment or the merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of entry, or at such later time as the Secretary may prescribe by regulation (but not later than 10 working days after entry or release) the

amount of duties and fees estimated to be payable on such merchandise. As soon as a periodic payment module of the Automated Commercial Environment is developed, but no later than October 1, 2004, a participating importer of record, or the importer's filer, may deposit estimated duties and fees for entries of merchandise no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first.".

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 2101. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "Bipartisan Trade Promotion Authority Act of 2002".

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

(3) Support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore—

(A) the recent pattern of decisions by dispute settlement panels of the WTO and the Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing, and safeguard measures by WTO members under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards has raised concerns; and

(B) the Congress is concerned that dispute settlement panels of the WTO and the Appellate Body appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a per-

missible interpretation by a WTO member of provisions of that Agreement, and to the evaluation by a WTO member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

SEC. 2102. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 2103 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO (as defined in section 2113(6)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade;

(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses; and

(9) to promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—Recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade-distorting barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process;

(F) providing meaningful procedures for resolving investment disputes;

(G) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims and to deter the filing of frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(iii) procedures to enhance opportunities for public input into the formulation of government positions; and

(iv) providing for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public; and

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms;

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection; and

(C) to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the det-

riment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry;

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs; and

(xvi) striving to complete a general multilateral round in the World Trade Organization by January 1, 2005, and seeking the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import-sensitive commodities (including those subject to tariff-rate quotas).

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation

with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 2103(a) or (b), including any trade agreement entered into under section 2103(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources, and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(6));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek adherence by panels convened under the Dispute Settlement Understanding and by the Appellate Body to the standard of review applicable under the Uruguay Round Agreement involved in the dispute, including greater deference, where appropriate, to the fact-finding and technical expertise of national investigating authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(14) TRADE REMEDY LAWS.—The principal negotiating objectives of the United States with respect to trade remedy laws are—

(A) to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

(15) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(16) TEXTILE NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in textiles and apparel articles are to obtain competitive opportunities for United States exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

(17) WORST FORMS OF CHILD LABOR.—The principal negotiating objective of the United States with respect to the trade-related aspects of the worst forms of child labor are to seek commitments by parties to trade agreements to vigorously enforce their own laws prohibiting the worst forms of child labor.

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(6)) and to promote compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999, and its relevant guidelines, and report to

the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) direct the Secretary of Labor to consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating, on a time frame determined in accordance with section 2107(b)(2)(E);

(9) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this title applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this title, the United

States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 2107 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this title, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 2107; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 2103. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

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

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 2105 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or

harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect,

and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A); or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2102(a) and (b) and the President satisfies the conditions set forth in section 2104.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this title referred to as "trade authorities procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an "implementing bill".

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing

or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 2105(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) OTHER REPORTS TO CONGRESS.—

(A) REPORT BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) REPORT BY ITC.—The President shall promptly inform the International Trade Commission of the President's decision to submit a report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains a review and analysis of the economic impact on the United States

of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the ____ disapproves the request of the President for the extension, under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 2103(b) of that Act after June 30, 2005.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2102(b).

SEC. 2104. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 2103(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 2107; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 2107(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—

(1) IN GENERAL.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2102(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned;

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(III) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such programs, policies, and practices on United States producers of the products;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(3) NEGOTIATIONS REGARDING THE FISHING INDUSTRY.—Before initiating, or continuing, negotiations which directly relate to fish or shellfish trade with any country, the President shall consult with the Committee on Ways and Means and the Committee on Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate, and shall keep the Committees apprised of negotiations on an ongoing and timely basis.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 2103(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other 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 the trade agreement; and

(C) the Congressional Oversight Group convened under section 2107.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this title; and

(C) the implementation of the agreement under section 2105, including the general effect of the agreement on existing laws.

(3) REPORT REGARDING UNITED STATES TRADE REMEDY LAWS.—

(A) CHANGES IN CERTAIN TRADE LAWS.—The President, at least 180 calendar days before the day on which the President enters into a trade agreement under section 2103(b), shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) the range of proposals advanced in the negotiations with respect to that agreement, that may be in the final agreement, and that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974; and

(ii) how these proposals relate to the objectives described in section 2102(b)(14).

(B) CERTAIN AGREEMENTS.—With respect to a trade agreement entered into with Chile or Singapore, the report referred to in subparagraph (A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into that agreement.

(C) RESOLUTIONS.—(i) At any time after the transmission of the report under subparagraph (A), if a resolution is introduced with respect to that report in either House of Congress, the procedures set forth in clauses (iii) through (vi) shall apply to that resolution if—

(I) no other resolution with respect to that report has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to those procedures; and

(II) no procedural disapproval resolution under section 2105(b) introduced with respect to a trade agreement entered into pursuant to the negotiations to which the report under subparagraph (A) relates has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be.

(ii) For purposes of this subparagraph, the term "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ____ finds that the proposed changes to United States trade remedy laws contained in the report of the President transmitted to the Congress on ____ under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to ____, are inconsistent with the negotiating objectives described in section 2102(b)(14) of that Act.", with the first blank space being filled with the name of the resolving House of Congress, the second blank space being filled with the appropriate date of the report, and the third blank space being filled with the name of the country or countries involved.

(iii) Resolutions in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee.

(iv) Resolutions in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(iv) It is not in order for the House of Representatives to consider any resolution that is not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(v) It is not in order for the Senate to consider any resolution that is not reported by the Committee on Finance.

(vi) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to floor consideration of certain resolutions in the House and Senate) shall apply to resolutions.

(e) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agree-

ment entered into under section 2103(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 2103(a)(1) or 2105(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 2103(b), shall provide the International Trade Commission (referred to in this subsection as "the Commission") with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 2105. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 2103(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of

Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 2103(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this title; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 2103(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2102(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 2103(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) DISCLOSURE OF COMMITMENTS.—Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which the Congress enacts an implementing bill under trade authorities procedures, and

(B) is not disclosed to the Congress before an implementing bill with respect to that agreement is introduced in either House of Congress,

shall not be considered to be part of the agreement approved by the Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 2103(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.", with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has "failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002" on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 2104 or 2105 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 2107(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 2107(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this title.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, and if no resolution described in section 2104(d)(3)(C)(ii) with respect to that trade agreement has been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to the procedures set forth in clauses (iii) through (vi) of such section 2104(d)(3)(C).

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(3) FOR FAILURE TO MEET OTHER REQUIREMENTS.—Not later than December 31, 2002, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, shall transmit to the Congress a report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report in a timely manner.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section, section 2103(c), and section 2104(d)(3)(C) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the proce-

dures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 2106. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a), if an agreement to which section 2103(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 2104(a)(2) and the Congressional Oversight Group convened under section 2107.

SEC. 2107. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at

any time during that Congress and to which this title would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in negotiations for any trade agreement to which this title applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group convened under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2102(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Con-

gressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites;

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement; and

(E) the time frame for submitting the report required under section 2102(c)(8).

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

SEC. 2108. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 2105(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 2109. COMMITTEE STAFF.

The grant of trade promotion authority under this title is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

SEC. 2110. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking "section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002".

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting ", section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002".

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act or section 2103(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002,"; and

(ii) in paragraph (2), by striking "section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002";

(B) in subsection (b), by striking "section 1102(a)(3)(A)" and inserting "section 2103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002"; and

(C) in subsection (c), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,".

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,".

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002".

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002";

(B) in subsection (e)(1)—

(i) by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" each place it appears and inserting "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002"; and

(ii) by striking "section 1103(a)(1)(A) of such Act of 1988" and inserting "section 2105(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002"; and

(C) in subsection (e)(2), by striking "section 1101 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 2102 of the Bipartisan Trade Promotion Authority Act of 2002".

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking "or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "or under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002".

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 2103 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 2103 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 2111. REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the International Trade Commission shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the economic impact on the United States of the trade agreements described in subsection (b).

(b) AGREEMENTS.—The trade agreements described in this subsection are the following:

(1) The United States-Israel Free Trade Agreement.

(2) The United States-Canada Free Trade Agreement.

(3) The North American Free Trade Agreement.

(4) The Uruguay Round Agreements.

(5) The Tokyo Round of Multilateral Trade Negotiations.

SEC. 2112. INTERESTS OF SMALL BUSINESS.

The Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small business are considered in all trade negotiations in accordance with the objective described in section 2102(a)(8). It

is the sense of the Congress that the small business functions should be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small business.

SEC. 2113. DEFINITIONS.

In this title:

(1) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) AGREEMENT ON SAFEGUARDS.—The term "Agreement on Safeguards means the agreement referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(3) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—The term "Agreement on Subsidies and Countervailing Measures" means the agreement referred to in section 101(d)(13) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(13)).

(4) ANTIDUMPING AGREEMENT.—The term "Antidumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(7) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(7)).

(5) APPELLATE BODY.—The term "Appellate Body" means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(6) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(7) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act.

(8) GATT 1994.—The term "GATT 1994" has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(9) ILO.—The term "ILO" means the International Labor Organization.

(10) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—The term "import sensitive agricultural product" means an agricultural product—

(A) with respect to which, as a result of the Uruguay Round Agreements the rate of duty was the subject of tariff reductions by the United States and, pursuant to such Agreements, was reduced on January 1, 1995, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) which was subject to a tariff-rate quota on the date of the enactment of this Act.

(11) UNITED STATES PERSON.—The term "United States person" means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(12) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(13) WORLD TRADE ORGANIZATION; WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(14) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(15) WTO MEMBER.—The term "WTO member" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

SEC. 3101. SHORT TITLE.

This title may be cited as the "Andean Trade Promotion and Drug Eradication Act".

SEC. 3102. FINDINGS.

Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counternarcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the

world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiary countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

SEC. 3103. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT.

(a) ELIGIBILITY OF CERTAIN ARTICLES.—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively; and

(2) by amending subsection (b) to read as follows:

"(b) EXCEPTIONS AND SPECIAL RULES.—

"(1) CERTAIN ARTICLES THAT ARE NOT IMPORT-SENSITIVE.—The President may proclaim duty-free treatment under this title for any article described in subparagraph (A), (B), (C), or (D) that is the growth, product, or manufacture of an ATPDEA beneficiary country, that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, and that meets the requirements of this section, if the President determines that such article is not import-sensitive in the context of imports from ATPDEA beneficiary countries:

"(A) Footwear not designated at the time of the effective date of this title as eligible for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

"(B) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS.

"(C) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply.

"(D) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

"(2) EXCLUSIONS.—Subject to paragraph (3), duty-free treatment under this title may not be extended to—

"(A) textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

"(B) rum and tafia classified in subheading 2208.40 of the HTS;

"(C) sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas; or

"(D) tuna prepared or preserved in any manner in airtight containers, except as provided in paragraph (4).

"(3) APPAREL ARTICLES AND CERTAIN TEXTILE ARTICLES.—

"(A) IN GENERAL.—Apparel articles that are imported directly into the customs territory of the United States from an ATPDEA beneficiary country shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels, but only if such articles are described in subparagraph (B).

"(B) COVERED ARTICLES.—The apparel articles referred to in subparagraph (A) are the following:

"(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES OR ATPDEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

"(I) Fabrics or fabric components wholly formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States). Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.

"(II) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns wholly formed in 1 or more ATPDEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries) or components are in chief value of llama, alpaca, or vicuña.

"(III) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eli-

gible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

"(ii) ADDITIONAL FABRICS.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarns as eligible for preferential treatment under clause (i)(III) if—

"(I) the President determines that such fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner;

"(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

"(III) within 60 days after the request, 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 the action proposed to be proclaimed and the reasons for such action, and the advice obtained under subclause (II);

"(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

"(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

"(iii) APPAREL ARTICLES ASSEMBLED IN 1 OR MORE ATPDEA BENEFICIARY COUNTRIES FROM REGIONAL FABRICS OR REGIONAL COMPONENTS.—(I) Subject to the limitation set forth in subclause (II), apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns wholly formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i)).

"(II) The preferential treatment referred to in subclause (I) shall be extended in the 1-year period beginning October 1, 2002, and in each of the 4 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel arti-

cles imported into the United States in the preceding 12-month period for which data are available.

"(III) For purposes of subclause (II), the term 'applicable percentage' means 2 percent for the 1-year period beginning October 1, 2002, increased in each of the 4 succeeding 1-year periods by equal increments, so that for the period beginning October 1, 2006, the applicable percentage does not exceed 5 percent.

"(iv) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPDEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

"(v) CERTAIN OTHER APPAREL ARTICLES.—

"(I) GENERAL RULE.—Any apparel article classifiable under subheading 6212.10 of the HTS, except for articles entered under clause (i), (ii), (iii), or (iv), if the article is both cut and sewn or otherwise assembled in the United States, or one or more ATPDEA beneficiary countries, or both.

"(II) LIMITATION.—During the 1-year period beginning on October 1, 2003, and during each of the 3 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under this paragraph only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

"(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under this paragraph during any succeeding 1-year period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in

all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

"(vi) SPECIAL RULES.—

"(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products.

"(II) CERTAIN INTERLINING.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

"(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

"(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

"(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this subparagraph because the article contains yarns not wholly formed in the United States or in one or more ATPDEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such yarns is not more than 7 percent of the total weight of the good.

"(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) or (iii) shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

"(vii) TEXTILE LUGGAGE.—Textile luggage—

"(I) assembled in an ATPDEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or

"(II) assembled from fabric cut in an ATPDEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.

"(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (B)(iv), the President shall consult with representatives of the ATPDEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

"(D) PENALTIES FOR TRANSSHIPMENT.—

"(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to apparel articles from an ATPDEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

"(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPDEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

"(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (A) has been claimed for an apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (A).

"(E) BILATERAL EMERGENCY ACTIONS.—

"(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPDEA beneficiary country if the application of tariff treatment under subparagraph (A) to

such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

"(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

"(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

"(II) the term 'transition period' in section 4 of the Annex shall mean the period ending December 31, 2006; and

"(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPDEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4 of the Annex.

"(4) TUNA.—

"(A) GENERAL RULE.—Tuna that is harvested by United States vessels or ATPDEA beneficiary country vessels, that is prepared or preserved in any manner, in an ATPDEA beneficiary country, in foil or other flexible airtight containers weighing with their contents not more than 6.8 kilograms each, and that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, shall enter the United States free of duty and free of any quantitative restrictions.

"(B) DEFINITIONS.—In this paragraph—

"(i) UNITED STATES VESSEL.—A 'United States vessel' is a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code.

"(ii) ATPDEA VESSEL.—An 'ATPDEA vessel' is a vessel—

"(I) which is registered or recorded in an ATPDEA beneficiary country;

"(II) which sails under the flag of an ATPDEA beneficiary country;

"(III) which is at least 75 percent owned by nationals of an ATPDEA beneficiary country or by a company having its principal place of business in an ATPDEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of an ATPDEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPDEA beneficiary country or by public bodies or nationals of an ATPDEA beneficiary country;

"(IV) of which the master and officers are nationals of an ATPDEA beneficiary country; and

"(V) of which at least 75 percent of the crew are nationals of an ATPDEA beneficiary country.

"(5) CUSTOMS PROCEDURES.—

"(A) IN GENERAL.—

"(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (1), (3), or (4) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

"(ii) DETERMINATION.—

"(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (1), (3), or (4) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

"(aa) has implemented and follows, or

"(bb) is making substantial progress toward implementing and following,

procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

"(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPDEA beneficiary country—

"(aa) from which the article is exported; or

"(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (1), (3), or (4).

"(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (1), (3), or (4) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

"(C) REPORT ON COOPERATION OF ATPDEA COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commissioner of Customs shall conduct a study analyzing the extent to which each ATPDEA beneficiary country—

"(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and

other relevant information, to the extent such information is available;

"(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning quantities, description, classification, or origin of textile and apparel goods; and

"(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Commissioner of Customs shall submit to the Congress, not later than October 1, 2003, a report on the study conducted under this subparagraph.

"(6) DEFINITIONS.—In this subsection—

"(A) ANNEX.—The term 'the Annex' means Annex 300–B of the NAFTA.

"(B) ATPDEA BENEFICIARY COUNTRY.—The term 'ATPDEA beneficiary country' means any 'beneficiary country', as defined in section 203(a)(1) of this title, which the President designates as an ATPDEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

"(i) Whether the beneficiary country has demonstrated a commitment to—

"(I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

"(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

"(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

"(iii) The extent to which the country provides internationally recognized worker rights, including—

"(I) the right of association;

"(II) the right to organize and bargain collectively;

"(III) a prohibition on the use of any form of forced or compulsory labor;

"(IV) a minimum age for the employment of children; and

"(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

"(v) The extent to which the country has met the counternarcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

"(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

"(vii) The extent to which the country—

"(I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

"(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

"(viii) The extent to which the country has taken steps to support the efforts of the United States to combat terrorism.

"(C) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

"(D) WTO.—The term 'WTO' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

"(E) ATPDEA.—The term 'ATPDEA' means the Andean Trade Promotion and Drug Eradication Act.

"(F) FTAA.—The term 'FTAA' means the Free Trade Area for the Americas.".

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(e)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(1)"; and

(3) by adding at the end the following:

"(B) The President may, after the requirements of paragraph (2) have been met—

"(i) withdraw or suspend the designation of any country as an ATPDEA beneficiary country, or

"(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b)(1), (3), or (4) to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(6)(B).".

(c) CONFORMING AMENDMENTS.—(1) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting "(or other preferential treatment)" after "treatment".

(2) Section 204(a) of the Andean Trade Preference Act (19 U.S.C. 3203(a)) is amended—

(A) in paragraph (1)—

(i) by inserting "(or otherwise provided for)" after "eligibility"; and

(ii) by inserting "(or preferential treatment)" after "duty-free treatment"; and

(B) in paragraph (2), by striking "subsection (a)" and inserting "paragraph (1)".

(d) PETITIONS FOR REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall promulgate regulations regarding the review of eligibility of articles and countries under the Andean Trade Preference Act, consistent with section 203(e) of such Act, as amended by this title.

(2) CONTENT OF REGULATIONS.—The regulations shall be similar to the regulations regarding eligibility under the generalized system of preferences under title V of the Trade Act of 1974 with respect to the timetable for reviews and content, and shall include procedures for requesting withdrawal, suspension, or limitations of preferential duty treatment under the Andean Trade Preference Act, conducting reviews of such requests, and implementing the results of the reviews.

(e) REPORTING REQUIREMENTS.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

"(f) REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—Not later than April 30, 2003, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to the Congress a report regarding the operation of this title, including—

"(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

"(B) the performance of each beneficiary country or ATPEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(6)(B).

"(2) PUBLIC COMMENT.—Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 204(b)(6)(B).".

SEC. 3104. TERMINATION.

(a) IN GENERAL.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended to read as follows:

"SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.

"No duty-free treatment or other preferential treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2006.".

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), the entry—

(A) of any article to which duty-free treatment (or preferential treatment) under the Andean Trade Preference Act (19 U.S.C. 3201 et seq.) would have applied if the entry had been made on December 4, 2001, and

(B) that was made after December 4, 2001, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as if such duty-free treatment (or preferential treatment) applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) ENTRY.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 3105. REPORT ON FREE TRADE AGREEMENT WITH ISRAEL.

(a) REPORT TO CONGRESS.—The United States Trade Representative shall review the implementation of the United States-Israel Free Trade Agreement and shall submit to the Speaker of the House of Representatives, the President of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate a report on the results of such review.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include the following:

(1) A review of the terms of the United States-Israel Free Trade Agreement, particularly the terms with respect to market access commitments.

(2) A review of subsequent agreements which may have been reached between the parties to the Agreement and of unilateral concessions of additional benefits received by each party from the other.

(3) A review of any current negotiations between the parties to the Agreement with respect to implementation of the Agreement and other pertinent matters.

(4) An assessment of the degree of fulfillment of obligations under the Agreement by the United States and Israel.

(5) An assessment of improvements in structuring future trade agreements that should be considered based on the experience of the United States under the Agreement.

(c) TIMING OF REPORT.—The United States Trade Representative shall submit the report under subsection (a) not later than 6 months after the date of the enactment of this Act.

(d) DEFINITION.—In this section, the terms "United States-Israel Free Trade Agreement" and "Agreement" means the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel entered into on April 22, 1985.

SEC. 3106. MODIFICATION OF DUTY TREATMENT FOR TUNA.

Subheading 1604.14.20 of the Harmonized Tariff Schedule of the United States is amended—

(1) in the article description, by striking "20 percent of the United States pack of canned tuna" and inserting "4.8 percent of apparent United States consumption of tuna in airtight containers"; and

(2) by redesignating such subheading as subheading 1604.14.22.

SEC. 3107. TRADE BENEFITS UNDER THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) IN GENERAL.—Section 213(b)(2)(A) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amended as follows:

(1) Clause (i) is amended—

(A) by striking the matter preceding subclause (I) and inserting the following:

"(i) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—"; and

(B) by adding at the end the following:

"Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.".

(2) Clause (ii) is amended to read as follows:

"(ii) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States). Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit

fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.".

(3) Clause (iii)(II) is amended to read as follows:

"(II) The amount referred to in subclause (I) is as follows:

"(aa) 500,000,000 square meter equivalents during the 1-year period beginning on October 1, 2002.

"(bb) 850,000,000 square meter equivalents during the 1-year period beginning on October 1, 2003.

"(cc) 970,000,000 square meter equivalents in each succeeding 1-year period through September 30, 2008.".

(4) Clause (iii)(IV) is amended to read as follows:

"(IV) The amount referred to in subclause (III) is as follows:

"(aa) 4,872,000 dozen during the 1-year period beginning on October 1, 2001.

"(bb) 9,000,000 dozen during the 1-year period beginning on October 1, 2002.

"(cc) 10,000,000 dozen during the 1-year period beginning on October 1, 2003.

"(dd) 12,000,000 dozen in each succeeding 1-year period through September 30, 2008.".

(5) Clause (iv) is amended to read as follows:

"(iv) CERTAIN OTHER APPAREL ARTICLES.—

"(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, except for articles entered under clause (i), (ii), (iii), (v), or (vi), if the article is both cut and sewn or otherwise assembled in the United States, or one or more CBTPA beneficiary countries, or both.

"(II) LIMITATION.—During the 1-year period beginning on October 1, 2001, and during each of the 6 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

"(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.".

(6) Clause (vii) is amended by adding at the end the following new subclause:

"(V) THREAD.—An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the thread used to assemble the article is dyed, printed, or finished in one or more CBTPA beneficiary countries.".

(7) Section 213(b)(2)(A) of such Act is further amended by adding at the end the following new clause:

"(ix) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES FROM UNITED STATES AND CBTPA BENEFICIARY COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from components cut in the United States and in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS). Apparel articles shall qualify under this clause only if they meet the requirements of clause (i) or (ii) (as the case may be) with respect to dyeing, printing, and finishing of knit and woven fabrics from which the articles are assembled.".

(b) EFFECTIVE DATE OF CERTAIN PROVISIONS.—The amendment made by subsection (a)(3) shall take effect on October 1, 2002.

SEC. 3108. TRADE BENEFITS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT.

(a) IN GENERAL.—Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended as follows:

(1) Paragraph (1) is amended by amending the matter preceding subparagraph (A) to read as follows:

"(1) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—".

(2) Paragraph (2) is amended to read as follows:

"(2) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States).".

(3) Paragraph (3) is amended—

(A) by amending the matter preceding subparagraph (A) to read as follows:

"(3) APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, subject to the following:"; and

(B) by amending subparagraph (B) to read as follows:

"(B) SPECIAL RULE FOR LESSER DEVELOPED COUNTRIES.—

"(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, for apparel arti-

cles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or the yarn used to make such articles.

"(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of clause (i), the term 'lesser developed beneficiary sub-Saharan African country' means—

"(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

"(II) Botswana; and

"(III) Namibia.".

(4) Paragraph (4)(B) is amended by striking "18.5" and inserting "21.5".

(5) Section 112(b) of such Act is further amended by adding at the end the following new paragraph:

"(7) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).".

(b) INCREASE IN LIMITATION ON CERTAIN BENEFITS.—The applicable percentage under clause (ii) of section 112(b)(3)(A) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(3)(A)) shall be increased—

(1) by 2.17 percent for the 1-year period beginning on October 1, 2002, and

(2) by equal increments in each succeeding 1-year period provided for in such clause, so that for the 1-year period beginning October 1, 2007, the applicable percentage is increased by 3.5 percent,

except that such increase shall not apply with respect to articles eligible under subparagraph (B) of section 112(b)(3) of that Act.

DIVISION D—EXTENSION OF CERTAIN PREFERENTIAL TRADE TREATMENT

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

SEC. 4101. EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended

by striking "September 30, 2001" and inserting "December 31, 2006".

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001,

(B) that was made after September 30, 2001, and before the date of the enactment of this Act, and

(C) to which duty-free treatment under title V of that Act did not apply,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(3) DEFINITION.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

SEC. 4102. AMENDMENTS TO GENERALIZED SYSTEM OF PREFERENCES.

(a) ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.—Section 502(b)(2)(F) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)(F)) is amended by striking the period at the end and inserting "or such country has not taken steps to support the efforts of the United States to combat terrorism.".

(b) DEFINITION OF INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—Section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4)) is amended by amending subparagraph (D) to read as follows:

"(D) a minimum age for the employment of children, and a prohibition on the worst forms of child labor, as defined in paragraph (6); and".

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101. WOOL PROVISIONS.

(a) SHORT TITLE.—This section may be cited as the "Wool Manufacturer Payment Clarification and Technical Corrections Act".

(b) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting "average" before "diameters".

(c) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—

(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:

(A) Subsection (a) is amended—

(i) by striking "In each of the calendar years" and inserting "For each of the calendar years"; and

(ii) by striking "for a refund of duties" and all that follows through the end of the subsection and inserting "for a payment equal to an amount determined pursuant to subsection (d)(1).".

(B) Subsection (b) is amended to read as follows:

"(b) WOOL YARN.—

"(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

"(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).".

(C) Subsection (c) is amended to read as follows:

"(c) WOOL FIBER AND WOOL TOP.—

"(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of wool yarn or wool fabric who imports wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

"(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).".

(D) Section 505 is further amended by striking subsection (d) and inserting the following new subsections:

"(d) AMOUNT OF ANNUAL PAYMENTS TO MANUFACTURERS.—

"(1) MANUFACTURERS OF MEN'S SUITS, ETC. OF IMPORTED WORSTED WOOL FABRICS.—

"(A) ELIGIBLE TO RECEIVE MORE THAN $5,000.—Each annual payment to manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each of the calendar years 2000, 2001, and 2002, shall be in an amount equal to one-third of the amount determined by multiplying $30,124,000 by a fraction—

"(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the manufacturer making the claim, and

"(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each such calendar year under this section as it was in effect on that date.

"(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported worsted wool fabrics described in subsection (a).

"(C) OTHERS.—All manufacturers described in subsection (a), other than the manufacturers to which subparagraph (A) applies, shall each receive an annual payment in an amount equal to one-third of the amount determined by dividing $1,665,000 by the number of all such other manufacturers.

"(2) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

"(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying $2,202,000 by a fraction—

"(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

"(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

"(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool yarn described in subsection (b)(1).

"(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

"(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

"(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

"(3) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

"(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying $1,522,000 by a fraction—

"(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

"(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

"(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool fiber or wool top described in subsection (c)(1).

"(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying $597,000 by a fraction—

"(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

"(ii) the denominator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).

"(4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section.

"(5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NONIMPORTING MANUFACTURERS.—

"(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant's belief and knowledge. The nonimporting manufacturer shall retain the records upon

which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service.

"(B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—

"(i) the eligible wool product for nonimporting manufacturers of worsted wool fabrics is wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States purchased in calendar year 1999; and

"(ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of such Schedule purchased in calendar year 1999.

"(6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid by a manufacturer shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect.

"(7) SCHEDULE OF PAYMENTS; REALLOCATIONS.—

"(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first and second installments on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second installment on or before April 15, 2003.

"(B) REALLOCATIONS.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received.

"(8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the 'records of the Customs Service as of September 11, 2001' are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review.

"(e) AFFIDAVITS BY MANUFACTURERS.—

"(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2000, 2001, or 2002, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the affiant

was a manufacturer in the United States described in subsection (a), (b), or (c).

"(2) TIMING.—An affidavit under paragraph (1) shall be valid—

"(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000 or 2001, or both, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and

"(B) in the case of a claim for a payment for calendar year 2002, only if the affidavit is postmarked no later than March 1, 2003.

"(f) OFFSETS.—Notwithstanding any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2002 and 2003, shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act.

"(g) DEFINITION.—For purposes of this section, the manufacturer is the party that owns—

"(1) imported worsted wool fabric, of the kind described in heading 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men's or boys' suits, suit-type jackets, or trousers;

"(2) imported wool yarn, of the kind described in heading 5107.01 or 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or

"(3) imported wool fiber or wool top, of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of such Schedule, at the time the wool fiber or wool top is processed in the United States into wool yarn.".

(2) FUNDING.—There is authorized to be appropriated and is hereby appropriated, out of amounts in the General Fund of the Treasury not otherwise appropriated, $36,251,000 to carry out the amendments made by paragraph (1).

SEC. 5102. DUTY SUSPENSION ON WOOL.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—

(1) HEADING 9902.51.11.— Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended by striking "2003" and inserting "2005".

(2) HEADING 9902.51.12.— Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "2003" and inserting "2005"; and

(B) by striking "6%" and inserting "Free".

(3) HEADING 9902.51.13.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking "2003" and inserting "2005".

(4) HEADING 9902.51.14.—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking "2003" and inserting "2005".

(b) LIMITATION ON QUANTITY OF IMPORTS.—

(1) NOTE 15.—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "from January 1 to December 31 of each year, inclusive"; and

(B) by striking ", or such other" and inserting the following: "in calendar year 2001, 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater".

(2) NOTE 16.—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "from January 1 to December 31 of each year, inclusive"; and

(B) by striking ", or such other" and inserting the following: "in calendar year 2001, 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater".

(c) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—The United States Customs Service shall pay each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106–200) for calendar year 2002, and that provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of the payment, 2 additional payments, each payment equal to the payment received for calendar year 2002 as follows:

(A) The first payment to be made after January 1, 2004, but on or before April 15, 2004.

(B) The second payment to be made after January 1, 2005, but on or before April 15, 2005.

(2) CONFORMING AMENDMENT.—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106–200) is amended by striking "2004" and inserting "2006".

(3) AUTHORIZATION.—There is authorized to be appropriated and is hereby appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(d) EFFECTIVE DATE.—The amendment made by subsection (a)(2)(B) applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

Subtitle B—Other Provisions

SEC. 5201. FUND FOR WTO DISPUTE SETTLEMENTS.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund for the payment of settlements under this section.

(b) AUTHORITY OF USTR TO PAY SETTLEMENTS.—Amounts in the fund established under subsection (a) shall be available, as provided in appropriations Acts, only for the payment by the United States Trade Representative of the amount of the total or partial settlement of any dispute pursuant to proceedings under the auspices of the World Trade Organization, if—

(1) in the case of a total or partial settlement in an amount of not more than $10,000,000, the Trade Representative certifies to the Secretary of the Treasury that the settlement is in the best interests of the United States; and

(2) in the case of a total or partial settlement in an amount of more than $10,000,000, the Trade Representative certifies to the Congress that the settlement is in the best interests of the United States.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the fund established under subsection (a)—

(1) $50,000,000; and

(2) amounts equivalent to amounts recovered by the United States pursuant to the settlement of disputes pursuant to proceedings under the auspices of the World Trade Organization.

Amounts appropriated to the fund are authorized to remain available until expended.

(d) MANAGEMENT OF FUND.—Sections 9601 and 9602(b) of the Internal Revenue Code of 1986 shall apply to the fund established under subsection (a) to the same extent as such provisions apply to trust funds established under subchapter A of chapter 98 of such Code.

SEC. 5202. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking "4.9%" and inserting "Free"; and

(2) by striking "12/31/2003" and inserting "12/31/2006".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2002, and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry,

shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) ENTRY.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(4) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 5203. SUGAR TARIFF-RATE QUOTA CIRCUMVENTION.

(a) IN GENERAL.—Chapter 17 of the Harmonized Tariff Schedule of the United States is amended in the superior text to sub-

heading 1702.90.05 by striking "Containing" and all that follows through "solids:" and inserting the following:

"Containing soluble non-sugar solids (excluding any foreign substances, including but not limited to molasses, that may have been added to or developed in the product) equal to 6 percent or less by weight of the total soluble solids:".

(b) MONITORING FOR CIRCUMVENTION.—The Secretary of Agriculture and the Commissioner of Customs shall continuously monitor imports of sugar and sugar-containing products provided for in chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule of the United States, other than molasses imported for use in animal feed or the production of rum and articles prepared for marketing to the ultimate consumer in the form and package in which imported, for indications that an article is being used to circumvent a tariff-rate quota provided for in those chapters. The Secretary and Commissioner shall specifically examine imports of articles provided for in subheading 1703.10.30 of the Harmonized Tariff Schedule of the United States.

(c) REPORTS AND RECOMMENDATIONS.—The Secretary and the Commissioner shall report their findings to Congress and the President not later than 180 days after the date of enactment of this Act and every 6 months thereafter. The reports shall include data and a description of developments and trends in the composition of trade of articles provided for in the chapters of the Harmonized Tariff Schedule of the United States identified in subsection (b) and any indications of circumvention that may exist. The reports shall also include recommendations for ending such circumvention, including recommendations for legislation.

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
PHILLIP M. CRANE,

From the Committee on Education and the Workforce, for consideration of sec. 603 of the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
SAM JOHNSON,

From the Committee on Energy and Commerce, for consideration of sec. 603 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,

From the Committee on Government Reform, for consideration of sec. 344 of the House amendment, and sec. 1143 of the Senate amendment, and modifications committed to conference:

DAN BURTON,
BOB BARR,

From the Committee on the Judiciary, for consideration of secs. 111, 601, and 701 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,

From the Committee on Rules, for consideration of secs. 2103, 2105, and 2106 of the House amendment and secs. 2103, 2105, and 2106 of the Senate amendment, and modifications committed to conference:

DAVID DREIER,
JOHN LINDER,
Managers on the Part of the House.

MAX BAUCUS,
JOHN BREAUX,
CHUCK GRASSLEY,
ORRIN HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3009), to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 101—SHORT TITLE

Present law

No provision.

House amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the "Trade Adjustment Assistance Reform Act of 2002."

Senate amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the "Trade Adjustment Assistance Reform Act of 2002."

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance for Workers

SEC. 111—REAUTHORIZATION OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current section 245 authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the TAA and NAFTA–TAA for workers programs for the period October 1, 1998 through September 30, 2001. Current section 285 provides for termination of all Trade Adjustment Assistance programs on September 30, 2001, but provides that workers, and firms eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

House amendment

The House Amendment reauthorized the Trade Adjustment Assistance programs through September 30, 2004.

Senate amendment

Section 111 of the Senate bill creates a new section 248 of the Trade Act of 1974 which authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the Trade Adjustment Assistance for workers program for the period October 1, 2001, through September 30, 2007. Section 701 of the Senate bill amends current section 285 to provide for termination of all Trade Adjustment Assistance programs on September 30, 2007, but provides that workers, and firms, communities, farmers, and fishermen eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

Conference agreement

Conferees agree to extend the authorization of the Trade Adjustment Assistance programs through September 30, 2007, and to consolidate the NAFTA–TAA program with the regular TAA program.

SEC. 112—FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR

Present law

Current sections 221 and 250 set forth requirements concerning who may file a petition for certification of eligibility to apply for TAA and NAFTA–TAA assistance, respectively. Under both programs, petitions may be filed by a group of workers or by their certified or recognized union or other duly authorized representative. TAA petitions are filed with the Secretary of Labor. NAFTA–TAA petitions are filed with the Governor of the relevant State and forwarded by him to the Secretary of Labor. Under section 223, the Secretary of Labor must rule on eligibility within 60

days after a TAA petition is filed. Under section 250, the Governor must make a preliminary eligibility determination within 10 days after a NAFTA–TAA petition is filed, and the Secretary of Labor must make a final eligibility determination within the next 30 days. Section 221 also sets forth notice and hearing obligations of the Secretary of Labor upon receipt of a TAA petition. Section 250 provides that, in the event of preliminary certification of eligibility to apply for NAFTA–TAA benefits, the Governor immediately provide the affected workers with certain rapid response services.

House amendment

The House Amendment provided for a shortened period for the Secretary of Labor to consider petitions from 60 days to 40 days and for other rapid response assistance to workers.

Senate amendment

Section 111 of the Senate bill creates a new section 231 of the Trade Act of 1974, which consolidates the TAA and NAFTA–TAA programs by establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Section 231 expands the list of entities that may file a petition for group certification of eligibility to include employers, one-stop operators or one-stop partners, State employment agencies, and any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retaining Notification Act. Section 231 also provides that the President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may direct the Secretary of Labor to initiate a certification process under this chapter to determine the eligibility for Trade Adjustment Assistance of a group of workers.

Section 231 creates a single process for filing and reviewing petitions for Trade Adjustment Assistance for workers, under which all petitions are filed with both the Secretary of Labor and the Governor of the State. Upon filing of the petition, the Governor is required to fulfill the requirements of any agreement entered into with the Department of Labor under section 222, to provide certain rapid response services, and to notify workers on whose behalf a petition has been filed of their potential eligibility for certain existing federal health care, child care, transportation, and other assistance programs. Upon filing the petition, the Secretary of Labor must make his certification determination within 40 days and provide the notice required.

Conference agreement

The Senate recedes to the House with a change providing for simultaneous filing of petitions with the Secretary of Labor and State Governor.

SEC. 113—GROUP ELIGIBILITY REQUIREMENTS

Present law

Current law sections 222 and 250 of Title II of the Trade Act of 1974 set forth group eligibility criteria. Under TAA, the Secretary must certify a group of workers as eligible to apply for Trade Adjustment Assistance if he determines (1) that a significant number or proportion of the workers in such workers' firm have become or are threatened to become totally or partially separated; (2) sales or production of such firm have decreased absolutely; and (3) imports of articles like or directly competitive with articles produced by such workers' firm contributed importantly to the total or partial separation or threat thereof, and to the decline in sales or production. Under NAFTA–TAA, group eligibility may be based on the same criteria set forth in section 222, but section 250 also provides for NAFTA–TAA eligibility where there has been a shift in production by the workers' firm to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm. Section 222 also includes special eligibility provisions with respect to oil and natural gas producers.

House amendment

The House Amendment at Section 113 expanded the Trade Adjustment Assistance programs to secondary workers that are suppliers to firms that were certified and which satisfied certain conditions.

Senate amendment

Section 111 of the Senate Amendment creates a new section 231 under which the eligibility criteria are revised. First, workers are eligible for TAA if the value or volume of imports of articles like or directly competitive with articles produced by that firm have increased and the increase in the value or volume of imports contributed importantly to the workers' separation or threat of separation. Second, eligibility is extended to workers who are separated due to shifts in production to any country, rather than only when the shift in production is to Mexico or Canada. Third, eligibility is extended to adversely affected secondary workers. Eligible secondary workers include workers in supplier firms and, with respect to trade with NAFTA countries, downstream firms. Fourth, a new special eligibility provision is added with respect to taconite pellets.

Conference agreement

The Conferees agree to extend coverage of Trade Adjustment Assistance to new categories of workers: (1) secondary workers that supply directly to another firm component parts for articles that were the basis for a certification of eligibility, (2) downstream workers that were affected by trade with Mexico or Canada, and (3) certain workers that have been laid off because their firm has shifted its production to another country that has a free trade agreement with the United States, that has a unilaterally preferential trading arrangement with the United States, or when there has been or is likely to be an increase in imports of the relevant articles.

SEC. 114—QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES

Present law

Current section 231 establishes qualifying requirements that must be met in order for an individual worker within a certified group to receive Trade Adjustment Assistance. In order to receive trade readjustment allowances, a certified worker must have been separated on or after the eligibility date established in the certification but within 2 years of the date of the certification determination; been employed for at least 26 of the 52 weeks preceding the separation at wages of $30 or more a week; be eligible for and have exhausted unemployment insurance benefits; not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of that Act; and be enrolled in a training program approved by the Secretary of Labor or have received a training waiver.

House amendment

The House Amendment at Section 114 provided for requirements and deadlines for workers to enroll in training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 235 which maintains the individual eligibility requirements in current law, with the exception of revisions to provisions governing bases for granting training waivers.

Conference agreement

The Senate recedes to the House, with a change to adopt a training enrollment deadline of 16 weeks after separation.

SEC. 115—WAIVERS OF TRAINING REQUIREMENTS

Present law

Section 231 sets forth permissible bases for granting a training waiver. Pursuant to section 250(d), training waivers are not available in the NAFTA–TAA program.

House amendment

The House Amendment provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Senate amendment

Section 111 of the Senate Amendment adds a new section 235 which provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Conference agreement

The House receded to the Senate with a change to delete the Senate provision giving the Secretary discretion to grant waivers for "other" reasons.

SEC. 116—AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

Present law

Current section 233 provides that each certified worker may receive trade readjustment allowances for a maximum of 52 weeks. Current law also provides that, in most circumstances, a worker is treated as participating in training during any week which is part of a break in training that does not exceed 14 days.

House amendment

Section 116 of the House Amendment would add 26 weeks of trade adjustment allowances for those workers who were in training and required the extension of benefits for the purpose of completing training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 237 which increases the maximum time period during which a worker may receive trade adjustment allowances to 78 weeks, extends the permissible duration of a break in training to 30 days, and provides for an additional 26 weeks of income support for workers requiring remedial education. Section 237 also clarifies that the requirement that a worker exhaust unemployment insurance benefits prior to receiving trade adjustment allowances does not apply to any extension of unemployment insurance by a State using its own funds that extends beyond either the 26 week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

Conference agreement

The Senate recedes to the House.

SEC. 117—ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING

Present law

Current section 236 establishes the terms and conditions under which training is available to eligible workers; permits the Secretary of Labor to approve certain specified types of training programs and to pay the costs of approved training and certain supplemental costs, including subsistence and transportation costs, for eligible workers; and caps total annual funding for training under the TAA for workers program at $80 million. Section 250 separately caps training expenditures under the NAFTA–TAA program at $30 million annually.

House amendment

The House provided $30 million additional funds for the Trade Adjustment Assistance program. Combined with NAFTA Trade Adjustment Assistance, the total training funds available were $140 million.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which sets the total funds available for training expenditures under the unified TAA for workers program to $300 million annually.

Conference agreement

Conferees agreed to a combined training cap of $220 million for Trade Adjustment Assistance training.

SEC. 118—PROVISION OF EMPLOYER-BASED TRAINING

Present law

No applicable section.

House amendment

The House Amendment included provisions related to employer based training including on-the-job training and customized training with partial reimbursements provided to the employer.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which revises the list of training programs which the Secretary may approve to include customized training. It also adds a new section 237, which clarifies that the prohibition on payment of trade adjustment allowances to a worker receiving on-the-job training does not apply to a worker enrolled in a non-paid customized training program.

Conference agreement

The Senate recedes to the House.

SEC. 119—COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Present law

No provision.

House amendment

The House Amendment provided multiple provisions related to coordinating efforts under the Trade Adjustment Assistance programs to provide information and benefits to workers under the Workforce Investment Act.

Senate amendment

No provision.

Conference agreement

Conferees agreed to drop House language with the exception of a provision related to coordinating the delivery of Trade Adjustment Assistance benefits and information at one-stop delivery systems under the Workforce Investment Act.

SEC. 120—EXPENDITURE PERIOD

Present law

No provision.

House amendment

The House amendment provided that certain funds obligated for any fiscal year to carry out activities may be expended by each State in the succeeding two fiscal years.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 121—JOB SEARCH ALLOWANCES

Present law

Under current section 237, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive reimbursement of 90 percent of the cost of necessary job search expenses up to $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 241 which raises the maximum reimbursement for job search expenses to $1,250 per worker.

Conference agreement

The House recedes to the Senate.

SEC. 122—RELOCATION ALLOWANCES

Present law

Under current section 238, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive a relocation allowance consisting of (1) 90 percent of the reasonable and necessary expenses incurred in transporting a worker and his family, if any, and household effects, and (2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 242 which raises the maximum lump sum portion of the relocation allowance to $1,250.

Conference agreement

The House recedes to the Senate.

SEC. 123—REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current law authorizes a Trade Adjustment Assistance Program for workers affected by NAFTA trade.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 231 which combines the TAA and NAFTA–TAA programs, establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certification of eligibility.

Conference agreement

The House recedes to the Senate to the extent of repealing the NAFTA Trade Adjustment Assistance program and creating a single, unified TAA program for workers.

SEC. 124—DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 243 which directs the Secretary of Labor, within one year of enactment, to establish a two-year wage insurance pilot program under which a State uses the funds provided to the State for Trade Adjustment allowances to pay to an adversely affected worker certified under section 231, for a period not to exceed two years, a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation. An adversely affected worker may be eligible to receive a wage sub-

sidy if the worker obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment, is at least 50 years of age, earns not more than $50,000 a year in wages from reemployment, is employed at least 30 hours a week in the reemployment, and does not return to the employment from which the worker was separated. The wage subsidy available to workers in the wage insurance program is 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation, if the wages the worker receives from reemployment are less than $40,000 a year. The wage subsidy is 25 percent if the wages received by the worker from reemployment are greater than $40,000 a year but not more than $50,000 a year. Total payments made to an adversely affected worker under the wage insurance program may not exceed $5,000 in each year of the 2-year period. A worker participating in the wage insurance program is not eligible to receive any other Trade Adjustment Assistance benefits, unless the Secretary of Labor determines that the worker has shown circumstances that warrant eligibility for training benefits under section 240.

Conference agreement

The Conferees agree to create a new alternative Trade Adjustment Assistance program for older workers.

SEC. 125—DECLARATIONS OF POLICY; SENSE OF CONGRESS

Present law

No provision.

House amendment

The House passed amendment included a declaration of policy and Sense of the Congress related to the responsibility of the Secretary of Labor to provide information to workers related to benefits available to them under the TAA and other federal programs.

Senate amendment

Although certain supportive services are available to dislocated workers under WIA, current law makes no express linkage between these services and Trade Adjustment Assistance and TAA certified workers may not be able to access them. Section 111 of the Senate Amendment adds a new section 243 which provides that States may apply for and the Secretary of Labor may make available to adversely affected workers certified under the Trade Adjustment Assistance program supportive services available under WIA, including transportation, child care, and dependent care, that are necessary to enable a worker to participate in or complete training. Section 243 requires the Comptroller General to conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress; to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the study within one year of enactment of this Act; and to distribute the report to all WIA one-stop partners. Section 243 further provides that each

State may conduct a study of its assistance programs for workers facing job loss and economic distress. Each State is eligible for a grant from the Secretary of Labor, not to exceed $50,000, to enable it to conduct the study. In the event that a grant is awarded, the State must, within one year of receiving the grant, provide its report to the Committee on Finance and the Committee on Ways and Means and distribute its report to one-stop partners in the State.

Conference agreement

The Senate recedes to the House.

Subtitle B—Trade Adjustment Assistance for Firms

SEC. 131—REAUTHORIZATION OF TRADE ADJUSTMENT FOR FIRMS PROGRAM

Present law

The Trade Adjustment Assistance for Firms program provides technical assistance to qualifying firms. Current Title II, Chapter 3, section 251 of the Trade Act of 1974 provides that a firm is eligible to receive Trade Adjustment Assistance under this program if (1) a significant number or proportion of its workers have become or are threatened to become totally or partially separated; (2) sales or production, or both, have decreased absolutely; and (3) increases of imports of articles like or directly competitive with articles which are produced by such firms contributed importantly to the total or partial separations or threat thereof.

The authorization for the Trade Adjustment Assistance for Firms program expired on September 30, 2001. The TAA for Firms program is currently subject to annual appropriations and is funded as part of the budget of the Economic Development Administration in the Department of Commerce.

House amendment

The House passed amendment included a 2-year reauthorization for Trade Adjustment Assistance for Firms.

Senate amendment

Section 201 of the Senate Amendment reauthorizes the Trade Adjustment Assistance for Firms program for fiscal years 2002 through 2007; expands the definition of qualifying firms to cover shifts in production; and authorizes appropriations to the Department of Commerce in the amount of $16 million annually for fiscal years 2002 through 2007 to carry out the purposes of the Trade Adjustment Assistance for Firms program.

Conference agreement

The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Firms and reauthorizing the program through September 30, 2007.

Subtitle C—Trade Adjustment Assistance for Farmers and Ranchers

SEC. 141—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 401 of the Senate Amendment adds new sections 292–298 of the Trade Act of 1974 which create a Trade Adjustment Assistance program for farmers and ranchers in the Department of Agriculture. Under this section, a group of agricultural commodity producers may petition the Secretary of Agriculture for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for farmers if it is determined that the national average price in the most recent marketing year for the commodity produced by the group is less than 80 percent of the national average price in the preceding 5 marketing years and that increases in imports of that commodity contributed importantly to the decline in price.

Conference agreement

The House recedes to the Senate with changes. The Conferees agree to include limitations on eligibility based upon adjusted gross income and counter-cyclical payment limitations set forth in the Food Security Act of 1985.

SEC. 142—CONFORMING AMENDMENTS

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment makes conforming amendments to the Trade Act of 1974 concerning the TAA for Farmers program.

Conference agreement

Conferees agree to make conforming amendments to the Trade Act of 1974.

SEC. 143—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 502 of the Senate Amendment adds new sections 299–299(G) which create a Trade Adjustment Assistance program for fishermen in the Department of Commerce. Under this program, a group of fishermen may petition the Secretary of Commerce for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for fishermen if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 80 percent of the national average price in the proceeding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

Conference agreement

Conferees agree to drop Senate Amendment and authorize a study by the Department of Labor to investigate applying TAA to fisherman.

Subtitle D—Effective Date

SEC. 151—EFFECTIVE DATE

Present law

No applicable provision.

House amendment

No provision.

Senate amendment

Section 801 of the Senate Amendment provides that except as otherwise specified, the amendments to the TAA program shall be effective 90 days after enactment of the Trade Act of 2002. The Senate Amendment includes transitional provisions governing the period between expiration of the prior authorizations of TAA for workers and firms and the effective date of the amendments/

Conference agreement

The House recedes to the Senate.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201(a) AND 202—CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENEFIT FROM THE PENSION BENEFIT GUARANTY CORPORATION; ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

Present law

Under present law, the tax treatment of health insurance expenses depends on the individual's circumstances. In general, employer contributions to an accident or health plan are excludable from an employee's gross income (sec. 106).

Self-employed individuals are entitled to deduct a portion of the amount paid for health insurance expenses for the individual

and his or her spouse and dependents. The percentage of deductible expenses is 70 percent in 2002 and 100 percent in 2003 and thereafter.

Individuals other than self-employed individuals who purchase their own health insurance and itemize deductions may deduct their expenses to the extent that their total medical expenses exceed 7.5 percent of adjusted gross income.

Present law does not provide a tax credit for the purchase of health insurance.

The health care continuation rules (commonly referred to as "COBRA" rules, after the Consolidated Omnibus Budget Reconciliation Act of 1985 in which they were enacted) require that employer-sponsored group health plans of employers with 20 or more employees must offer certain covered employees and their dependents ("qualified beneficiaries") the option of purchasing continued health coverage in the event of loss of coverage resulting from certain qualifying events. These qualifying events include: termination or reduction in hours of employment, death, divorce or legal separation, enrollment in Medicare, the bankruptcy of the employer, or the end of a child's dependency under a parent's health plan. In general, the maximum period of COBRA coverage is 18 months. An employer is permitted to charge qualified beneficiaries 102 percent of the applicable premium for COBRA coverage.

Under present law, individuals without access to COBRA are able to purchase individual policies on a guaranteed issue basis without exclusion of coverage for pre-existing conditions if they had 18 months of creditable coverage under an employer sponsored group health plan, governmental plan, or a church plan. Those with access to COBRA are required to exhaust their 18 months of COBRA prior to obtaining a policy on a guaranteed issue basis without exclusion of coverage for pre-existing conditions.

House amendment

The House bill provides a refundable tax credit for up to 60 percent of the expenses of an eligible individual for qualified health insurance coverage of the eligible individual and his or her spouse or dependents. Eligible individuals are certain TAA eligible workers and PBGC pension beneficiaries. In the case of TAA eligible workers, no more than 12 months of coverage would be eligible for the credit. The amount of the credit would be phased out for taxpayers with modified adjusted gross income between $20,000 and $40,000 for single taxpayers ($40,000 and $80,000 for married taxpayers filing a joint return). The credit would be available on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the credit includes certain COBRA coverage and certain individual market options.

Senate amendment

The Senate amendment provides a refundable credit for 70 percent of qualified health insurance expenses. The credit is available with respect to certain TAA eligible workers. The credit is payable on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the

credit includes certain COBRA coverage, certain State-based options, and individual health insurance if certain requirements are satisfied.

Conference agreement

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, the conference agreement provides a refundable tax credit for 65 percent of the taxpayer's expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer.

Qualifying family members are the taxpayer's spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption.[1] Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. In general, an eligible coverage month is any month if, as of the first day of the month, the taxpayer (1) is an eligible individual, (2) is covered by qualified health insurance, (3) does not have other specified coverage, and (4) is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirements are met if at least one spouse satisfies the requirements. An eligible month must begin more than 90 days after the date of enactment.

An eligible individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving for any day of such month a trade adjustment allowance[2] or who would be eligible to receive such an allowance but for the requirement that the individual exhaust unemployment benefits before being eligible to receive an allowance and (2) with respect to such allowance, is covered under a certification issued under subchapter A or D of chapter 2 of title II of the Trade Act of 1974. An individual is treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

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[1] Present law allows the custodial parent to release the right to claim the dependency exemption for a child to the noncustodial parent. In addition, if certain requirements are met, the parents may decide by ageement that the noncustodial parent is entitled to the dependency exemption with respect to a child. In such cases, the provision would treat the child as the dependent of the custodial parent for purposes of the credit.

[2] Part I of subchapter B, or subchapter D, of chapter 2 of title II of the Trade Act of 1974.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the Pension Benefit Guaranty Corporation (PBGC).

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month the individual has other specified coverage. Specified coverage would be (1) coverage under any insurance which constitutes medical care (expect for insurance substantially all of the coverage of which is for excepted benefits)[3] if at least 50 percent of the cost of the coverage is paid by an employer[4] (or former employer) of the individual or his or her spouse or (2) coverage under certain governmental health programs.[5] A rule aggregating plans of the same employer applies in determining whether the employer pays at least 50 percent of the cost of coverage. A person is not an eligible individual if he or she may be claimed as a dependent on another person's tax return. A special rule applies with respect to alternative TAA recipients.

Qualified health insurance

Qualified health insurance eligible for the credit is: (1) COBRA continuation coverage; (2) State based continuation coverage provided by the State under a State law that requires such coverage; (3) coverage offered through a qualified State high risk pool; (4) coverage under a health insurance program offered to State employees or a comparable program; (5) coverage through an arrangement entered into by the State and a group health plan, an issuer of health insurance coverage, an administrator, or an employer; (6) coverage offered through a State arrangement with a private sector health care coverage purchasing pool; (7) coverage under a State-operated health plan that does not receive any Federal financial participation; (8) coverage under a group health plan that is available through the employment of the eligible individual's spouse; and (9) coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date the individual became separated from the employment which qualified the individual for the TAA allowance, the benefit for an eligible alternative

[3] Excepted benefits are: (1) coverage only for accident or disability income or any combination thereof, (2) coverage issued as a supplement to liability insurance; (3) liability insurance, including general liability insurance and automobile liability insurance; (4) worker's compensation or similar insurance; (5) automobile medical payment insurance; (6) credit-only insurance; (7) coverage for on-site medical clinics; (8) other insurance coverage similar to the coverages in (1)-(7) specified in regulations under which benefits for medical care are secondary or incidental to other insurance benefits; (9) limited scope dental or vision benefits; (10) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof. and (11) other benefits similar to those in (9) and (10) as specified in regulations. (12) coverage only for a specified disease or illness; (13) hospital indemnity or other fixed indemnity insurance; and (14) Medicare supplemental insurance.

[4] An amount would be considered paid by the employer if it is excludable from income. Thus. for example, amounts paid for health coverage on a salary reduction basis under an employer plan are considered paid by the employer.

[5] Specifically, an individual would not be eligible for the credit if, as of the first day of the month, the individual is (1) entitled to benefits under Medicare Part A, enrolled in Medicare Part B, or enrolled in Medicaid or SCHIP, (2) enrolled in a health benefits plan under the Federal Employees Health Benefit Plan, or (3) entitled to receive benefits under chapter 55 of title 10 of the United States Code (relating to military personnel). An individual is not considered to be enrolled in Medicaid solely by reason of receiving immunizations.

TAA recipient, or a pension benefit from the PBGC, whichever applies.[6]

Qualified health insurance does not include any State-based coverage (i.e., coverage described in (2)–(8) in the preceding paragraph), unless the State has elected to have such coverage treated as qualified health insurance and such coverage meets certain requirements. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs eligibility certificate and pays the remainder of the premium. In addition, the State-based coverage cannot impose any pre-existing condition limitation with respect to qualifying individuals. State-based coverage cannot require a qualifying individual to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not a qualified individual. Finally, benefits under the State-based coverage must be the same as (or substantially similar to) benefits provided to similarly situated individuals who are not qualified individuals. A qualifying individual is an eligible individual who seeks to enroll in the State-based coverage and who has aggregate periods of creditable coverage[7] of three months or longer, does not have other specified coverage, and who is not imprisoned. A qualifying individual also includes qualified family members of such an eligible individual.

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance if substantially all of the coverage is of excepted benefits.

Other rules

Amounts taken into account in determining the credit could not be taken into account in determining the amount allowable under the itemized deduction for medical expenses or the deduction for health insurance expenses of self-employed individuals. Amounts distributed from a medical savings account would not be eligible for the credit. The amount of the credit is reduced by any credit received on an advance basis. Married taxpayers filing separate returns are eligible for the credit; however, if both spouses are eligible individuals and the spouses file a separate return, then the spouse of the taxpayer is not a qualifying family member.

The Secretary of the Treasury is authorized to prescribe such regulations and other guidance as may be necessary or appropriate to carry out the provision.

Advance payment of refundable health insurance credit; reporting requirements

The conference agreement provides for payment of the credit on an advance basis (i.e., prior to the filing of the taxpayer's return) pursuant to a program to be established by the Secretary of the Treasury no later than August 1, 2003. Such program is to pro-

[6] For this purpose, "individual health insurance" means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

[7] Creditable coverage is determined under the Health Care Portability and Accountability Act (Code sec. 9801 (c)).

vide for making payments on behalf of certified individuals to providers of qualified health insurance. In order to receive the credit on an advance basis, a qualified health insurance costs credit eligibility certificate would have to be in effect for the taxpayer. A qualified health insurance costs credit eligibility certificate is a written statement that an individual is an eligible individual for purposes of the credit, provides such information as the Secretary of the Treasury may require, and is provided by the Secretary of Labor or the PBGC (as appropriate) or such other person or entity designated by the Secretary.

The conference report permits the disclosure of return information of certified individuals to providers of health insurance information to the extent necessary to carry out the advance payment mechanism.

The conference report provides that any person who receives payments during a calendar year for qualified health insurance and claims a reimbursement for an advance credit amount is to file an information return with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed. The return is to be in such form as the Secretary may prescribe and is to contain the name, address, and taxpayer identification number of the individual and any other individual on the same health insurance policy, the aggregate of the advance credit amounts provided, the number of months for which advance credit amounts are provided, and such other information as the Secretary may prescribe. The conference report requires that similar information be provided to the individual no later than January 31 of the year following the year for which the information return is made.

Effective Date

The provision is generally effective with respect to taxable years beginning after December 31, 2001. The provision relating to the advance payment mechanism to be developed by the Secretary would be effective on the date of enactment.

TITLE III—CUSTOMS REAUTHORIZATION

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 301—SHORT TITLE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House provides that the Act may be cited as, the "Customs Border Security Act of 2002."

Senate amendment

The Senate amendment is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 311—AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION

Present law

The statutory basis for authorization of appropriations for Customs is section 301 (b)(1) of the Customs Procedural and Simplification Act of 1978 (19 U.S.C. 2075(b)). That law, as amended by section 8102 of the Omnibus Budget Reconciliation Act of 1986 [P.L. 99–509], first outlined separate amounts for non-commercial and commercial operations for the salaries and expenses portion of the Customs authorization. Under 19 U.S.C. 2075, Congress has adopted a two-year authorization process to provide Customs with guidance as it plans its budget, as well as guidance from the Committee for the appropriation process.

The most recent authorization of appropriations for Customs (under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]) provided $118,238,000 for salaries and expenses and $143,047,000 for air and marine interdiction program for FY 1991, and $1,247,884,000 for salaries and expenses and $150,199,000 for air and marine interdiction program in FY 1992.

House amendment

This provision authorizes $1,365,456,000 for FY 2003 and $1,399,592,400 for FY 2004 for noncommercial operations of the Customs Service. It also authorizes $1,642,602,000 for FY 2003 and $1,683,667,050 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorizes $170,829,000 for FY 2003 and $175,099,725 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

This provision authorizes $886,513,000 for FY 2003 and $909,471,000 for FY 2004 for noncommercial operations of the Customs Service. It also authorizes $1,603,482,000 for FY 2003 and $1,645,009,000 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a

cost-effective manner. In addition, the provisions authorizes $181,860,000 for FY 2003 and $186,570,000 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Conference agreement

The Senate recedes to House.

SEC. 312—ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require that $90,244,000 of the FY 2003 appropriations be available until expended for acquisition and other expenses associated with implementation and deployment of terrorist and narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf seaports. The equipment would include vehicle and inspection systems. The provision would require that $9,000,000 of the FY 2004 appropriations be used for maintenance of equipment described above. This section would also provide the Commissioner of Customs with flexibility in using these funds and would allow for the acquisition of new updated technology not anticipated when this bill was drafted. Nothing in the language of the bill is intended to prevent the Commissioner of Customs from dedicating resources to specific ports not identified in the bill.

The equipment would include vehicle and container inspection systems, mobile truck x-rays, upgrades to fixed-site truck x-rays, pallet x-rays, busters, contraband detection kits, ultrasonic container inspection units, automated targeting systems, rapid tire deflator systems, portable Treasury Enforcement Communications Systems terminals, remote surveillance camera systems, weigh-in-motion sensors, vehicle counters, spotter camera systems, inbound commercial truck transponders, narcotics vapor and particle detectors, and license plate reader automatic targeting software.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 313—COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to measure specifically the effectiveness of the resources dedicated in sections 312 as part of its annual performance plan.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Child Cyber-Smuggling Center of the Customs Service

SEC. 321—AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION

Present law

Customs enforcement responsibilities include enforcement of U.S. laws to prevent border trafficking relating to child pornography, intellectual property rights violations, money laundering, and illegal arms. Funding for these activities has been included in the Customs general account.

House amendment

H.R. 3009 as amended and passed by the House would authorize $10 million for Customs to carry out its program to combat online child sex predators. Of that amount, $375,000 would be dedicated to the National Center for Missing Children for the operation of its child pornography cyber tipline.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 331—ADDITIONAL CUSTOMS SERVICE OFFICERS FOR U.S.-CANADA BORDER

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House earmarks $25 million and 285 new staff hires for Customs to use at the U.S.-Canada border.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 332—STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House requires Customs to conduct a study of current personnel practices including: performance standards; the effect and impact of the collective bargaining process on Customs drug interdiction efforts; and a comparison of duty rotations policies of Customs and other federal agencies employing similarly situated personnel.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 333—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to conduct a study to ensure that appropriate training is being provided to personnel who are responsible for financial auditing of importers. Customs would specifically report on how its audit personnel protect the privacy and trade secrets of importers.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 334—ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would mandate the imposition of a cost accounting system in order for Customs to effectively explain its expenditures. Such a system would

provide compliance with the core financial system requirements of the Joint Financial Management Improvement Program (JFMIP), which is a joint and cooperative undertaking of the U.S. Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management working in cooperation with each other and other agencies to improve financial management practices in government. That Program has statutory authorization in the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 65).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 335—STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a report to determine whether Customs has improved its timeliness in providing prospective rulings.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 336—STUDY AND REPORT RELATING TO CUSTOMS USER FEES

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether current user fees are appropriately set at a level commensurate with the service provided for the fee. The Comptroller General is authorized to recommend the appropriate level for customs user fees.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 337—FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES

Present law

Current law provides for direct reimbursement by courier facilities of expenses incurred by Customs conducting inspections at those facilities.

House amendment

H.R. 3009 as amended and passed by the House would establish a per item fee of sixty-six cents to cover Customs expenses. This amount could be lowered to more than thirty-five cents or raised to no more than $1.00 by the Secretary of the Treasury after a rulemaking process to reevaluate the expenses incurred by Customs in providing inspectional services.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 338—NATIONAL CUSTOMS AUTOMATION PROGRAM

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would empower the Secretary to require the electronic submission of any information required to be submitted to the Customs Service.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 339—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment authorizes the appropriation to the Department of the Treasury such sums as may be necessary to increase the annual pay of journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year of service and are being paid at a GS–9 level, from GS–9 to GS–11. The Senate provision also authorizes an increase in pay of support staff.

Conference agreement

The House recedes to the Senate.

CHAPTER 4—ANTITERRORISM PROVISIONS

SEC. 341—IMMUNITY FOR CUSTOMS OFFICERS THAT ACT IN GOOD FAITH

Present law

Currently, Customs officers are entitled to qualified immunity in civil suits brought by persons, who were searched upon arrival in the United States. Qualified immunity protects officers from liability if they can establish that their actions did not violate any clearly established constitutional or statutory rights.

House amendment

H.R. 3009 as amended and passed by the House would protect Customs officers by providing them immunity from lawsuits stemming from personal searches of people entering the country so long as the officers conduct the searches in good faith.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House, but conferees qualify the provision by adding that the means used to effectuate such searches must be reasonable. To be covered by this immunity provision, inspectors must follow Customs Service inspection rules including the rule against profiling against race, religions, or ethnic background.

SEC. 342—EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE

Present law

Present law places numerous restrictions on and, in some instances, precludes the Secretary of the Treasury or Customs from making any adjustments to ports and staff. 19 U.S.C. 1318 requires a Presidential proclamation of an emergency and authorization to the Secretary of the Treasury only to extend the time for performance of legally required acts during an emergency. No other emergency powers statute for Customs exists.

House amendment

H.R. 3009 as amended and passed by the House would permit the Secretary of the Treasury, if the President declares a national emergency or if necessary to address specific threats to human life or national interests, to eliminate, consolidate, or relocate Customs ports and offices and to alter staffing levels, services rendered and hours of operations at those locations. In addition, the amendment would permit the Commissioner of Customs, when necessary to address threats to human life or national interests, to close temporarily any Customs office or port or take any other lesser action necessary to respond to the specific threat. The Secretary or the

Commissioner would be required to notify Congress of any action taken under this proposal within 72 hours.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 343 AND 343A—MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS; SECURE SYSTEMS OF TRANSPORTATION

Present law

Currently, commercial carriers bringing passengers or cargo into or out of the country have no obligation to provide Customs with such information in advance.

House amendment

H.R. 3009 as amended and passed by the House would require every air, land, or water-based commercial carrier to file an electronic manifest describing all passengers with Customs before entering or leaving the country. There is a similar requirement for cargo entering the country. Specific information required in the advanced manifest system would be developed by Treasury in regulations.

Senate amendment

The Senate Amendment is similar to the House Amendment. However, with respect to cargo, the Senate Amendment applies to out-bound as well as in-bound shipments.

Conference agreement

The conferees agree to direct the Secretary of the Treasury to promulgate regulations pertaining to the electronic transmission to the Customs Service of information relevant to aviation, maritime, and surface transportation safety and security prior to a cargo carrier's arrival in or departure from the United States. The agreement sets forth parameters for the Secretary to follow in developing these regulations. For example, the parameters require that the regulations be flexible with respect to the commercial and operational aspects of different modes of transportation. They also require that, in general, the Customs Service seek information from parties most likely to have direct knowledge of the information at issue. The conferees also agree to amendment of the Tariff Act of 1930 to establish requirements concerning proper documentation of ocean-bound cargo prior to a vessel's departure. Finally, the conferees agree to direct the Secretary of the Treasury to establish a task force to evaluate, prototype and certify secure systems of transportation.

SEC. 344—BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL

Present law

Although Customs currently searches all inbound mail, and although it searches outbound mail sent via private carriers, outbound mail carried by the Postal Service is not subject to search.

House amendment

H.R. 3009 as amended and passed by the House would enable Customs officers to search outbound U.S. mail for unreported monetary instruments, weapons of mass destruction, firearms, and other contraband used by terrorists. However, reading of mail would not be authorized absent Customs officers obtaining a search warrant or consent.

Senate amendment

The Senate Amendment is the same as the House Amendment with respect to mail weighing in excess of 16 ounces. However, under the Senate Amendment, the Customs Service would be required to obtain a warrant in order to search mail weighing 16 ounces or less. The Senate Amendment also requires the Secretary of State to determine whether it is consistent with international law and U.S. treaty obligations for the Customs Service to search mail transiting the United States between two foreign countries. The Customs Service would be authorized to search such mail only after the Secretary of State determined that such measures are consistent with international law and U.S. treaty obligations.

Conference agreement

The House recedes to the Senate.

SEC. 345—AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House authorizes funds to reestablish those operations.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351—GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would direct the Comptroller General to conduct an audit of the systems at the Customs Service to monitor and enforce textile transshipment. The Comptroller General would report on recommendations for improvements.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 352—AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would authorize $9,500,000 for FY 2002 to the Customs Service for the purpose of enhancing its textile transshipment enforcement operations. This amount would be in addition to Customs Service's base authorization and the authorization to reestablish the destroyed textile monitoring and enforcement operations at the World Trade Center.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The Senate recedes to the House, but the text is clarified to provide that personnel will also conduct education and outreach in addition to enforcement.

SEC. 353—IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would earmark approximately $1.3 million within Customs' budget for selected activities related to providing technical assistance to help sub-Saharan African countries develop and implement effective

visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Office of the United States Trade Representative

SEC. 361—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the Office of the United States Trade Representative is section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)). The most recent authorization of appropriations for USTR was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 2171, Congress has adopted a two-year authorization process to provide USTR with guidance as it plans its budget as well as guidance from the Committee for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $32,300,000 for FY 2003 and $31,108,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees. In light of the substantial increase in trade negotiation work to be conducted by USTR and the associated need for consultations with Congress, this provision would authorize the addition of two individuals to assist the office of Congressional Affairs.

Senate amendment

The Senate amendment authorizes $30,000,000 for FY 2003 and $31,000,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle C—United States International Trade Commission

SEC. 371—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the International Trade Commission is section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)). The most recent authorization of appropriations for the ITC was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 1330, Congress has adopted a two-year authorization process to provide the ITC with guidance as it plans its budget as well as guidance from the Committees for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $54,000,000 for FY 2003 and $57,240,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

The Senate amendment authorizes $51,400,000 for FY 2003 and $53,400,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle D—Other Trade Provisions

SEC. 381. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS

Present law

The Harmonized Tariff Schedule at subheading 9804.00.65 currently provides a $400 duty exemption for travelers returning from abroad.

House amendment

H.R. 3009 as amended and passed by the House would increased the current $400 duty exemption to $800.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 382—REGULATORY AUDIT PROCEDURES

Present law

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides the authority for Customs to audit persons making entry of merchandise into the U.S. In the course of such audit, Customs auditors may identify discrepancies, including underpayments of duties. However, if there also are overpayments, there is no requirement that such overpayments be offset against the underpayments if the underlying entry has been liquidated.

House amendment

H.R. 3009 as amended and passed by the House would require that when conducting an audit, Customs must recognize and offset overpayments and overdeclarations of duties, quantities and values against underpayments and underdeclarations. As an example, if during an audit Customs finds that an importer has underpaid duties associated with one entry of merchandise by $100 but has also overpaid duties from another entry of merchandise by $25, then any assessment by Customs must be the difference of $75.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 383—PAYMENT OF DUTIES AND FEES

Present law

Current law at 19 U.S.C. 1505 provides for the collection of duties by the Secretary through regulatory process.

House amendment

H.R. 3009 as amended and passed by the House would require duties to be paid within 10 working days without extension. The bill also provides for the Customs Service to create a monthly billing system upon the building of the Automated Commercial Environment.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 2101—SHORT TITLE AND FINDINGS

Present law

No provision.

House amendment

The short title of the bill is the "Bipartisan Trade Promotion Authority Act of 2001." Section 2101 of the House amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that the recent pattern of decisions by dispute settlement panels and the Appellate Body of the World Trade Organization to impose obligations and restrictions on the use of antidumping and countervailing measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

Senate amendment

The short title of the bill is the "Bipartisan Trade Promotion Authority Act of 2002." Section 2101 of the Senate amendment to H.R. 3009 states that Congress finds the expansion of international

trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modifications. With respect to the findings, the Conferees believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

SEC. 2102—TRADE NEGOTIATING OBJECTIVES

Present/expired law

Section 1101(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) set forth overall negotiating objectives for concluding trade agreements. These objectives were to obtain more open, equitable, and reciprocal market access, the reduction or elimination of barriers and other trade-distorting policies and practices, and a more effective system of international trading disciplines and procedures. Section 1102(b) set forth the following principal trade negotiating objectives: dispute settlement, transparency, developing countries, current account surpluses, trade and monetary coordination, agriculture, unfair trade practices, trade in services, intellectual property, foreign direct investment, safeguards, specific barriers, worker rights, access to high technology, and border taxes.

House amendment

Section 2102 of the House amendment to H.R. 3009 would establish the following overall negotiating objectives: obtaining more open, equitable, and reciprocal market access; obtaining the reduction or elimination of barriers and other trade-distorting policies and practices; further strengthening the system of international trading disciplines and procedures, including dispute settlement; fostering economic growth and full employment in the U.S. and the global economy; ensuring that trade and environmental policies are mutually supportive and seeking to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; promoting respect for

worker rights and the rights of children consistent with International Labor Organization core labor standards, as defined in the bill; and seeking provisions in trade agreements under which parties strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement to trade.

In addition, section 2102 would establish the principal trade negotiating objectives for concluding trade agreements, as follows:

Trade barriers and distortions: expanding competitive market opportunities for U.S. exports and obtaining fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for U.S. exports and distort U.S. trade; and obtaining reciprocal tariff and nontariff barrier elimination agreements, with particular attention to products covered in section 111(b) of the Uruguay Round Agreements Act.

Services: to reduce or eliminate barriers to international trade in services, including regulatory and other barriers, that deny national treatment or unreasonably restrict the establishment or operations of services suppliers.

Foreign investment: to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment and, recognizing that U.S. law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, to secure for investors important rights comparable to those that would be available under U.S. legal principles and practice, by:

Reducing or eliminating exceptions to the principle of national treatment;

Freeing the transfer of funds relating to investments;

Reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

Seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

Providing meaningful procedures for resolving investment disputes including between an investor and a government;

Seeking to improve mechanisms used to resolve disputes between an investor and a government through mechanisms to eliminate frivolous claims and procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

Providing an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and

Ensuring the fullest measure of transparency in investment disputes by

Ensuring that all requests for dispute settlement and all proceedings, submissions, findings, and decisions are promptly made public;

All hearings are open to the public; and

Establishing a mechanism for acceptance of amicus curiae submissions.

Intellectual property: including promoting adequate and effective protection of intellectual property rights through ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights, including strong enforcement;

Providing stronger protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property; and

Ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that tight holders have the legal and technological means to control the use of their works through the internet and other global communication media.

Transparency: to increase public access to information regarding trade issues as well as the activities of international trade institutions; to increase openness in international trade fora, including the WTO, by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and to increase timely public access to notifications made by WTO member states and the supporting documents.

Anti-corruption: to obtain high standards and appropriate enforcement mechanisms applicable to persons from all countries participating in a trade agreement that prohibit attempts to influence acts, decisions, or omissions of foreign government; and to ensure that such standards do not place U.S. persons at a competitive disadvantage in international trade.

Improvement of the WTO and multilateral trade agreements: to achieve full implementation and extend the coverage of the WTO and such agreements to products, sectors, and conditions of trade not adequately covered; and to expand country participation in and enhancement of the Information Technology Agreement (ITA) and other trade agreements.

Regulatory practices: to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations; to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence; to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

Electronic commerce: to ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronic commerce; to ensure that electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and the classification of such goods and services ensures the most liberal trade treatment possible; to ensure that governments refrain from implementing trade-related measures that impede electronic commerce; where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that

any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and to extend the moratorium of the WTO on duties on electronic transmissions.

Agriculture: to ensure that the U.S. trade negotiators duly recognize the importance of agricultural issues; to obtain competitive market opportunities for U.S. exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade; to reduce or eliminate trade distorting subsidies; to impose disciplines on the operations of state-trading enterprises or similar administrative mechanisms; to eliminate unjustified restrictions on products derived from biotechnology; to eliminate sanitary or phytosanitary restrictions that contravene the Uruguay Round Agreement as they are not based on scientific principles and to improve import relief mechanisms to accommodate the unique aspects of perishable and cyclical agriculture.

Labor and the environment: to ensure that a party does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party; to recognize that a party to a trade agreement is effectively enforcing its laws if a course of inaction or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection; to strengthen the capacity of U.S. trading partners to promote respect for core labor standards and to protect the environment through the promotion of sustainable development; to reduce or eliminate government practices or policies that unduly threaten sustainable development; to seek market access for U.S. environmental technologies, goods, and services; and to ensure that labor, environmental, health, or safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade.

Dispute settlement and enforcement: to seek provisions in trade agreements providing for resolution of disputes between governments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and the principles of the agreement, with the goal of increasing compliance; seek to strengthen the capacity of the WTO Trade Policy Review Mechanism to review compliance; seek provisions encouraging the early identification and settlement of disputes through consultations; seek provisions encouraging trade-expanding compensation; seek provisions to impose a penalty that encourages compliance, is appropriate to the parties, nature, subject matter, and scope of the violation, and has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and seek provisions that treat U.S. principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies.

Extended WTO negotiations: concerning extended WTO negotiations on financial services, civil aircraft, and rules of origin.

Senate amendment

The Senate Amendment is substantially similar to the House Amendment, with the exception of several key provisions:

Small Business: The Senate Amendment contains an overall negotiating objective "to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses."

Trade in Motor Vehicles and Parts: The Senate Amendment contains a principal negotiating objective on expanding competitive opportunities for exports of U.S. motor vehicles and parts.

Foreign Investment: The Senate Amendment states as an objective of the United States in the context of investor-state dispute settlement "ensuring that foreign investors in the United States are not accorded greater rights than United States investors in the United States." The Senate Amendment's objective with respect to investor-state dispute settlement also differs from the House Amendment in the following respects:

It sets as an objective "seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process."

It sets deterrence of the filing of frivolous claims as an objective, in addition to the prompt elimination of frivolous claims.

The Senate Amendment seeks to establish "procedures to enhance opportunities for public input into the formulation of government positions."

The Senate Amendment seeks to establish a single appellate body to review decisions by arbitration panels in investor-state dispute settlement cases. Also, unlike the House Amendment, the Senate Amendment does not prescribe a standard of review for an eventual appellate body.

Intellectual Property: The Senate Amendment contains an objective to respect the "Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001."

Trade in Agriculture: The Senate Amendment's negotiating objective on export subsidies differs from the House Amendment, stating that an objective of the United States is "seeking to eliminate all export subsidies on agricultural commodities while maintaining bona fide food aid and preserving U.S. agriculture development and export credit programs that allow the U.S. to compete with other foreign export promotion efforts." The Senate Amendment also provides that it is a negotiating objective of the United States to "strive to complete a general multilateral round in the WTO by January 1, 2005, and seek the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have

on US import-sensitive commodities (including those subject to tariff-rate quotas)."

Human Rights and Democracy: The Senate Amendment contains a negotiating objective "to obtain provisions in trade agreements that require parties to those agreements to strive to protect internationally recognized civil, political, and human rights."

Dispute Settlement: The Senate Amendment contains a negotiating objective absent in the House Amendment "to seek improved adherence by panels convened under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes and by the WTO Appellate Body to the standard of review applicable under the WTO Agreement involved in the dispute, including greater deference, where appropriate, to the fact finding and technical expertise of national investigating authorities."

Border Taxes: The Senate Amendment contains an objective absent from the House Amendment on border taxes. The objective seeks "to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes." The objective is addressed to a decision by the WTO Dispute Settlement Body holding the foreign sales corporation provisions of the Internal Revenue Code to be inconsistent with WTO rules.

Textiles: The Senate Amendment contains an extensive objective on opening foreign markets to U.S. textile exports. There is no similar provision in the House Amendment.

Worst Forms of Child Labor: The Senate Amendment contains a negotiating objective to prevent distortions in the conduct of international trade caused by the use of the worst forms of child labor and to redress unfair and illegitimate competition based upon the use of the worst forms of child labor.

Conference agreement

The Senate recedes to the House with several modifications. With respect to the overall negotiating objectives, the Conferees agree to the overall negotiating objective regarding small business in section 2101(a)(8) of the Senate amendment. Second, the Conferees agree to an overall negotiating objective to promote universal compliance with ILO Declaration 182 concerning the worst forms of child labor.

With respect to the principal negotiating objectives, the Conferees agree to expand the negotiating objective on intellectual property to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the WTO at Doha (section 2102(b)(4)(c) of the Senate amendment).

With respect to the principal negotiating objectives regarding foreign investment, the Conferees believe that it is a priority for negotiators to seek agreements protecting the rights of U.S. investors abroad and ensuring the existence of a neutral investor-state dispute settlement mechanism. At the same time, these protections must be balanced so that they do not come at the expense of making Federal, State and local laws and regulations more vulnerable to successful challenges by foreign investors than by similarly situated U.S. investors.

No Greater Rights: The House recedes to the Senate with a technical modification to clarify that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States. That is, the reciprocal obligations regarding investment protections that the United States undertakes in pursuing its goals should not result in foreign investors being entitled to compensation for government actions where a similarly situated U.S. investor would not be entitled to any form of relief, while ensuring that U.S. investors abroad can challenge host government measures which violate the terms of the investment agreement. Thus, this language expresses Congress' direction that the substantive investment protections (e.g., expropriation, fair and equitable treatment, and full protection and security) should be consistent with United States legal principles and practice and not provide greater rights to foreign investors in the United States.

This language applies to substantive protections only and is not applicable to procedural issues, such as access to investor-state dispute settlement. The Conferees recognize that the procedures for resolving disputes between a foreign investor and a government may differ from the procedures for resolving disputes between a domestic investor and a government and may be available at different times during the dispute. Thus, the "no greater rights" direction does not, for instance, apply to such issues as the dismissal of frivolous claims, the exhaustion of remedies, access to appellate procedures, or other similar issues.

The Conferees also agree that negotiators should seek to provide for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements.

With respect to the principal negotiating objective on agriculture, the Conferees agree to section 2102(b)(10)(A)(iii) and (xv) of the House amendment, in lieu of section 2102(b)(10)(A)(iii) of the Senate amendment. The Conferees also accept section 2102(b)(10)(A)(xvi) of the Senate amendment on the timing and sequence of WTO agriculture negotiations relative to other negotiations.

The Conferees agree to section 2102(b)(13)(C) of the Senate amendment, relating to dispute settlement in dumping, subsidy, and safeguard cases, as modified, to seek adherence by WTO panels to the applicable standard of review.

The Conferees recognize the importance of preserving the ability of the United States to enforce rigorously its trade remedy laws, including the antidumping, countervailing duty and safeguard laws. Because this issue is significant to many Members of Congress in both the House and Senate, the Conferees have made this priority a principal negotiating objective. Negotiators must also avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, as well as domestic and international safeguard provisions. In addition, section 2102(b)(14)(B) directs the President to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

The Conferees agree to section 2012(b)(14) of the Senate amendment stating that the United States should seek a revision of WTO rules on the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes. The Conferees agree that such a revision of WTO rules is one among other options for the United States, including domestic legislation, to redress such a disadvantage.

The Conferees agree to include as a principal negotiating objective to obtain competitive market opportunities for U.S. exports of textiles substantially equivalent to those for foreign textiles in the United States.

The Conferees agree to a principal negotiating objective concerning the worst forms of child labor, to seek commitments by trade agreement parties to vigorously enforce their own laws prohibiting the worst forms of child labor.

SEC. 2102(c)—PROMOTION OF CERTAIN PRIORITIES

Present/expired law

No provision.

House amendment

Section 2102(c) of the House amendment to H.R. 3009 sets forth certain priorities for the President to address. These provisions include seeking greater cooperation between WTO and the ILO; seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards, seeking to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for environment and human health based on sound science; conducting environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 and its relevant guidelines; reviewing the impact of future trade agreements on U.S. employment, modeled after Executive Order 13141; taking into account, in negotiating trade agreements, protection of legitimate health or safety, essential security, and consumer interests; requiring the Secretary of Labor to consult with foreign parties to trade negotiations as to their labor laws and providing technical assistance where needed; reporting to Congress on the extent to which parties to an agreement have in effect laws governing exploitative child labor; preserving the ability of the United States to enforce rigorously its trade laws, including antidumping and countervailing duty laws, and avoiding agreements which lessen their effectiveness; ensuring that U.S. exports are not subject to the abusive use of trade laws, including antidumping and countervailing duty laws, by other countries; continuing to promote consideration of Multilateral Environmental Agreements (MEAs) and consulting with parties to such agreements regarding the consistency of any MEA that includes trade measures with existing environmental exceptions under Article XX of the GATT.

In addition, USTR, twelve months after the imposition of a penalty or remedy by the United States permitted by an agreement to which this Act applies, is to report to the Committee on the effectiveness of remedies applied under U.S. law to enforce U.S. rights under trade agreements. USTR shall address whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on parties or interests not party to the dispute.

Finally, section 2102(c) would direct the President to seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

Senate amendment

With several notable exceptions, the priorities set forth in section 2102(c) of the Senate Amendment are identical to the priorities set forth in the House Amendment. The exceptions are:

With respect to the study that the President must perform on the impact of future trade agreements on employment, the Senate Amendment requires the President to examine particular criteria, as follows: the impact on job security, the level of compensation of new jobs and existing jobs, the displacement of employment, and the regional distribution of employment, utilizing experience from previous trade agreements and alternative models of employment analysis. The Senate Amendment also requires that the report be made available to the public.

The Senate Amendment requires that, in connection with new trade agreement negotiations, the President shall "submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating."

The Senate Amendment adds to the House Amendment priority on preserving the ability of the United States to enforce vigorously its trade laws, by including U.S. "safeguards" law in the list of laws at issue. This is the U.S. law authorizing the President to provide relief to parties seriously injured or threatened with serious injury due to surges of imports. The priority in the Senate Amendment also directs the President to remedy certain market distorting measures that underlie unfair trade practices.

Conference agreement

The Senate recedes to the House amendment with several modifications. With respect to the worst forms of child labor, the Conferees agree to expand section 2102(c)(2) of the House amendment to include the worst forms of child labor within requirements to seek to establish consultative mechanisms to strengthen the capacity of U.S. trading partners to promote respect for core labor standards.

The Conferees agree to modify section 2105(c)(5) of the House amendment to require the President to report on impact of future

trade agreements on U.S. employment, including on labor markets, modeled after E.O. 13141 to the extent appropriate in establishing procedures and criteria, and to make the report public.

With respect to the labor rights report in section 2102(c)(8) of both bills, the Conferees agree to the Senate provision. Furthermore, the Conferees agree to section 2107(b)(2)(E) of the Senate amendment to require that guidelines for the Congressional Oversight Group include the time frame for submitting this report.

SEC. 2102(d)—CONSULTATIONS, ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2102(d) of the House amendment to H.R. 3009 requires that USTR consult closely and on a timely basis with the Congressional Oversight Group appointed under section 2107. In addition, USTR would be required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. With regard to negotiations concerning agriculture trade, USTR would also be required to consult with the House and Senate Committees on Agriculture.

In determining whether to enter into negotiations with a particular country, section 2102(e) would require the President to take into account whether that country has implemented its obligations under the Uruguay Round Agreements.

Senate amendment

Section 2102(d) of the Senate amendment is identical to the House provision in the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2103—TRADE AGREEMENTS AUTHORITY

Present/expired law

Tariff proclamation authority. Section 1102(a) of the 1988 Act provided authority to the President to proclaim modifications in duties without the need for Congressional approval, subject to certain limitations. Specifically, for rates that exceed 5 percent ad valorem, the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase had to be approved by Congress.

Staging authority required that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging was not required if

the International Trade Commission determined there was no U.S. production of that article.

Negotiation of bilateral agreements. Section 1102(c) of the 1988 Act set forth three requirements for the negotiation of a bilateral agreement:

The foreign country must request the negotiation of the bilateral agreement;

The agreement must make progress in meeting applicable U.S. trade negotiating objectives; and

The President must provide written notice of the negotiations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and consult with these committees.

The negotiations could proceed unless either Committee disapproved the negotiations within 60 days prior to the 90 calendar days advance notice required of entry into an agreement (described below).

Negotiation of multilateral non-tariff agreements. With respect to multilateral agreements, section 1102(b) of the 1988 Act provided that whenever the President determines that any barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, he may enter into a trade agreement with the foreign countries involved. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion.

Provisions qualifying for fast track procedures. Section 1103(b)(1)(A) of the 1988 Act provided that fast track apply to implementing bills submitted with respect to any trade agreements entered into under the statute. Section 151(b)(1) of the Trade Act of 1974 further defined "implementing bill" as a bill containing provisions "necessary or appropriate" to implement the trade agreement, as well as provisions approving the agreement and the statement of administrative action.

Time period. The authority applied with respect to agreements entered into before June 1, 1991, and until June 1, 1993 unless Congress passed an extension disapproval resolution. The authority was then extended to April 15, 1994, to cover the Uruguay Round of multilateral negotiations under the General Agreement on Tariffs and Trade.

House amendment

Section 2103 of the House amendment provides:

Proclamation authority. Section 2103(a) would provide the President the authority to proclaim, without Congressional approval, certain duty modifications in a manner very similar to the expired provision. Specifically, for rates that exceed 5 percent ad valorem, the President would not be authorized to reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent ad valorem could be reduced to zero. Any duty reduction that exceeded 50 per-

cent of an existing duty higher than 5 percent or any tariff increase would have to be approved by Congress.

In addition, section 2103(a) would not allow the use of tariff proclamation authority on import sensitive agriculture.

Staging authority would require that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the International Trade Commission determined there is no U.S. production of that article.

These limitations would not apply to reciprocal agreements to eliminate or harmonize duties negotiated under the auspices of the World Trade Organization, such as so-called "zero-for-zero" negotiations.

Agreements on tariff and non-tariff barriers. Section 2103(b)(1) would authorize the President to enter into a trade agreement with a foreign country whenever he determined that any duty or other import restriction or any other barrier to or distortion of international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion. No distinction would be made between bilateral and multilateral agreements.

Conditions. Section 2103(b)(2) would provide that the special implementing bills procedures may be used only if the agreement makes progress in meeting the applicable objectives set forth in section 2102(a) and (b) and the President satisfies the consultation requirements set forth in section 2104.

Bills qualifying for trade authorities procedures. Section 2103(b)(3)(A) would provide that bills implementing trade agreements may qualify for trade promotion authority TPA procedures only if those bills consist solely of the following provisions:

> Provisions approving the trade agreement and statement of administrative action; and
>
> Provisions necessary or appropriate to implement the trade agreement.

Time period. Sections 2103(a)(1)(A) and 2103(b)(1)(C) would extend trade promotion authority to agreements entered into before June 1, 2005. An extension until June 1, 2007, would be permitted unless Congress passed a disapproval resolution, as described under section 2103(c).

Senate amendment

In most respects, section 2103 of the Senate Amendment is identical to section 2103 of the House Amendment. However, there are several key differences, as follows:

> The Senate Amendment limits the President's proclamation authority with respect to "import sensitive agricultural products," a term defined in section 2113(5) of the Senate Amendment. This limitation differs from the limitation in the House Amendment, inasmuch as it includes certain products subject to tariff rate quotas.

The Senate Amendment contains a provision making a trade agreement implementing bill ineligible for "fast track" procedures if the bill modifies, amends, or requires modification or amendment to certain trade remedy laws. A bill that does modify, amend or require modification or amendment to those laws is subject to a point of order in the Senate, which may be waived by a majority vote.

The Senate Amendment requires the U.S. International Trade Commission to submit a report to Congress on negotiations during the initial period for which the President is granted trade promotion authority. This report would be made in connection with a request by the President to have such authority extended.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to the new definition of import sensitive agriculture in section 2103(a)(2)(B), 2104(b)(2)(A)(i), and 2113(5) of the Senate amendment to encompass products subject to tariff rate quotas, as well as products subject to the lowest tariff reduction in the Uruguay Round.

The Conferees agree to section 2103(c)(3)(B) of the Senate amendment, which requires the ITC to submit a report to Congress by May 1, 2005 (if the President seeks extension of TPA until June 2, 2007) analyzing the economic impact on the United States of all trade agreements implemented between enactment and the extension request.

SEC. 2104—CONSULTATIONS AND ASSESSMENT

Present/expired law

Section 102 of the Trade Act of 1974 and sections 1102(d) and 1103 of the 1988 Act set forth the fast track requirements. These provisions required the President, before entering into any trade agreement, to consult with Congress as to the nature of the agreement, how and to what extent the agreement will achieve applicable purposes, policies, and objectives, and all matters relating to agreement implementation. In addition, before entering into an agreement, the President was required to give Congress at least 90 calendar days advance notice of his intent. The purpose of this period was to provide the Congressional Committees of jurisdiction an opportunity to review the proposed agreement before it was signed.

Section 135(e) of the Trade Act of 1974 required that the Advisory Committee for Trade Policy and Negotiations meet at the conclusion of negotiations for each trade agreement and provide a report as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives of section 1101 of the 1988 Act. The report was due not later than the date on which the President notified Congress of his intent to enter into an agreement. With regard to the Uruguay Round, the report was due 30 days after the date of notification.

House amendment

Section 2104 of the House amendment to H.R. 3009 would establish a number of requirements that the President consult with Congress. Specifically, section 2104(a)(1) would require the President to provide written notice and consult with the relevant committees at least 90 calendar days prior to entering into negotiations. Section 2104(a)(c) also provides that President shall meet with the Congressional Oversight Group established under section 2107 upon a request of a majority of its members. Trade promotion authority would not apply to an implementing bill if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to notify or consult with Congress.

Section 2104(b)(1) would establish a special consultation requirement for agriculture. Specifically, before initiating negotiations concerning tariff reductions in agriculture, the President is to assess whether U.S. tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition and Forestry of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

Section 2104(b)(2) provides special consultations on import sensitive agriculture products. Specifically, before initiating negotiations on agriculture and as soon as practicable with respect to the Free Trade Area of the Americas and WTO negotiations, USTR is to identify import sensitive agriculture products and consult with the Committees on Ways & Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition, and Forestry in the Senate concerning whether any further tariff reduction should be appropriate, and whether the identified products face unjustified sanitary or phytosanitary barriers. USTR is also to request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the U.S. industry producing the product and on the U.S. economy as a whole. USTR is to then notify the Committees of those products for which it intends to seek tariff liberalization as well as the reasons. If USTR commences negotiations and then identifies additional import sensitive agriculture products, or a party to the negotiations requests tariff reductions on such a product, then USTR shall notify the Committees as soon as practicable of those products and the reasons for seeking tariff reductions.

Section 2104(c) would establish a special consultation requirement for textiles. Specifically, before initiating negotiations concerning tariff reductions in textiles and apparel, the President is to assess whether U.S. tariffs on textile and apparel products that

were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committee on Ways and Means of the House and the Committee on Finance of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

In addition, section 2104(d) would require the President, before entering into any trade agreement, to consult with the relevant Committees concerning the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in the House amendment to H.R. 3009 and all matters relating to implementation under section 2105, including the general effect of the agreement on U.S. laws.

Section 2104(e) would require that the report of the Advisory Committee for Trade Policy and Negotiations under section 135(e)(1) of the Trade Act of 1974 be provided not later than 30 days after the date on which the President notifies Congress of his intent to enter into the agreement under section 2105(a)(1)(A).

Finally, section 2104(f) would require the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days from the date after the President enters into the agreement.

Senate amendment

The Senate Amendment is substantially similar to the House bill, with the following exceptions:

Consultations on export subsidies and distorting policies. Section 2104(b)(2)(A)(ii)(III) requires consultations on whether nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers.

Consultations relating to fishing trade. Section 2104(b)(3) requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Special reporting requirements on U.S. trade remedy laws. Section 2104(d) provides that the President, at least 90 calendar days before the President enters into a trade agreement, shall notify the House Ways and Means Committee and the Senate Finance Committee in writing any amendments to U.S. antidumping and countervailing duty laws (title VII of the Tariff Act of 1930) or U.S. safeguard provisions (chapter 1 of title II of the Trade Act of 1974) that the President proposes to include in the implementing legislation. On the date that the President transmits the notifica-

tion, the President must also transmit to the Committees a report explaining his reasons for believing that amendments to these trade remedy laws are necessary to implement the trade agreement and his reasons for believing that such amendments are consistent with the negotiating objective on this issue. Not later than 60 calendar days after the date on which the President transmits notification to the relevant committees, the Chairman and ranking members of the House Ways and Means Committee and the Senate Finance Committees shall issue reports stating whether the proposed amendments described in the President's notification are consistent with the negotiating objectives on trade laws.

Conference agreement

The Senate recedes to the House with several modifications. The Conferees agree to section 2104(b)(2)(A)(11)(III) of the Senate amendment, which requires consultations on whether other nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers. In addition, the Conferees agree to section 2104(b)(3) of the Senate amendment, which requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Finally, the Conferees agree to include the notification and report on changes to trade remedy laws in sections 2104(d)(3)(A) and (B) in the Senate amendment with modifications. Given the priority that Conferees attach to keeping U.S. trade remedy laws strong and ensuring that they remain fully enforceable, the Conference agreement puts in place a process requiring special scrutiny of any impact that trade agreements may have on these laws. The process requires the President, at least 180 calendar days before the day on which he enters into a trade agreement, to report to the Committees on Ways and Means and the Committee on Finance the range of proposals advanced in trade negotiations and may be in the final agreement that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974; and how these proposals relate to the objectives described in section 2102(b)(14).

The Conference agreement also provides a mechanism for any Member in the House or Senate to introduce at any time after the President's report is issued a nonbinding resolution which states "that the _____ finds that the proposed changes to U.S. trade remedy laws contained in the report of the President transmitted to the Congress on _____ under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to _____, are inconsistent with the negotiating objectives described in section 2102(b)(14) of that Act.", with the first blank space being filled in with either the "House of Representatives" or the "Senate", as the case may be, the second blank space filled in with the appropriate date of the report, and the third blank space being filled in with the name of the country or countries involved.

The resolution is referred to the Ways and Means and Rules Committees in the House and the Finance Committee in the Senate, and is privileged on the floor if it is reported by the Commit-

tees. The Conference agreement allows only one resolution (either a nonbinding resolution or a disapproval resolution) per agreement to be eligible for the trade promotion authority procedures contained in sections 152 (d) and (e) of the Trade Act of 1974. The one resolution quota is satisfied for the House only after the Ways and Means Committee reports a resolution, and for the Senate only after the Finance Committee reports a resolution.

The Conference agreement states that, with respect to agreements entered into with Chile and Singapore, the report referenced in section 2104(d)(3)(A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into a trade agreement with either country.

SEC. 2105—IMPLEMENTATION OF TRADE AGREEMENTS

Present/expired law

Before entering into the draft agreement, the President was required to give Congress 90 days advance notice (120 days for the Uruguay Round) to provide an opportunity for revision before signature. After entering into the agreement, the President was required to submit formally the draft agreement, implementing legislation, and a statement of administrative action. Once the bill was formally introduced, there was no opportunity to amend any portion of the bill—whether on the floor or in committee. Consequently, before the formal introduction took place, the committees of jurisdiction would hold hearings, "unofficial" or "informal" mark-up sessions and a "mock conference" with the Senate committees of jurisdiction in order to develop a draft implementing bill together with the Administration and to make their concerns known to the Administration before it introduced the legislation formally.

After formal introduction of the implementing bill, the House committees of jurisdiction had 45 legislative days to report the bill, and the House was required to vote on the bill within 15 legislative days after the measure was reported or discharged from the committees. Fifteen additional days were provided for Senate committee consideration (assuming the implementing bill was a revenue bill), and the Senate floor action was required within 15 additional days. Accordingly, the maximum period for Congressional consideration of an implementing bill from the date of introduction was 90 legislative days. Amendments to the legislation were not permitted once the bill was introduced; the committee and floor actions consisted of "up or down" votes on the bill as introduced.

Finally, section 1103(d) of the 1988 Act specified that the fast track rules were enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

House amendment

Under Section 2105 of the House amendment to H.R. 3009, the President would be required, at least 90 days before entering into an agreement, to notify Congress of his intent to enter into the agreement. Section 2105(a) also would establish a new requirement that the President, within 60 days of signing an agreement, submit to Congress a preliminary list of existing laws that he considers

would be required to bring the United States into compliance with agreement.

Section 2105(b) would provide that trade promotion authority would not apply if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration failed to notify or consult with Congress, which is defined as failing or refusing to consult in accordance with section 2104 or 2105, failing to develop or meet guidelines under section 2107(b), failure to meet with the Congressional Oversight Group, or the agreement fails to make progress in achieving the purposes. policies, priorities, and objectives of the Act. In a change from the expired law, such a resolution may be introduced by any Member of the House or Senate. Only one such privileged resolution would be permitted to be considered per trade agreement per Congress.

Most of the remaining provisions are identical to the expired law. Specifically, section 2105(a) would require the President, after entering into agreement, to submit formally the draft agreement, the implementing legislation, and a statement of administrative action to Congress, and there would be no time limit to do so, but with the new requirement that the submission be made on a date on which both Houses are in session. The procedures of section 151 of the Trade Act of 1974 would then apply. Specifically, on the same day as the President formally submits the legislation, the bill would be introduced (by request) by the Majority Leaders of the House and the Senate. After formal introduction of the legislation, the House Committees of jurisdiction would have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the Committees. Fifteen additional days would be provided for Senate Committee consideration (assuming the implementing bill was a revenue bill), and Senate floor action would be required within 15 additional days. Accordingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be 90 legislative days.

As with the expired provisions, once the bill has been formally introduced, no amendments would be permitted either in Committee or floor action, and a straight "up or down" vote would be required. Of course, before formal introduction, the bill could be developed by the Committees of jurisdiction together with the Administration during the informal Committee mark-up process.

Finally, as with the expired provision, section 2105(c) specifies that sections 2105(b) and 3(c) are enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

Senate amendment

The Senate Amendment is substantially similar to the House Bill, with the following exception:

Reporting requirements. Section 2105(a)(1)(A)(ii) requires the President to transmit to the House Ways and Means Committee and the Senate Finance Committee the notification and report described in section 2104(d)(3)(A) regarding changes to U.S. trade remedy laws.

Disclosure Requirements. Section 2105(a)(4) of the Senate bill specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body.

Senate Procedures. Section 2105(b)(1)(C)(i)(II) provides that any Member of the Senate may introduce a procedural disapproval resolution, and that that resolution will be referred to the Senate Finance Committee. Section 2105(b)(1)(C)(iv) provides that the Senate may not consider a disapproval resolution that has not been reported by the Senate Finance Committee.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to section 2105(a)(4) of the Senate amendment, which specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body, the Conferees also agree to sections 2105(b)(1)(C)(i)(II) and (b)(1)(C)(iv) of the Senate amendment, which applies the same procedures for consideration of bills in the Senate as for the House.

Finally, the Conferees agree to section 2105(b)(2) of the Senate amendment with modifications, which requires the Secretary of Commerce, in consultation with the Secretaries of State and Treasury, the Attorney General, and the United States Trade Representative, to transmit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report prior to December 31, 2002.

SEC. 2106—TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2106 of the House amendment to H.R. 3009 exempts agreements resulting from ongoing negotiations with Chile or Singapore, an agreement establishing a Free Trade Area of the Americas, and agreements concluded under the auspices of the WTO from prenegotiation consultation requirements of section 2104(a) only. However, upon enactment of H.R. 3009, the Administration is required to consult as to those elements set forth in section 2104(a) as soon as feasible.

Senate amendment

Section 2106 of the Senate amendment is substantially similar to the House bill.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2107—CONGRESSIONAL OVERSIGHT GROUP

Present/expired law

No provision.

House amendment

Section 2107 of the House amendment to H.R. 3009 would require the Chairman of the Committee on Ways and Means and the Chairman of the Committee on Finance to chair and convene, sixty days after the effective date of this Act, the Congressional Oversight Group. The Group would be comprised of the following Members of the House: the Chairman and Ranking Member of the Committee on Ways and Means and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the House, jurisdiction over provisions of law affected by a trade negotiation. The Group would be comprised of the following Members of the Senate: the Chairman and Ranking Member of the Committee on Finance and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade negotiation.

Members are to be accredited as official advisors to the U.S. delegation in the negotiations. USTR is to develop guidelines to facilitate the useful and timely exchange of information between USTR and the Group, including regular briefings, access to pertinent documents, and the closest possible coordination at all critical periods during the negotiations, including at negotiation sites.

Finally, section 2107(c) provides that upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Group before initiating negotiations or at any other time concerning the negotiations.

Senate amendment

Section 2107 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2108—ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS

Present/expired law

No provision.

House amendment

Section 2108 of the House amendment to H.R. 3009 would require the President to submit to the Congress a plan for implementing and enforcing any trade agreement resulting from this Act. The report is to be submitted simultaneously with the text of the agreement and is to include a review of the Executive Branch personnel needed to enforce the agreement as well as an assessment of any U.S. Customs Service infrastructure improvements required. The range of personnel to be addressed in the report is very comprehensive, including U.S. Customs and Department of Agriculture border inspectors, and monitoring and implementing personnel at USTR, the Departments of Agriculture, Commerce, and the Treasury, and any other agencies as may be required.

Senate amendment

Section 2108 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2109—COMMITTEE STAFF

Present/expired law

No provision.

House amendment

Section 2109 of the House amendment to H.R. 3009 states that the grant of trade promotion authority is likely to increase the activities of the primary committees of jurisdiction and the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader Members of Congress in the formulation of U.S. trade policy and oversight of the U.S. trade agenda. The provision specifies that the primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

Senate amendment

Section 2109 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2111—REPORT ON THE IMPACT OF TRADE PROMOTION AUTHORITY

Present/expired law

No provision.

House amendment

No provision.

Senate amendment

Section 2111 requires the International Trade Commission, within one year following enactment of this Act, to issue a report regarding the economic impact of the following trade agreements: (1) The U.S.-Israel Free Trade Agreement; (2) the U.S.-Canada Free Trade Agreement; (3) the North American Free Trade Agreement (NAFTA); (4) The Uruguay Round Agreements, which established the World Trade Organization; and (5) The Tokyo Round of Multilateral Trade Negotiations.

Conference agreement

The House recedes to the Senate amendment.

SEC. 2112—SMALL BUSINESS

Present/expired law

No provision.

House amendment

No provision.

Senate amendment

WTO small business advocate. Section 2112(a) provides that the U.S. Trade Representative shall pursue identification of a small business advocate at the World Trade Organization Secretariat to examine the impact of WTO agreements on the interests of small businesses, address the concerns of small businesses, and recommend ways to address those interests in trade negotiations involving the WTO.

Assistant USTR responsible for small businesses. Section 2112(b) provides that the Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small businesses are considered in trade negotiations.

Conference agreement

The Senate recedes to the House amendment with a modification. The Conferees agree to section 2112(b) of the Senate amendment, which provides that the Assistant USTR for Industry and Telecommunications will be responsible for ensuring that the interests of small business are considered in trade negotiations.

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

SEC. 3101—SHORT TITLE

Present law

No provision.

House amendment

Section 3101 of H.R. 3009, as amended, provides that the Act may be cited as the "Andean Trade Promotion and Drug Eradication Act."

Senate amendment

Section 3101 provides that the Act may be cited as the "Andean Trade Preference Expansion Act."

Conference agreement

The Senate recedes.

SEC. 3102—FINDINGS

Present law

No provision.

House amendment

Section 1302 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counter narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provide sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005 as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

Senate amendment

Section 3101 is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 3103—ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT

Articles (Except Apparel) Eligible for Preferential Treatment

Present law

The Andean Trade Preference Act (ATPA), enacted on December 4, 1991 as title II of Public Law 102–182, authorizes preferential trade benefits for the Andean nations of Bolivia, Colombia, Ecuador, and Peru, similar to those benefits granted to beneficiaries under the Caribbean Basin Initiative program. The ATPA authorizes the President to proclaim duty-free treatment for all eligible articles from Bolivia, Colombia, Ecuador, Peru. This authority applies only to normal column 1 rates of duty in the Harmonized Tariff Schedule of the United States (HTS); any additional duties imposed under U.S. unfair trade practice laws, such as the anti-dumping or countervailing duty laws, are not affected by this authority.

The ATPA contains a list of products that are ineligible for duty-free treatment. More specifically, ATPA duty-free treatment does not apply to textile and apparel articles that are subject to textile agreements; petroleum and petroleum products; footwear not eligible for duty-free treatment under the Generalized System of Preferences; certain watches and watch parts; certain leather products; and sugar, syrups and molasses subject to over-quota rates of duty.

House amendment

Section 3103(a) amends the Andean Trade Preference Act to authorize the President to proclaim duty-free treatment for any of the following articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that

the article is not import-sensitive in the context of imports from beneficiary countries:

(1) Footwear not designated at the time of the effective date of this Act as eligible for the purposes of the Generalized System of Preferences under title V of the Trade Act of 1974;

(2) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(3) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(4) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that—(i) are the product of any beneficiary country; and (ii) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

Under H.R. 3009, textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below. Imports of tuna, prepared or preserved in any manner, in airtight containers would receive immediate duty-free treatment.

Senate amendment

Section 3102 of the bill replaces the list of excluded products under section 204(b) of the current ATPA with a new provision that extends duty preferences to most of those products. The new preferences take the form of exceptions to the general rule that the excluded products are not eligible for duty-free treatment.

The enhanced preferences are made available to "ATPEA beneficiary countries." Paragraph (5) of section 204(b) of the ATPA as amended by the present bill defines ATPEA beneficiary countries as those countries previously designated by the President as "beneficiary countries" (i.e., Bolivia, Colombia, Ecuador, and Peru) which subsequently are designated by the President as "ATPEA beneficiary countries," based on the President's consideration of additional eligibility criteria.

In the event that the President did not designate a current "beneficiary country" as an "ATPEA beneficiary country," that country would remain eligible for ATPA benefits under the law as expired on December 4, 2001, but would not be eligible for the enhanced benefits provided under the present bill.

Footwear not eligible for duty-free treatment under GSP receives the same tariff treatment as like products from Mexico, except that duties on articles in particular tariff subheadings are to be reduced by 1/15 per year.

The Senate Amendment provides special treatment for rum and tafia, allowing them to receive the same tariff treatment as like products from Mexico. The bill also allows certain handbags, luggage, flat goods, work gloves, and leather wearing apparel to receive the same tariff treatment as like products from Mexico.

Under the bill, the President is authorized to proclaim duty-free treatment for tuna that is harvested by United States or ATPEA vessels, subject to a quantitative yearly cap of 20 percent of the domestic United States tuna pack in the preceding year.

Conference agreement

Senate recedes on the authority of President to proclaim duty-free treatment for particular articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries.

Textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below.

House recedes on the treatment of tuna with an amendment to: (1) retain U.S. or Andean flagged vessel rule of origin requirement in Senate amendment; (2) authorize the President to grant duty-free treatment for Andean exports of tuna packed in flexible (e.g., foil), airtight containers weighing with their contents not more than 6.8 kg each; and (3) update calculation of current MFN tariff-rate quota to be an amount based on 4.8 percent of apparent domestic consumption of tuna in airtight containers rather than domestic production.

Eligible Apparel Articles

Present law

Under the ATPA, apparel articles are on the list of products excluded from eligibility for duty-free treatment.

House amendment

Under Section 3103, the President may proclaim duty-free and quota-free treatment for apparel articles sewn or otherwise assembled in one or more beneficiary countries exclusively from any one or any combination of the following:

(1) Fabrics or fabric components formed, or components knit-to-shape, in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

(2) Fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries) are in chief weight of llama, or alpaca.

(3) Fabrics or yarn not produced in the United States or in the region, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA (short supply provisions). Any interested party

may request the President to consider such treatment for additional fabrics and yarns on the basis that they cannot be supplied by the domestic industry in commercial quantities in a timely manner, and the President must make a determination within 60 calendar days of receiving the request from the interested party.

(4) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics or fabric components formed or components knit-to-shape, in one or more beneficiary countries, from yarns formed in the United States or in one or more beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape in the United States described in paragraph 1. Imports of apparel made from regional fabric and regional yarn would be capped at 3% of U.S. imports growing to 6% of U.S. imports in 2006, measured in square meter equivalents.

Senate amendment

Paragraph (2) of section 204(b) of the ATPA as amended by section 3102 of the present bill extends duty-free treatment to certain textile and apparel articles from ATPEA beneficiary countries. The provision divides articles eligible for this treatment into several different categories and limits duty-free treatment to a period defined as the "transition period." The transition period is defined in paragraph (5) of section 204(b) of the ATPA as amended to be the period from enactment of the present bill through the earlier of February 28, 2006 or establishment of a FTAA.

In general, the different categories of textile and apparel articles eligible for duty free treatment are defined according to the origin of the yarn and fabric from which the articles are made. Under the first category, apparel sewn or otherwise assembled in one or more ATPEA beneficiary countries is eligible for duty-free treatment if it is made exclusively from one or a combination of several sub-categories of components, as follows:

(1) United States fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in the United States;

(2) A combination of both United States and ATPEA beneficiary country components knit-to-shape from yarns wholly formed in the United States;

(3) ATPEA beneficiary country fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in one or more ATPEA beneficiary countries, if the constituent fibers are primarily llama or alpaca hair; and

(4) Fabrics or yarns, regardless of origin, if such fabrics or yarns have been deemed, under the North American Free Trade Agreement, not to be widely available in commercial quantities in the United States. A separate provision of section 204(b) of the ATPA as amended by the present bill sets forth a process for interested parties to petition the President for in-

clusion of additional yarns and fabrics in the "short supply" list. This process includes obtaining advice from the United States International Trade Commission and industry advisory groups, and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

A second category of apparel articles eligible for duty-free treatment is apparel articles knit-to-shape (except socks) in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. To qualify under this category, the entire article must be knit-to-shape—as opposed to being assembled from components that are themselves knit-to-shape.

A third category of apparel articles eligible for duty-free treatment is apparel articles wholly assembled in one or more ATPEA beneficiary countries from fabric or fabric components knit, or components knit-to-shape in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. The quantity of apparel eligible for this benefit is subject to an annual cap. The cap is set at 70 million square meter equivalents for the one-year period beginning March 1, 2002. The cap will increase by 16 percent, compounded annually, in each succeeding one-year period, through February 28, 2006.

Thus, the cap applied to this category in each year following enactment will be as follows:

70 million square meter equivalents (SME) in the year beginning March 1, 2002;

81.2 million SME in the year beginning March 1, 2003;

94.19 million SME in the year beginning March 1, 2004; and

109.26 million SME in the year beginning March 1, 2005.

A separate provision makes clear that goods otherwise qualifying under the latter category will not be disqualified if they happen to contain United States fabric made from United States yarn.

A fourth category of apparel eligible for duty-free treatment under the Senate bill is brassieres that are cut or sewn, or otherwise assembled, in one or more ATPEA beneficiary countries, or in such countries and the United States. This separate category requires that, in the aggregate, brassieres manufactured by a given producer claiming duty-free treatment for such products contain certain quantities of United States fabric.

A fifth category of textile and apparel eligible for duty-free treatment is handloomed, handmade, and folklore articles.

A final category of textile and apparel goods eligible for duty-free treatment is textile luggage assembled in an ATPEA beneficiary country from fabric and yarns formed in the United States.

In addition to the foregoing categories, the bill sets forth special rules for determining whether particular textile and apparel articles qualify for duty-free treatment.

Conference agreement

In general the conferees agreed to follow the House amendment on apparel provisions with the exception that the House receded to the Senate on the treatment of textile luggage. With respect to category 2 in the House bill relating to fabrics or fabric

components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics are in chief weight of llama, or alpaca, conferees agreed to include vicuna and calculate product eligibility based on chief value instead of chief weight. Also, conferees agreed to cap imports of apparel made from regional fabric and regional yarn (category 4 in the House bill) at 2% of U.S. imports growing to 5% of U.S. imports in 2006, measured in square meter equivalents.

It is the intention of the conferees that in cases where fabrics or yarns determined by the President to be in short supply impart the essential character to an article, the remaining textile components may be constructed of fabrics or yarns regardless of origin, as in Annex 401 of the NAFTA. In cases where the fabrics or yarns determined by the President to be in short supply do not impart the essential character of the article, the article shall not be ineligible for preferential treatment under this Act because the article contains the short supply fabric or yarn.

Special Origin Rule for Nylon Filament Yarn

House amendment

No provision.

Senate amendment

Articles otherwise eligible for duty-free treatment and quota free treatment under the bill are not ineligible because they contain certain nylon filament yarn (other than elastomeric yarn) from a country that had an FTA with the U.S. in force prior to January 1, 1995.

Conference agreement

House recedes.

Dyeing, Finishing and Printing Requirement

House amendment

New requirement that apparel made of U.S. knit or woven fabric assembled in CBTPA country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States. Apparel made of U.S. knit or woven fabric assembled in an Andean beneficiary country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States.

Senate provision

No provision.

Conference agreement

Senate recedes.

Penalties for Transshipment

Present law

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful transshipment. These include penalties

under 19 U.S.C. 1592 for up to a maximum of the domestic value of the imported merchandise or eight times the loss of revenue, as well as denial of entry, redelivery or liquidated damages for failure to redeliver the merchandise determined to be inaccurately represented. In addition, an importer may be liable for criminal penalties, including imprisonment for up to five years, under section 1001 of title 18 of the United States Code for making false statements on import documentation.

Under the North American Free Trade Agreement (NAFTA), Parties to the Agreement must observe Customs procedures and documentation requirements, which are established in Chapter 5 of NAFTA. Requirements regarding Certificates of Origin for imports receiving preferential tariffs are detailed in Article 502.1 of NAFTA.

House amendment

Section 3103 requires that importers comply with requirements similar in all material respects to the requirements regarding Certificates of Origin contained in Article 502.1 of the North American Free Trade Agreement (NAFTA) for a similar importation from Mexico.

In addition, if an exporter is determined under the laws of the United States to have engaged in illegal transshipment of apparel products from an Andean country, then the President shall deny all benefits under the bill to such exporter, and to any successors of such exporter, for a period of two years.

In cases where the President has requested a beneficiary country to take action to prevent transshipment and the country has failed to do so, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from that country by three times the quantity of articles transshipped, to the extent that such action is consistent with World Trade Organization (WTO) rules.

Senate amendment

In amending section 204(b) of the ATPA, section 3102 of the present bill provides special penalties for transshipment of textile and apparel articles from an ATPEA beneficiary country. Transshipment is defined as claiming duty-free treatment for textile and apparel imports on the basis of materially false information. An exporter found to have engaged in such transshipment (or a successor of such exporter) shall be denied all benefits under the ATPA for a period of two years.

The bill further provides penalties for an ATPEA beneficiary country that fails to cooperate with the United States in efforts to prevent transshipment. Where textile and apparel articles from such country are subject to quotas on importation into the United States consistent with WTO rules, the President must reduce the quantity of such articles that may be imported into the United States by three times the quantity of transshipped articles, to the extent consistent with WTO rules.

Conference agreement

Conference agreement follows House and Senate bill.

Import Relief Actions

Present law

The import relief procedures and authorities under sections 201–204 of the Trade Act of 1974 apply to imports from ATPA beneficiary countries, as they do to imports from other countries. If ATPA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive article, section 204(d) of the ATPA authorizes the President to suspend ATPA duty-free treatment and proclaim a rate of duty or other relief measures.

Under NAFTA, the United States may invoke a special safeguard provision at any time during the tariff phase-out period if a NAFTA-origin textile or apparel good is being imported in such increased quantities and under such conditions as to cause "serious damage, or actual threat thereof," to a domestic industry producing a like or directly competitive good. The President is authorized to either suspend further duty reductions or increase the rate of duty to the NTR rate for up to three years.

House amendment

Under Section 3103 normal safeguard authorities under ATPA would apply to imports of all products except textiles and apparel. A NAFTA equivalent safeguard authorities would apply to imports of apparel products from ATPA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.

Senate amendment

The bill establishes similar textile and apparel safeguard provisions based on the NAFTA textile and apparel safeguard provision.

Conference agreement

Conference Agreement follows House and Senate bill.

Designation Criteria

Present law

In determining whether to designate any country as an ATPA beneficiary country, the President must take into account seven mandatory and 12 discretionary criteria, which are listed in section 203 of the ATPA.

Under Section 203 of the ATPA, the President shall not designate any country a ATPA beneficiary country if:

(1) the country is a Communist country;

(2) the country has nationalized, expropriated, imposed taxes or other exactions or otherwise seized ownership or control of U.S. property (including intellectual property), unless he determines that prompt, adequate, and effective compensation has been or is being made, or good faith negotiations to provide such compensation are in progress, or the country is otherwise

taking steps to discharge its international obligations, or a dispute over compensation has been submitted to arbitration;

(3) the country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens;

(4) the country affords "reverse" preferences to developed countries and whether such treatment has or is likely to have a significant adverse effect on U.S. commerce;

(5) a government-owned entity in the country engages in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent or the country fails to work toward the provision of adequate and effective intellectual property rights;

(6) the country is not a signatory to an agreement regarding the extradition of U.S. citizens,

(7) if the country has not or is not taking steps to afford internationally recognized worker rights to workers in the country;

In determining whether to designate a country as eligible for ATPA benefits, the President shall take into account (discretionary criteria):

(1) an expression by the country of its desire to be designated;

(2) the economic conditions in the country, its living standards, and any other appropriate economic factors;

(3) the extent to which the country has assured the United States it will provide equitable and reasonable access to its markets and basic commodity resources;

(4) the degree to which the country follows accepted rules of international trade under the World Trade Organization;

(5) the degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade;

(6) the degree to which the trade policies of the country are contributing to the revitalization of the region;

(7) the degree to which the country is undertaking self-help measures to protect its own economic development;

(8) whether or not the country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized workers rights;

(9) the extent to which the country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights;

(10) the extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria of the Foreign Assistance Act of 1961 for eligibility for U.S. assistance; and

(12) the extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Under the ATPA the President is prohibited from designating a country a beneficiary country if any of criteria (1)–(7) apply to that country, subject to waiver if the President determines that

country designation will be in the U.S. national economic or security interest. The waiver does not apply to criteria (4) and (6). Under the ATPA criteria on (7) is included as both mandatory and discretionary.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country should be barred from designation as a result of changed circumstances. The President must submit a triennial report to the Congress on the operation of the program. The report shall include any evidence that the crop eradication and crop substitution efforts of the beneficiary country are directly related to the effects of the legislation

House amendment

The House amendment provides that the President, in designating a country as eligible for the enhanced ATPDEA benefits, shall take into account the existing eligibility criteria established under ATPA described above, as well as other appropriate criteria, including: whether a country has demonstrated a commitment to undertake its WTO obligations and participate in negotiations toward the completion of the FTAA or comparable trade agreement; the extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights; the extent to which the country provides internationally recognized worker fights; whether the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which a country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and the extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement equivalent to those included in the WTO Agreement on Government Procurement and otherwise contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

Senate amendment

Section 3102(5) contains identical provisions.

Conference agreement

Conference Agreement follows the House and Senate amendments. In evaluating a potential beneficiary's compliance with its WTO obligations, the conferees expect the President to take into account the extent to which the country follows the rules on customs valuation set forth in the WTO Customs Valuation Agreement. With respect to intellectual property protection, it is the Conferees intent that the President will also take into account the extent to which potential beneficiary countries are providing or taking steps to provide protection of intellectual property rights comparable to the protections provided to the United States in bilateral intellectual property agreements.

Since April 1995, Colombia has applied a variable import duty system, known as the "price band" system, on fourteen basic agriculture products such as wheat, corn, and soybean oil. An addi-

tional 147 commodities, considered substitutes or related products, are subject to the price band system which establishes ceiling, floor, and reference prices on imports. The Conferees's view is that the price band system is non-transparent and easily manipulated as a protectionist device. In early 2000, the United States reached agreement with Colombia in the WTO that Colombia would delink wet pet food, the only finished product in this system, from the price band system. In implementing the eligibility criteria relating to market access and implementation of WTO commitments, it is the Conferees intent that USTR insist that Colombia implement its WTO commitment to remove pet food from the price band tariff system and to apply the 20% common external tariff to imported pet food.

With respect to whether beneficiary countries are following established WTO rules, the Conferees believe it is important for Andean governments to provide transparent and non-discriminatory regulatory procedures. Unfortunately, the Conferees know of instances where regulatory policies in Andean countries are opaque, unpredictable, and arbitrarily applied. As such, it is the Conferees' view that Andean countries that seek trade benefits should adopt, implement, and apply transparent and non-discriminatory regulatory procedures. The development of such procedures would help create regulatory stability in the Andean region and thus provide mere certainty to U.S. companies that would like to invest in these countries.

Determination Regarding Retention of Designation

Present law

Under Section 203(e) of the ATPA, the President may withdraw or suspend a country's beneficiary country designation, or withdraw, suspend, or limit the application of duty-free treatment to particular articles of a beneficiary country, due to changed circumstances.

House amendment

Section 3102(b) amends section 203(e) of the ATPA to provide that the President may withdraw or suspend ATPA designation, or withdraw, suspend or limit benefits if a country's performance under eligibility criteria are no longer satisfactory.

Senate amendment

Identical.

Conference agreement

Conference agreement follows the House amendment and Senate amendment.

Reporting Requirements

Present law

Provides for: (1) an annual report by the International Trade Commission on the economic impact of the bill and; (2) an annual report by the Secretary of Labor on the impact of the bill with re-

spect to U.S. labor. Also under present law, USTR is required to report triannually on operation of the program.

House amendment

Retains current law on reports.

Senate amendment

Senate bill requires same ITC and Labor reports as well as an annual report by the Customs Service on compliance and anti-circumvention on the part of beneficiary countries in the area of textile and apparel trade. It also requires USTR to report biannually on operation of the program.

Conference agreement

House recedes.

Petitions for review

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 3102(e) of the bill directs the President to promulgate regulations regarding the review of eligibility of articles and countries under the ATPA. Such regulations are to be similar to regulations governing the Generalized System of Preferences petition process.

Conference agreement

House recedes.

SECTION 3104—TERMINATION OF DUTY-FREE TREATMENT

Present law

Duty-free treatment under the ATPA expires on December 4, 2001.

House amendment

Duty-free treatment terminates under the Act on December 31, 2006.

Senate amendment

Section 3103 of the bill amends section 208(b) of the ATPA to provide for a termination date of February 28, 2006. Basic ATPA benefits apply retroactively to December 4, 2001.

Conference agreement

House recedes on retroactivity for basic ATPA benefits; Senate recedes on termination.

SECTION 3106—TRADE BENEFITS UNDER THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT (CBTPA) AND THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Knit-to-shape apparel

Present law

Draft regulations issued by Customs to implement P.L. 106–200 stipulate that knit to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.

House amendment

Sec. 3106 and 3107 of the House bill amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Present law

Draft regulations issued by Customs to implement P.L. 106–200 deny preferential access to garments that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so called "hybrid cutting problem").

House amendment

Sec. 3107 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes.

CBI knit cap

Present law

P.L. 106–200 extended duty-free benefits to knit apparel made in CBI countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), up to a cap of 250,000,000 square meter equivalents (SMEs), with a growth rate of 16% per year for first 3 years.

House amendment

Sec. 3106 of H.R. 2009 would raise this cap to the following amounts: 250,000,000 SMEs for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on October 1, 2002; 850,000,000 SMEs for the 1-year period beginning

on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes.

CBI T-shirt cap

Present law

P.L. 106–200 extends benefits for an additional category of CBI regional knit apparel products (*T-shirts*) up to a cap of 4.2 million dozen, growing 16% per year for the first 3 years.

House amendment

Section 3106 of H.R. 3006 would raise this cap to the following amounts: 4,200,000 dozen during the 1-year period beginning October 1, 2001; 9,000,000 dozen for the 1-year period beginning on October 1, 2002; 10,000,000 dozen for the 1-year period beginning on October 1, 2003; 12,000,000 dozen in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Present law

Section 112(b)(3) of the AGOA provides preferential treatment for apparel made in beneficiary sub-Saharan African countries from "regional" fabric (*i.e.,* fabric formed in one or more beneficiary countries) from yarn originating either in the United States or one or more such countries. Section 112(b)(3)(B) establishes a special rule for lesser developed beneficiary sub-Saharan African countries, which provides preferential treatment, through September 30, 2004, for apparel wholly assembled in one or more such countries regardless of the origin of the fabric used to make the articles. Section 112(b)(3)(A) establishes a quantitative limit or "cap" on the amount of apparel that may be imported under section 112(b)(3) or section 112(b)(3)(B). This "cap" is 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States for the year that began October 1, 2000, and increases in equal increments to 3.5 percent for the year beginning October 1, 2007.

House amendment

Section 3107 would clarify that apparel wholly assembled in one or more beneficiary sub-Saharan African countries from components knit-to-shape in one or more such countries from U.S. or regional yarn is eligible for preferential treatment under section 112(b)(3) of AGOA. Similarly, Section 5 would clarify that apparel

knit-to-shape and wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries is eligible for preferential treatment, regardless of the origin of the yarn used to make such articles. The House amendment also would increase the "cap" by changing the applicable percentages from 1.5 percent to 3 percent in the year that began October 1, 2000, and from 3.5 percent to 7 percent in the year beginning October 1, 2007.

Senate amendment

No provision.

Conference agreement

Conference agreement follows House Amendment accept the increase in the cap is limited to apparel products made with regional or U.S. fabric and yarn. No increases in amounts of apparel made of third-country fabric over current law.

Present law

AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. However, due to a drafting problem, the wrong diameter was included, making it impossible to use the provision.

House amendment

Section 3107 corrects the yarn diameter in the AGOA legislation so that sweaters knit to shape from merino wool of a specific diameter are eligible.

Senate amendment

No provision.

Conferce agreement

Senate recedes.

AFRICA: NAMIBIA AND BOTSWANA

Present law

The GDBs of Botswana and Namibia exceed the LLDC limit of $1500 and therefore these countries are not eligible to use third country fabric for the transition period under the AGOA regional fabric country cap.

House amendment

Section 5 allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.

Senate amendment

No provision.

Conference agreement

Senate recedes.

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

SEC. 4101—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

Expired law

Section 505 of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V (the Generalized System of Preferences) shall remain in effect after September 30, 2001.

House bill

The House amendment to H.R. 3009 would amend section 505 of the Trade Act of 1974 to authorize an extension through December 31, 2002. It would also provide retroactive relief in that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if the entry had been made on September 30. 2001, and was made after September 30, 2001, and before the enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of Treasury shall refund any duty paid, upon proper request filed with the appropriate Customs officer, within 180 days after the date of enactment.

Senate amendment

The Senate amendment authorizes an extension of GSP through December 31, 2006. The extension is retroactive to September 30, 2001, permitting importers to liquidate or reliquidate entries made since that date and to seek a return of duties paid on goods that would have entered the United States free of duty, but for expiration of GSP.

The Senate amendment also amends the definition of "internationally recognized worker rights" set forth in the GSP statute (section 507(4) of the Trade Act of 1974). Specifically, it adds to that definition "a prohibition on discrimination with respect to employment and occupation" and a "prohibition of the worst forms of child labor." These two prohibitions come from the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work, which defines certain worker rights as "fundamental."

The GSP statute identifies certain criteria that the President must take into account in determining whether to designate a country as eligible for GSP benefits. Conversely, a country's lapse in compliance with one or more of these criteria may be grounds for withdrawal, suspension, or limitation of benefits. Whether a country is taking steps to afford its workers internationally recognized worker rights is one of those criteria. The Senate Amendment seeks to make the concept of "internationally recognized worker rights" as defined for GSP consistent with the concept as defined by the ILO.

Finally, the Senate Amendment establishes a new eligibility criterion for GSP: "A country is ineligible for GSP if it has not taken steps to support the efforts of the United States to combat terrorism."

Conference agreement

The Conference agreement authorizes an extension of GSP through December 31, 2006. Conferees approved the Senate provision to include a prohibition on the worst forms of child labor in the definition of internationally recognized worker rights in Section 507(a) of the Trade Act of 1974. Conferees declined to include the Senate provision on discrimination with respect to employment in the definition of "international recognized worker rights under Sec. 507(a) of the Trade Act of 1974. Agreement follows the House and the Senate bill with respect to providing retroactive relief.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101—WOOL MANUFACTURER PAYMENT CLARIFICATION AND TECHNICAL CORRECTIONS ACT

Present law

Title V of the Trade and Development Act of 2000 (Pub. L. No. 106–200) included certain tariff relief for the domestic tailored clothing and textile industries. The relief was largely aimed at reducing the harmful affects of a "tariff inversion"—i.e., a tariff structure that levies higher duties on the raw material (such as wool fabric) than on the finished goods (such as mens' suits). A component of the relief to the U.S. tailored clothing and textile industry was a refund of duties paid in calendar year 1999, spread out over calendar years 2000, 2001 and 2002. Pub. L. No. 106–2000, § 505.

House amendment

No provision.

Senate amendment

The Senate bill amends section 505 of the Trade and Development Act of 2000 to simplify the process for refunding to eligible parties duties paid in 1999. Specifically, it creates three special refund pools for each of the affected wool articles (fabric, yarn, and fiber and top). Refunds for importing manufacturers will be distributed in three installments—the first and second on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment and Clarification and Technical Corrections Act, and the third on or before April 15, 2003. Refunds for nonimporting manufacturers will be distributed in two installments—the first on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second on or before April 15, 2003.

The provision also streamlines the paperwork process, in light of the destruction of previously filed claims and supporting infor-

mation in the September 11, 2001 attacks on the World Trade Center in New York, New York. Finally, the provision identifies all persons eligible for the refunds.

Conference agreement

The House recedes to the Senate.

SEC. 5102—DUTY SUSPENSION ON WOOL

Present law

Sections 501(a) and (b) of the Trade and Development Act of 2000 provide temporary duty reductions for certain worsted wool fabrics through 2003.

Section 501(d) limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.11 from January 1 to December 31 of each year, inclusive, to 2,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act. Further, the section limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.12 from January 1 to December 31 of each year, inclusive, to 1,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act.

House amendment

No provision.

Senate bill

The Senate bill extends the temporary duty reductions on fabrics of worsted wool from 2003 to 2005. The provision increases the limitation on the quantity of imports of worsted wool fabrics entered under heading 9902.51.11 to 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003. Imports of worsted wool fabrics entered under heading 9902.51.12 are increased to 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003.

The bill extends the payments made to manufacturers under section 505 of the Trade and Development Act of 2000 and requires an affidavit that the manufacturer will remain a manufacturer in the United States as of January 1 of the year of payment. The two additional payments will occur as follows: the first to be made after January 1, 2004, but on or before April 15, 2004, and the second after January 1, 2005, but on or before April 15, 2005.

Finally, the bill extends the "Wool Research Trust Fund" for two years through 2006.

Conference agreement

The House recedes to the Senate.

Subtitle B—Other Provisions

SEC. 5201—FUND FOR WTO DISPUTE SETTLEMENT

Present law

No applicable section.

House amendment

The provision authorizes a settlement fund within the United States Trade Representative's Office in the amount of $50 million for the use in settling disputes that occur related to the World Trade Organization. The Trade Representative must certify to the Secretary of the Treasury that the settlement is in the best interest of the United States in cases of not more than $10 million. For cases above $10 million, the Trade Representative must make the same certification to the United States Congress.

Senate bill

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 5202—CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES

Present law

Under present law, certain steam or other vapor generating boilers used in nuclear facilities imported into the United States prior to December 31, 2003 are charged a duty rate of 4.9 percent ad valorem. This rate took effect pursuant to section 1268 of Public Law Number 106–476 ("Tariff Suspension and Trade Act of 2000"). Previously, the rate had been 5.2 percent ad valorem.

House amendment

No provision.

Senate amendment

Section 203 of the Senate amendment chances the duty rate on certain steam or other vapor generating boilers used in nuclear facilities to zero for such goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, and on or before December 31, 2006. The provision was intended to lower the cost of inputs into the operation of nuclear facilities and thereby lower the cost of energy to consumers.

Committee agreement

The House recedes to the Senate.

SEC. 5203—SUGAR TARIFF RATE QUOTA CIRCUMVENTION

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate bill establishes a sugar anti-circumvention program which requires the Secretary of Agriculture to identify imports of articles that are circumventing tariff rate quotas on sugars, syrups, or sugar-containing products imposed under chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule. The Secretary shall then report to the President articles found to be circumventing such tariff-rate quotas. Upon receiving the Secretary's report, the President shall, by proclamation, include any identified article in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule.

Conference agreement

Conferees agreed to a provision directing the Secretary of Agriculture and the Commissioner of Customs shall monitor for sugar circumvention and shall report and make recommendations to Congress and the President.

This provision amends the Harmonized Tariff Schedule of the United States ("HTSUS") to make clear in the statute an important element of the ruling of the Court of Appeals for the Federal Circuit in Heartland By-Products, Inc. v. United States, 264 F. 3rd 1126 (Fed. Cir. 2001), i.e., that molasses is one of the foreign substances that must be excluded when calculating the percentage of soluble non-sugar solids under subheading 1702.90.40.

The provision requires the Secretary of Agriculture and the Commissioner of Customs to establish a monitoring program to identify existing or likely circumvention of the tariff-rate quotas in Chapters 17, 18, 19 and 21 of the HTSUS. The Secretary and the Commissioner shall report the results of their monitoring to Congress and the President every six months, together with data and a description of developments and trends in the composition of trade provided for in such chapters. This report will be made public. The report will discuss any indications that imports of articles not subject to the tariff-rate quotas are being used for commercial extraction of sugar in the United States. Imports of so-called "high-test molasses" currently classified under subheading 1703.10.30 will be examined particularly closely for such indications.

Finally, the Secretary and the Commissioner will include in the report their recommendations for ending circumvention, including their recommendations for legislation. The Managers emphasize that rapid action to stop circumvention is the best way to prevent a problem from developing and that quick administrative or legislative action is preferable to protracted procedures and litigation, as occurred in the Heartland case.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 101—SHORT TITLE

Present law

No provision.

House amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the "Trade Adjustment Assistance Reform Act of 2002."

Senate amendment

Section 101 of H.R. 3009 provides that Division A of the Act may be cited as the "Trade Adjustment Assistance Reform Act of 2002."

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance for Workers

SEC. 111—REAUTHORIZATION OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current section 245 authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the TAA and NAFTA–TAA for workers programs for the period October 1, 1998 through September 30, 2001. Current section 285 provides for termination of all Trade Adjustment Assistance programs on September 30, 2001, but provides that workers, and firms eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

House amendment

The House Amendment reauthorized the Trade Adjustment Assistance programs through September 30, 2004.

Senate amendment

Section 111 of the Senate bill creates a new section 248 of the Trade Act of 1974 which authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the Trade Adjustment Assistance for workers program for the period October 1, 2001, through September 30, 2007. Section 701 of the Senate bill amends current section 285 to provide for termination of all Trade Adjustment Assistance programs on September 30, 2007, but provides that workers, and firms, communities, farmers, and fishermen eligible to receive benefits on or before that date shall continue to be eligible to receive such benefits as though the programs were in effect.

Conference agreement

Conferees agree to extend the authorization of the Trade Adjustment Assistance programs through September 30, 2007, and to consolidate the NAFTA–TAA program with the regular TAA program.

SEC. 112—FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR

Present law

Current sections 221 and 250 set forth requirements concerning who may file a petition for certification of eligibility to apply for TAA and NAFTA–TAA assistance, respectively. Under both programs, petitions may be filed by a group of workers or by their certified or recognized union or other duly authorized representative. TAA petitions are filed with the Secretary of Labor. NAFTA–TAA petitions are filed with the Governor of the relevant State and forwarded by him to the Secretary of Labor. Under section 223, the Secretary of Labor must rule on eligibility within 60 days after a TAA petition is filed. Under section 250, the Governor must make a preliminary eligibility determination within 10 days after a NAFTA–TAA petition is filed, and the Secretary of Labor must make a final eligibility determination within the next 30 days. Section 221 also sets forth notice and hearing obligations of the Secretary of Labor upon receipt of a TAA petition. Section 250 provides that, in the event of preliminary certification of eligibility to apply for NAFTA–TAA benefits, the Governor immediately provide the affected workers with certain rapid response services.

House amendment

The House Amendment provided for a shortened period for the Secretary of Labor to consider petitions from 60 days to 40 days and for other rapid response assistance to workers.

Senate amendment

Section 111 of the Senate bill creates a new section 231 of the Trade Act of 1974, which consolidates the TAA and NAFTA–TAA programs by establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Section 231 expands the list of entities that may file a petition for group certification of eligibility to include employers, one-stop operators or one-stop partners, State employment agencies, and any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retraining Notification Act. Section 231 also provides that the President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may direct the Secretary of Labor to initiate a certification process under this chapter to determine the eligibility for Trade Adjustment Assistance of a group of workers.

Section 231 creates a single process for filing and reviewing petitions for Trade Adjustment Assistance for workers, under which all petitions are filed with both the Secretary of Labor and the Governor of the State. Upon filing of the petition, the Governor is required to fulfill the requirements of any agreement entered into with the Department of Labor under section 222, to provide certain rapid response services, and to notify workers on whose behalf a

petition has been filed of their potential eligibility for certain existing federal health care, child care, transportation, and other assistance programs. Upon filing the petition, the Secretary of Labor must make his certification determination within 40 days and provide the notice required.

Conference agreement

The Senate recedes to the House with a change providing for simultaneous filing of petitions with the Secretary of Labor and State Governor.

SEC. 113—GROUP ELIGIBILITY REQUIREMENTS

Present law

Current law sections 222 and 250 of Title 11 of the Trade Act of 1974 set forth group eligibility criteria. Under TAA, the Secretary must certify a group of workers as eligible to apply for Trade Adjustment Assistance if he determines (1) that a significant number or proportion of the workers in such workers' firm have become or are threatened to become totally or partially separated; (2) sales or production of such firm have decreased absolutely; and (3) imports of articles like or directly competitive with articles produced by such workers' firm contributed importantly to the total or partial separation or threat thereof, and to the decline in sales or production. Under NAFTA–TAA, group eligibility may be based on the same criteria set forth in section 222, but section 250 also provides for NAFTA–TAA eligibility where there has been a shift in production by the workers' firm to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm. Section 222 also includes special eligibility provisions with respect to oil and natural gas producers.

House amendment

The House Amendment at Section 113 expanded the Trade Adjustment Assistance programs to secondary workers that are suppliers to firms that were certified and which satisfied certain conditions.

Senate amendment

Section 111 of the Senate Amendment creates a new section 231 under which the eligibility criteria are revised. First, workers are eligible for TAA if the value or volume of imports of articles like or directly competitive with articles produced by that firm have increased and the increase in the value or volume of imports contributed importantly to the workers' separation or threat of separation. Second, eligibility is extended to workers who are separated due to shifts in production to any country, rather than only when the shift in production is to Mexico or Canada. Third, eligibility is extended to adversely affected secondary workers. Eligible secondary workers include workers in supplier firms and, with respect to trade with NAFTA countries, downstream firms. Fourth, a new special eligibility provision is added with respect to taconite pellets.

Conference agreement

The Conferees agree to extend coverage of Trade Adjustment Assistance to new categories of workers: (1) secondary workers that supply directly to another firm component parts for articles that were the basis for a certification of eligibility, (2) downstream workers that were affected by trade with Mexico or Canada, and (3) certain workers that have been laid off because their firm has shifted its production to another country that has a free trade agreement with the United States, that has a unilaterally preferential trading arrangement with the United States, or when there has been or is likely to be an increase in imports of the relevant articles.

SEC. 114—QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES

Present law

Current section 231 establishes qualifying requirements that must be met in order for an individual worker within a certified group to receive Trade Adjustment Assistance. In order to receive trade readjustment allowances, a certified worker must have been separated on or after the eligibility date established in the certification but within 2 years of the date of the certification determination; been employed for at least 26 of the 52 weeks preceding the separation at wages of $30 or more a week; be eligible for and have exhausted unemployment insurance benefits; not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of that Act; and be enrolled in a training program approved by the Secretary of Labor or have received a training waiver.

House amendment

The House Amendment at Section 114 provided for requirements and deadlines for workers to enroll in training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 235 which maintains the individual eligibility requirements in current law, with the exception of revisions to provisions governing bases for granting training waivers.

Conference agreement

The Senate recedes to the House, with a change to adopt a training enrollment deadline of 16 weeks after separation.

SEC. 115—WAIVERS OF TRAINING REQUIREMENTS

Present law

Section 231 sets forth permissible bases for granting a training waiver. Pursuant to section 250(d), training waivers are not available in the NAFTA–TAA program.

House amendment

The House Amendment provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Senate amendment

Section 111 of the Senate Amendment adds a new section 235 which provides that all workers who are eligible to apply for Trade Adjustment Assistance may be considered for training waivers and codifies several bases on which the Secretary may grant a waiver.

Conference agreement

The House receded to the Senate with a change to delete the Senate provision giving the Secretary discretion to grant waivers for "other" reasons.

SEC. 116—AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

Present law

Current section 233 provides that each certified worker may receive trade readjustment allowances for a maximum of 52 weeks. Current law also provides that, in most circumstances, a worker is treated as participating in training during any week which is part of a break in training that does not exceed 14 days.

House amendment

Section 116 of the House Amendment would add 26 weeks of trade adjustment allowances for those workers who were in training and required the extension of benefits for the purpose of completing training.

Senate amendment

Section 111 of the Senate Amendment adds a new section 237 which increases the maximum time period during which a worker may receive trade adjustment allowances to 78 weeks, extends the permissible duration of a break in training to 30 days, and provides for an additional 26 weeks of income support for workers requiring remedial education. Section 237 also clarifies that the requirement that a worker exhaust unemployment insurance benefits prior to receiving trade adjustment allowances does not apply to any extension of unemployment insurance by a State using its own funds that extends beyond either the 26 week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

Conference agreement

The Senate recedes to the House.

SEC. 117—ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING

Present law

Current section 236 establishes the terms and conditions under which training is available to eligible workers; permits the Secretary of Labor to approve certain specified types of training programs and to pay the costs of approved training and certain supplemental costs, including subsistence and transportation costs, for eligible workers; and caps total annual funding for training under the TAA for workers program at $80 million. Section 250 separately caps training expenditures under the NAFTA–TAA program at $30 million annually.

House amendment

The House provided $30 million additional funds for the Trade Adjustment Assistance program. Combined with NAFTA Trade Adjustment Assistance, the total training funds available were $140 million.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which sets the total funds available for training expenditures under the unified TAA for workers program to $300 million annually.

Conference agreement

Conferees agreed to a combined training cap of $220 million for Trade Adjustment Assistance training.

SEC. 118—PROVISION OF EMPLOYER-BASED TRAINING

Present law

No applicable section.

House amendment

The House Amendment included provisions related to employer based training including on-the-job training and customized training with partial reimbursements provided to the employer.

Senate amendment

Section 111 of the Senate Amendment adds a new section 240 which revises the list of training programs which the Secretary may approve to include customized training. It also adds a new section 237, which clarifies that the prohibition on payment of trade adjustment allowances to a worker receiving on-the-job training does not apply to a worker receiving on-the-job training does not apply to worker enrolled in a non-paid customized training program.

Conference agreement

The Senate recedes to the House.

SEC. 119—COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Present law

No provision.

House amendment

The House Amendment provided multiple provisions related to coordinating efforts under the Trade Adjustment Assistance programs to provide information and benefits to workers under the Workforce Investment Act.

Senate amendment

No provision.

Conference agreement

Conferees agreed to drop House language with the exception of a provision related to coordinating the delivery of Trade Adjustment Assistance benefits and information at one-stop delivery systems under the Workforce Investment Act.

SEC. 120—EXPENDITURE PERIOD

Present law

No provision.

House amendment

The House amendment provided that certain funds obligated for any fiscal year to carry out activities may be expended by each State in the succeeding two fiscal years.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 121—JOB SEARCH ALLOWANCES

Present law

Under current section 237, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive reimbursement of 90 percent of the cost of necessary job search expenses up to $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 241 which raises the maximum reimbursement for job search expenses to $1250 per worker.

Conference agreement

The House recedes to the Senate.

SEC. 122—RELOCATION ALLOWANCES

Present law

Under current section 238, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive a relocation allowance consisting of (1) 90 percent of the reasonable and necessary expenses incurred in transporting a worker and his family, if any, and household effects, and (2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of $800.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 242 which raises the maximum lump sum portion of the relocation allowance to $1,250.

Conference agreement

The House recedes to the Senate.

SEC. 123—REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

Present law

Current law authorizes a Trade Adjustment Assistance Program for workers affected by NAFTA trade.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 231 which combines the TAA and NAFTA–TAA programs, establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certification of eligibility.

Conference agreement

The House recedes to the Senate to the extent of repealing the NAFTA Trade Adjustment Assistance program and creating a single, unified TAA program for workers.

SEC. 124—DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 111 of the Senate Amendment adds a new section 243 which directs the Secretary of Labor, within one year of enactment, to establish a two-year wage insurance pilot program under which a State uses the funds provided to the State for Trade Adjustment allowances to pay to an adversely affected worker certified under section 231, for a period not to exceed two years, a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation. An adversely affected worker may be eligible to receive a wage subsidy if the worker obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment, is at least 50 years of age, earns not more than $50,000 a year in wages from reemployment, is employed at least 30 hours a week in the reemployment, and does not return to the employment from which the worker was separated. The wage subsidy available to workers in the wage insurance program is 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation, if the wages the worker receives from reemployment are less than $40,000 a year. The wage subsidy is 25 percent if the wages received by the worker from reemployment are greater than $40,000 a year but not more than $50,000 a year. Total payments made to an adversely affected worker under the wage insurance program may not exceed $5,000 in each year of the 2-year period. A worker participating in the wage insurance program is not eligible to receive any other Trade Adjustment Assistance benefits, unless the Secretary of Labor determines that the worker has shown circumstances that warrant eligibility for training benefits under section 240.

Conference agreement

The Conferees agree to create a new alternative Trade Adjustment Assistance program for older workers.

SEC. 125—DECLARATIONS OF POLICY; SENSE OF CONGRESS

Present law

No provision.

House amendment

The House passed amendment included a declaration of policy and Sense of the Congress related to the responsibility of the Secretary of Labor to provide information to workers related to benefits available to them under the TAA and other federal programs.

Senate amendment

Although certain supportive services are available to dislocated workers under WIA, current law makes no express linkage between these services and Trade Adjustment Assistance and TAA certified

workers may not be able to access them. Section 111 of the Senate Amendment adds a new section 243 which provides that States may apply for and the Secretary of Labor may make available to adversely affected workers certified under the Trade Adjustment Assistance program supportive services available under WIA, including transportation, child care, and dependent care, that are necessary to enable a worker to participate in or complete training. Section 243 requires the Comptroller General to conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress; to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the study within one year of enactment of this Act; and to distribute the report to all WIA one-stop partners. Section 243 further provides that each State may conduct a study of its assistance programs for workers facing job loss and economic distress. Each State is eligible for a grant from the Secretary of Labor, not to exceed $50,000, to enable it to conduct the study. In the event that a grant is awarded, the State must, within one year of receiving the grant, provide its report to the Committee on Finance and the Committee on Ways and Means and distribute its report to one-stop partners in the State.

Conference agreement

The Senate recedes to the House.

Subtitle B—Trade Adjustment Assistance for Firms

SEC. 131—REAUTHORIZATION OF TRADE ADJUSTMENT FOR FIRMS PROGRAM

Present law

The Trade Adjustment Assistance for Firms program provides technical assistance to qualifying firms. Current Title II, Chapter 3, section 251 of the Trade Act of 1974 provides that a firm is eligible to receive Trade Adjustment Assistance under this program if (1) a significant number or proportion of its workers have become or are threatened to become totally or partially separated; (2) sales or production, or both, have decreased absolutely; and (3) increases of imports of articles like or directly competitive with articles which are produced by such firms contributed importantly to the total or partial separations or threat thereof.

The authorization for the Trade Adjustment Assistance for Firms program expired on September 30, 2001. The TAA for Firms program is currently subject to annual appropnations and is funded as part of the budget of the Economic Development Administration in the Department of Commerce.

House amendment

The House passed amendment included a 2 year reauthorization for Trade Adjustment Assistance for Firms.

Senate amendment

Section 201 of the Senate Amendment reauthorizes the Trade Adjustment Assistance for Firms program for fiscal years 2002 through 2007; expands the definition of qualifying firms to cover

shifts in production; and authorizes appropriations to the Department of Commerce in the amount of $16 million annually for fiscal years 2002 through 2007 to carry out the purposes of the Trade Adjustment Assistance for Firms program.

Conference agreement

The House recedes to the Senate on the issue of providing a $16 million authorization for Trade Adjustment Assistance for Firms and reauthorizing the program through September 30, 2007.

Subtitle C—Trade Adjustment Assistance for Farmers and Ranchers

SEC. 141—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 401 of the Senate Amendment adds new sections 292–298 of the Trade Act of 1974 which create a Trade Adjustment Assistance program for farmers and ranchers in the Department of Agriculture. Under this section, a group of agricultural commodity producers may petition the Secretary of Agriculture for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for farmers if it is determined that the national average price in the most recent marketing year for the commodity produced by the group is less than 80 percent of the national average price in the preceding 5 marketing years and that increases in imports of that commodity contributed importantly to the decline in price.

Conference agreement

The House recedes to the Senate with changes. The Conferees agree to include limitations on eligibility based upon adjusted gross income and counter-cyclical payment limitations set forth in the Food Security Act of 1985.

SEC. 142—CONFORMING AMENDMENTS

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment makes conforming amendments to the Trade Act of 1974 concerning the TAA for Farmers program.

Conference agreement

Conferees agree to make conforming amendments to the Trade Act of 1974.

SEC. 143—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 502 of the Senate Amendment adds new sections 299–299(G) which create a Trade Adjustment Assistance program for fishermen in the Department of Commerce. Under this program, a group of fishermen may petition the Secretary of Commerce for Trade Adjustment Assistance. The Secretary must certify the group as eligible for Trade Adjustment Assistance for fishermen if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 80 percent of the national average price in the proceeding five marketing years and that increases in imports of that fish contributed importantly to the decline in price.

Conference agreement

Conferees agree to drop Senate Amendment and authorize a study by the Department of Labor to investigate applying TAA to fisherman.

Subtitle D—Effective Date

SEC. 151—EFFECTIVE DATE

Present law

No applicable provision.

House amendment

No provision.

Senate amendment

Section 801 of the Senate Amendment provides that except as otherwise specified, the amendments to the TAA program shall be effective 90 days after enactment of the Trace Act of 2002. The Senate Amendment includes transitional provisions governing the period between expiration of the prior authorizations of TAA for workers and firms and the effective date of the amendments.

Conference agreement

The House recedes to the Senate.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201(a) AND 202—CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENEFIT FROM THE PENSION BENEFIT GUARANTY CORPORATION; ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

Present law

Under present law, the tax treatment of health insurance expenses depends on the individual's circumstances. In general, employer contributions to an accident or health plan are excludable from an employee's gross income (sec. 106).

Self-employed individuals are entitled to deduct a portion of the amount paid for health insurance expenses for the individual and his or her spouse and dependents. The percentage of deductible expenses is 70 percent in 2002 and 100 percent in 2003 and thereafter.

Individuals other than self-employed individuals who purchase their own health insurance and itemize deductions may deduct their expenses to the extent that their total medical expenses exceed 7.5 percent of adjusted gross income.

Present law does not provide a tax credit for the purchase of health insurance.

The health care continuation rules (commonly referred to as "COBRA" rules, after the Consolidated Omnibus Budget Reconciliation Act of 1985 in which they were enacted) require that employer-sponsored group health plans of employers with 20 or more employees must offer certain covered employees and their dependents ("qualified beneficiaries") the option of purchasing continued health coverage in the event of loss of coverage resulting from certain qualifying events. These qualifying events include: termination or reduction in hours of employment, death, divorce or legal separation, enrollment in Medicare, the bankruptcy of the employer, or the end of a child's dependency under a parent's health plan. In general, the maximum period of COBRA coverage is 18 months. An employer is permitted to charge qualified beneficiaries 102 percent of the applicable premium for COBRA coverage.

Under present law, individuals without access to COBRA are able to purchase individual policies on a guaranteed issue basis without exclusion of coverage for pre-existing conditions if they had 18 months of creditable coverage under an employer sponsored group health plan, governmental plan, or a church plan. Those with access to COBRA are required to exhaust their 18 months of COBRA prior to obtaining a policy on a guaranteed issue basis without exclusion of coverage for pre-existing conditions.

House amendment

The House bill provides a refundable tax credit for up to 60 percent of the expenses of an eligible individual for qualified health insurance coverage of the eligible individual and his or her spouse or dependents. Eligible individuals are certain TAA eligible workers and PBGC pension beneficiaries. In the case of TAA eligible

workers, no more than 12 months of coverage would be eligible for the credit. The amount of the credit would be phased out for taxpayers with modified adjusted gross income between $20,000 and $40,000 for single taxpayers ($40,000 and $80,000 for married taxpayers filing a joint return). The credit would be available on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the credit includes certain COBRA coverage and certain individual market options.

Senate amendment

The Senate amendment provides a refundable credit for 70 percent of qualified health insurance expenses. The credit is available with respect to certain TAA eligible workers. The credit is payable on an advance basis pursuant to a program to be established by the Secretary of the Treasury. Insurance that qualifies for the credit includes certain COBRA coverage, certain State-based options, and individual health insurance if certain requirements are satisfied.

Conference agreement

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, the conference agreement provides a refundable tax credit for 65 percent of the taxpayer's expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer.

Qualifying family members are the taxpayer's spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption.[1] Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. In general, an eligible coverage month is any month if, as of the first day of the month, the taxpayer (1) is an eligible individual, (2) is covered by qualified health insurance, (3) does not have other specified coverage, and (4) is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirements are met if at least one spouse satisfies the requirements. An eligible month must begin more than 90 days after the date of enactment.

An eligible individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving for any day of such month a trade

[1] Present law allows the custodial parent to release the night to claim the dependency exemption for a child to the noncustodial parent. In addition, if certain requirements are met, the parents may, decide by agreement that the noncustodial parent is entitled to the dependency exemption with respect to a child. In such cases, the provision would treat the child as the dependent of the custodial parent for purposes of the credit.

adjustment allowance[2] or who would be eligible to receive such an allowance but for the requirement that the individual exhaust unemployment benefits before being eligible to receive an allowance and (2) with respect to such allowance, is covered under a certification issued under subchapter A or D of chapter 2 of title 11 of the Trade Act of 1974. An individual is treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the Pension Benefit Guaranty Corporation ("PBGC).

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month the individual has other specified coverage. Specified coverage would be (1) coverage under any insurance which constitutes medical care (expect for insurance substantially all of the coverage of which is for excepted benefits)[3] if at least 50 percent of the cost of the coverage is paid by an employee[4] (or former employer) of the individual or his or her spouse or (2) coverage under certain governmental health programs.[5] A rule aggregating plans of the same employer applies in determining whether the employer pays at least 50 percent of the cost of coverage. A person is not an eligible individual if he or she may be claimed as a dependent on another person's tax return. A special rule applies with respect to alternative TAA recipients.

Qualified health insurance

Qualified health insurance eligible for the credit is: (1) COBRA continuation coverage (2) State based continuation coverage provided by the State under a State law that requires such coverage;

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[2] Part I of subchapter B, or subchapter D. of chapter 2 of title 11 of the Trade Act of 1974.

[3] Excepted benefits are: (1) coverage only for accident or disability income or any combination thereof, (2) coverage issued as a supplement to liability insurance; (3) liability insurance. including general liability insurance and automobile liability insurance; (4) worker's compensation or similar insurance; (5) automobile medical payment insurance; (6) credit-only insurance; (7) coverage for on-site medical clinics; (8) other insurance coverage similar to the coverages in (1)-(7) specified in regulations under which benefits for medical care are secondary or incidental to other insurance benefits; (9) limited scope dental or vision benefits; (10) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof, and (11) other benefits similar to those in (9) and (10) as specified in regulations; (12) coverage only for a specified disease or illness; (13) hospital indemnity or other fixed indemnity insurance; and (14) Medicare supplemental insurance.

[4] An amount would be considered paid by the employer if it is excludable from income. Thus. for example, amounts paid for health coverage on a salary reduction basis under an employer plan are considered paid by the employer.

[5] Specifically, an individual would not be eligible for the credit if, as of the first day of the month, the individual is (1) entitled to benefits under Medicare Part A, enrolled in Medicare Part B, or enrolled in Medicaid or SCHIP, (2) enrolled in a health benefits plan under the Federal Employees Health Benefit Plan, or (3) entitled to receive benefits under chapter 55 of title 10 of the United States Code (relating to military personnel). An individual is not considered to be enrolled in Medicaid solely by reason of receiving immunizations.

(3) coverage offered through a qualified State high risk pool; (4) coverage under a health insurance program offered to State employees or a comparable program; (5) coverage through an arrangement entered into by the State and a group health plan, an issuer of health insurance coverage, an administrator, or an employer; (6) coverage offered through a State arrangement with a private sector health care coverage purchasing pool; (7) coverage under a State-operated health plan that does not receive any Federal financial participation; (8) coverage under a group health plan that is available through the employment of the eligible individual's spouse; and (9) coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date the individual became separated from the employment which qualified the individual for the TAA allowance, the benefit for an eligible alternative TAA recipient, or a pension benefit from the PBGC, whichever applies.[6]

Qualified health insurance does not include any State-based coverage (i.e., coverage described in (2)–(8) in the preceding paragraph), unless the State has elected to have such coverage treated as qualified health insurance and such coverage meets certain requirements. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs eligibility certificate and pays the remainder of the premium. In addition, the State-based coverage cannot impose any pre-existing condition limitation with respect to qualifying individuals. State-based coverage cannot require a qualifying individual to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not a qualified individual. Finally, benefits under the State-based coverage must the same as (or substantially similar to) benefits provided to similarly situated individuals who are not qualifying individuals. A qualifying individual is an eligible individual who seeks to enroll in the State-based coverage and who has aggregate periods of creditable coverage[7] of three months or longer, does not have other specified coverage, and who is not imprisoned. A "qualifying individual" also includes qualified family members of such an eligible individual.

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance if substantially all of the coverage is of excepted benefits.

Other rules

Amounts taken into account in determining the credit could not be taken into account in determining the amount allowable under the itemized deduction for medical expenses or the deduction for health insurance expenses of self-employed individuals. Amounts distributed from a medical savings account would not be eligible for the credit. The amount of the credit is reduced by any

[6] For this purpose, "individual health insurance" means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

[7] Creditable coverage is determined under the Health Care Portability and Accountability Act (Code sec. 9801 (c)).

credit received on an advance basis. Married taxpayers filing separate returns are eligible for the credit; however, if both spouses are eligible individuals and the spouses file a separate return, then the spouse of the taxpayer is not a qualifying family member.

The Secretary of the Treasury is authorized to prescribe such regulations and other guidance as may be necessary or appropriate to carry out the provision.

Advance payment of refundable health insurance credit; reporting requirements

The conference agreement provides for payment of the credit on an advance basis (i.e., prior to the filing of the taxpayer's return) pursuant to a program to be established by the Secretary of the Treasury no later than August 1, 2003. Such program is to provide for making payments on behalf of certified individuals to providers of qualified health insurance. In order to receive the credit on an advance basis, a qualified health insurance costs credit eligibility certificate would have to be in effect for the taxpayer. A qualified health insurance costs credit eligibility certificate is a written statement that an individual is an eligible individual for purposes of the credit, provides such information as the Secretary of the Treasury may require, and is provided by the Secretary of Labor or the PBGC (as appropriate) or such other person or entity designated by the Secretary.

The conference report permits the disclosure of return information of certified individuals to providers of health insurance information to the extent necessary to carry out the advance payment mechanism.

The conference report provides that any person who receives payments during a calendar year for qualified health insurance and claims a reimbursement for an advance credit amount is to file an information return with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed. The return is to be in such form as the Secretary may prescribe and is to contain the name, address, and taxpayer identification number of the individual and any other individual on the same health insurance policy, the aggregate of the advance credit amounts provided, the number of months for which advance credit amounts are provided, and such other information as the Secretary may prescribe. The conference report requires that similar information be provided to the individual no later than January 31 of the year following the year for which the information return is made.

Effective Date

The provision is generally effective with respect to taxable years beginning after December 31, 2001. The provision relating to the advance payment mechanism to be developed by the Secretary would be effective on the date of enactment.

TITLE III—CUSTOMS REAUTHORIZATION

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 301—SHORT TITLE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House provides that the Act may be cited as the "Customs Border Security Act of 2002."

Senate amendment

The Senate amendment is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment

SEC. 311—AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION

Present law

The statutory basis for authorization of appropriations for Customs is section 301(b)(1) of the Customs Procedural and Simplification Act of 1978 (19 U.S.C. 2075(b)). That law, as amended by section 8102 of the Omnibus Budget Reconciliation Act of 1986 [P.L. 99–509], first outlined separate amounts for non-commercial and commercial operations for the salaries and expenses portion of the Customs authorization. Under 19 U.S.C. 2075, Congress has adopted a two-year authorization process to provide Customs with guidance as it plans its budget, as well as guidance from the Committee for the appropriation process.

The most recent authorization of appropriations for Customs (under section 101 of the Customs and Trade Act of 1990 [P.L. 101 382]) provided $118,238,000 for salaries and expenses and $143,047,000 for air and marine interdiction program for FY 1991, and $1,247,884,000 for salaries and expenses and $150,199,000 for air and marine interdiction program in FY 1992.

House amendment

This provision authorizes $1,365,456,000 for FY 2003 and $1,399,592,400 for FY 2004 for noncommercial operations of the Customs Service. It also authorizes $1,642,602,000 for FY 2003 and $1,683,667,050 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a re-

port demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorizes $170,829,000 for FY 2003 and $175,099,725 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

This provision authorizes $886,513,000 for FY 2003 and $909,471,000 for FY 2004 for noncommercial operations of the Customs Service. It also authorizes $1,603,482,000 for FY 2003 and $1,645,009,000 for FY 2004 for commercial operations of the Customs Service. Of the amounts authorized for commercial operations, $308,000,000 is authorized for the automated commercial environment computer system for each fiscal year. The provisions require that the Customs Service provide the Committee on Ways and Means and the Committee on Finance of the Senate with a report demonstrating that the computer system is being built in a cost-effective manner. In addition, the provisions authorizes $181,860,000 for FY 2003 and $186,570,000 for FY 2004 for air and marine interdiction operations of the Customs Service. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Conference agreement

The Senate recedes to House.

SEC. 312—ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require that $90,244,000 of the FY 2003 appropriations be available until expended for acquisition and other expenses associated with implementation and deployment of terrorist and narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf seaports. The equipment would include vehicle and inspection systems. The provision would require that $9,000,000 of the FY 2004 appropriations be used for maintenance of equipment described above. This section would also provide the Commissioner of Customs with flexibility in using these funds and would allow for the acquisition of new updated technology not anticipated when this bill was drafted. Nothing in the language of the bill is intended to prevent the Commissioner of Customs from dedicating resources to specific ports not identified in the bill.

The equipment would include vehicle and container inspection systems, mobile truck x-rays, upgrades to fixed-site truck x-rays, pallet x-rays, busters, contraband detection kits, ultrasonic container inspection units, automated targeting systems, rapid tire

deflator systems, portable Treasury Enforcement Communications Systems terminals, remote surveillance camera systems, weigh-in-motion sensors, vehicle counters, spotter camera systems, inbound commercial truck transponders, narcotics vapor and particle detectors, and license plate reader automatic targeting software.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 313—COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to measure specifically the effectiveness of the resources dedicated in sections 312 as part of its annual performance plan.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Child Cyber-Smuggling Center of the Customs Service

SEC. 321—AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION

Present law

Customs enforcement responsibilities include enforcement of U.S. laws to prevent border trafficking relating to child pornography, intellectual property rights violations, money laundering, and illegal arms. Funding for these activities has been included in the Customs general account.

House amendment

H.R. 3009 as amended and passed by the House would authorize $10 million for Customs to carry out its program to combat online child sex predators. Of that amount, $375,000 would be dedicated to the National Center for Missing Children for the operation of its child pornography cyber tipline.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 331—ADDITIONAL CUSTOMS SERVICE OFFICERS FOR U.S.-CANADA BORDER

Present law

No applicable section.

House Amendment

H.R. 3009 as amended and passed by the House earmarks $25 million and 285 new staff hires for Customs to use at the U.S.-Canada border.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 332—STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House requires Customs to conduct a study of current personnel practices including: performance standards; the effect and impact of the collective bargaining process on Customs drug interdiction efforts; and a comparison of duty rotations policies of Customs and other federal agencies employing similarly situated personnel.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 333—STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require Customs to conduct a study to ensure that appropriate training is being provided to personnel who are responsible for financial auditing of importers. Customs would specifically report on how its audit personnel protect the privacy and trade secrets of importers.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 334—ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would mandate the imposition of a cost accounting system in order for Customs to effectively explain its expenditures. Such a system would provide compliance with the core financial system requirements of the Joint Financial Management Improvement Program (JFMIP), which is a joint and cooperative undertaking of the U.S. Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management working in cooperation with each other and other agencies to improve financial management practices in government. That Program has statutory authorization in the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 65).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 335—STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTFVE RULINGS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a report to determine whether Customs has improved its timeliness in providing prospective rulings.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 336—STUDY AND REPORT RELATING TO CUSTOMS USER FEES

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would require the Comptroller General to prepare a confidential report to determine whether current user fees are appropriately set at a level commensurate with the service provided for the fee. The Comptroller General is authorized to recommend the appropriate level for customs user fees.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 337—FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES

Present law

Current law provides for direct reimbursement by courier facilities of expenses incurred by Customs conducting inspections at those facilities.

House amendment

H.R. 3009 as amended and passed by the House would establish a per item fee of sixty-six cents to cover Customs expenses. This amount could be lowered to more than thirty-five cents or raised to no more than $1.00 by the Secretary of the Treasury after a rulemaking process to reevaluate the expenses incurred by Customs in providing inspectional services.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 338—NATIONAL CUSTOMS AUTOMATION PROGRAM

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would empower the Secretary to require the electronic submission of any information required to be submitted to the Customs Service.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 339—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate Amendment authorizes the appropriation to the Department of Treasury such sums as may be necessary to increase the annual pay of journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year of service and are being paid at a GS–9 level, from GS–9 to GS–11. The Senate provision also authorizes an increase in pay of support staff.

Conference agreement

The House recedes to the Senate.

CHAPTER 4—ANTITERRORISM PROVISIONS

SEC. 341—IMMUNITY FOR CUSTOMS OFFICERS THAT ACT IN GOOD FAITH

Present law

Currently, Customs officers are entitled to qualified immunity in civil suits brought by persons, who were searched upon arrival in the United States. Qualified immunity protects officers from liability if they can establish that their actions did not violate any clearly established constitutional or statutory rights.

House amendment

H.R. 3009 as amended and passed by the House would protect Customs officers by providing them immunity from lawsuits stemming from personal searches of people entering the country so long as the officers conduct the searches in good faith.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House, but conferees qualify the provision by adding that the means used to effectuate such searches must be reasonable. To be covered by this immunity provision, inspectors must follow Customs Service inspection rules including the rule against profiling against race, religions, or ethnic background.

SEC. 342—EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE

Present law

Present law places numerous restrictions on and, in some instances, precludes the Secretary of the Treasury or Customs from making any adjustments to ports and staff. 19 U.S.C. 1318 requires a Presidential proclamation of an emergency and authorization to the Secretary of the Treasury only to extend the time for performance of legally required acts during an emergency. No other emergency powers statute for Customs exists.

House amendment

H.R. 3009 as amended and passed by the House would permit the Secretary of the Treasury, if the President declares a national emergency or if necessary to address specific threats to human life or national interests, to eliminate, consolidate, or relocate Customs ports and offices and to alter staffing levels, services rendered and hours of operations at those locations. In addition, the amendment would permit the Commissioner of Customs, when necessary to address threats to human life or national interests, to close temporarily any Customs office or port or take any other lesser action necessary to respond to the specific threat. The Secretary or the Commissioner would be required to notify Congress of any action taken under this proposal within 72 hours.

Senate amendment

The Senate amendment is the same as the House Amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SECS. 343 AND 343A—MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS; SECURE SYSTEMS OF TRANSPORTATION

Present law

Currently, commercial carriers bringing passengers or cargo into or out of the country have no obligation to provide Customs with such information in advance.

House amendment

H.R. 3009 as amended and passed by the House would require every air, land, or water-based commercial carrier to file an electronic manifest describing all passengers with Customs before entering or leaving the country. There is a similar requirement for cargo entering the country. Specific information required in the advanced manifest system would be developed by Treasury in regulations.

Senate amendment

The Senate Amendment is similar to the House Amendment. However, with respect to cargo, the Senate Amendment applies to out-bound as well as in-bound shipments.

Conference agreement

The conferees agree to direct the Secretary of the Treasury to promulgate regulations pertaining to the electronic transmission to the Customs Service of information relevant to aviation, maritime, and surface transportation safety and security prior to a cargo carrier's arrival in or departure from the United States. The agreement sets forth parameters for the Secretary to follow in developing these regulations. For example, the parameters require that the regulations be flexible with respect to the commercial and operational aspects of different modes of transportation. They also require that, in general, the Customs Service seek information from parties most likely to have direct knowledge of the information at issue. The conferees also agree to amendment of the Tariff Act of 1930 to establish requirements concerning proper documentation of ocean-bound cargo prior to a vessel's departure. Finally, the conferees agree to direct the Secretary of the Treasury to establish a task force to evaluate, prototype and certify secure systems of transportation.

SEC. 344—BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL

Present law

Although Customs currently searches all inbound mail, and although it searches outbound mail sent via private carriers, outbound mail carried by the Postal Service is not subject to search.

House amendment

H.R. 3009 as amended and passed by the House would enable Customs officers to search outbound U.S. mail for unreported monetary instruments, weapons of mass destruction, firearms, and other contraband used by terrorists. However, reading of mail would not be authorized absent Customs officers obtaining a search warrant or consent.

Senate amendment

The Senate Amendment is the same as the House Amendment with respect to mail weighing in excess of 16 ounces. However, under the Senate Amendment, the Customs Service would be required to obtain a warrant in order to search mail weighing 16 ounces or less. The Senate Amendment also requires the Secretary of State to determine whether it is consistent with international law and U.S. treaty obligations for the Customs Service to search mail transiting the United States between two foreign countries. The Customs Service would be authorized to search such mail only after the Secretary of State determined that such measures are consistent with international law and U.S. treaty obligations.

Conference agreement

The House recedes to the Senate.

SEC. 345—AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House authorizes funds to reestablish those operations.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351—GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would direct the Comptroller General to conduct an audit of the systems at the Customs Service to monitor and enforce textile transshipment. The Comptroller General would report on recommendations for improvements.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 352—AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would authorize $9,500,000 for FY 2002 to the Customs Service for the purpose of enhancing its textile transshipment enforcement operations. This amount would be in addition to Customs Service's base authorization and the authorization to reestablish the destroyed textile monitoring and enforcement operations at the World Trade Center.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The Senate recedes to the House, but the text is clarified to provide that personnel will also conduct education and outreach in addition to enforcement.

SEC. 353—IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law

No applicable section.

House amendment

H.R. 3009 as amended and passed by the House would earmark approximately $1.3 million within Customs' budget for selected activities related to providing technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200).

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

Subtitle B—Office of the United States Trade Representative

SEC. 361—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the Office of the United States Trade Representative is section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)). The most recent authorization of appropriations for USTR was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 2171, Congress has adopted a two-year authorization process to provide USTR with guidance as it plans its budget as well as guidance from the Committee for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $32,300,000 for FY 2003 and $31,108,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees. In light of the substantial increase in trade negotiation work to be conducted by USTR and the associated need for consultations with Congress, this provision would authorize the addition of two individuals to assist the office of Congressional Affairs.

Senate amendment

The Senate amendment authorizes $30,000,000 for FY 2003 and $31,000,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle C—United States International Trade Commission

SEC. 371—AUTHORIZATION OF APPROPRIATIONS

Present law

The statutory authority for budget authorization for the International Trade Commission is section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)). The most recent authorization of appropriations for the ITC was under section 101 of the Customs and Trade Act of 1990 [P.L. 101–382]. Under 19 U.S.C. 1330, Congress has adopted a two-year authorization process to provide the ITC with guidance as it plans its budget as well as guidance from the Committees for the appropriation process.

House amendment

H.R. 3009 as amended and passed by the House authorizes $54,000,000 for FY 2003 and $57,240,000 for FY 2004. The provision requires submission of out-of-year budget projections to the Ways and Means and Finance Committees.

Senate amendment

The Senate amendment authorizes $51,400,000 for FY 2003 and $53,400,000 for FY 2004.

Conference agreement

The Senate recedes to the House.

Subtitle D—Other Trade Provisions

SEC. 381—INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS

Present law

The Harmonized Tariff Schedule at subheading 9804.00.65 currently provides a $400 duty exemption for travelers returning from abroad.

House amendment

H.R. 3009 as amended and passed by the House would increased the current $400 duty exemption to $800.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 382—REGULATORY AUDIT PROCEDURES

Present law

Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides the authority for Customs to audit persons making entry of merchandise into the U.S. In the course of such audit, Customs auditors may identify discrepancies, including underpayments of duties. However, if there also are overpayments, there is no requirement that such overpayments be offset against the underpayments if the underlying entry has been liquidated.

House amendment

H.R. 3009 as amended and passed by the House would require that when conducting an audit, Customs must recognize and offset overpayments and overdeclarations of duties, quantities and values against underpayments and underdeclarations. As an example, if during an audit Customs finds that an importer has underpaid duties associated with one entry of merchandise by $100 but has also overpaid duties from another entry of merchandise by $25, then any assessment by Customs must be the difference of $75.

Senate amendment

The Senate amendment is the same as the House amendment.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 383—PAYMENT OF DUTIES AND FEES

Present law

Current law at 19 U.S.C. 1505 provides for the collection of duties by the Secretary through regulatory process.

House amendment

H.R. 3009 as amended and passed by the House would require duties to be paid within 10 working days without extension. The bill also provides for the Customs Service to create a monthly billing system upon the building of the Automated Commercial Environment.

Senate amendment

No provision.

Conference agreement

Senate recedes to the House.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

SEC. 2101—SHORT TITLE AND FINDINGS

Present law

No provision.

House amendment

The short title of the bill is the "Bipartisan Trade Promotion Authority Act of 2001." Section 2101 of the House amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that the recent pattern of decisions by dispute settlement panels and the Appellate Body of the World Trade Organization to impose obligations and restrictions on the use of antidumping and countervailing measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

Senate amendment

The short title of the bill is the "Bipartisan Trade Promotion Authority Act of 2002." Section 2101 of the Senate amendment to H.R. 3009 states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership. Section 2101 also states that support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. It goes on to note a troubling pattern of cases before WTO dispute settlement panels and the WTO Appellate Body that do precisely that.

Conference agreement

The Senate recedes to the House with modifications. With respect to the findings, the Conferees believe that, as stated in section 2101(b) of the Conference agreement, support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore, the recent pattern of decisions by dispute settlement panels and the WTO Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing and safeguard measures by WTO members has raised concerns, and Congress is concerned that such bodies appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member and to the evaluation by a member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

SEC. 2102—TRADE NEGOTIATING OBJECTIVES

Present/expired law

Section 1101(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) set forth overall negotiating objectives for concluding trade agreements. These objectives were to obtain more open, equitable, and reciprocal market access, the reduction or elimination of barriers and other trade-distorting policies and practices, and a more effective system of international trading dis-

ciplines and procedures. Section 1102(b) set forth the following principal trade negotiating objectives: dispute settlement, transparency, developing countries, current account surpluses, trade and monetary coordination, agriculture, unfair trade practices, trade in services, intellectual property, foreign direct investment, safeguards, specific barriers, worker rights, access to high technology, and border taxes.

House amendment

Section 2102 of the House amendment to H.R. 3009 would establish the following overall negotiating objectives: obtaining more open, equitable, and reciprocal market access; obtaining the reduction or elimination of barriers and other trade-distorting policies and practices; further strengthening the system of international trading disciplines and procedures, including dispute settlement; fostering economic growth and full employment in the U.S. and the global economy; ensuring that trade and environmental policies are mutually supportive and seeking to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; promoting respect for worker rights and the rights of children consistent with International Labor Organization core labor standards, as defined in the bill; and seeking provisions in trade agreements under which parties strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement to trade.

In addition, section 2102 would establish the principal trade negotiating objectives for concluding trade agreements, as follows:

Trade barriers and distortions: expanding competitive market opportunities for U.S. exports and obtaining fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for U.S. exports and distort U.S. trade; and obtaining reciprocal tariff and nontariff barrier elimination agreements, with particular attention to products covered in section 111(b) of the Uruguay Round Agreements Act.

Services: to reduce or eliminate barriers to international trade in services, including regulatory and other barriers, that deny national treatment or unreasonably restrict the establishment or operations of services suppliers.

Foreign investment: to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment and, recognizing that U.S. law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, to secure for investors important rights comparable to those that would be available under U.S. legal principles and practice, by:

Reducing or eliminating exceptions to the principle of national treatment;

Freeing the transfer of funds relating to investments;

Reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

Seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

Providing meaningful procedures for resolving investment disputes including between an investor and a government;

Seeking to improve mechanisms used to resolve disputes between an investor and a government through mechanisms to eliminate frivolous claims and procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

Providing an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and

Ensuring the fullest measure of transparency in investment disputes by ensuring that all requests for dispute settlement and all proceedings, submissions, findings, and decisions are promptly made public; all hearings are open to the public; and establishing a mechanism for acceptance of amicus curiae submissions.

Intellectual property: including: promoting adequate and effective protection of intellectual property rights through ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights, including strong enforcement; providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property; and ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that right holders have the legal and technological means to control the use of their works through the internet and other global communication media.

Transparency: to increase public access to information regarding trade issues as well as the activities of international trade institutions; to increase openness in international trade fora, including the WTO, by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and to increase timely public access to notifications made by WT0 member states and the supporting documents.

Anti-corruption: to obtain high standards and appropriate enforcement mechanisms applicable to persons from all countries participating in a trade agreement that prohibit attempts to influence acts, decisions, or omissions of foreign government; and to ensure that such standards do not place U.S. persons at a competitive disadvantage in international trade.

Improvement of the WTO and multilateral trade agreements: to achieve full implementation and extend the coverage of the WTO and such agreements to products, sectors, and conditions of trade not adequately covered; and to expand country participation in and enhancement of the Information Technology Agreement (ITA) and other trade agreements.

Regulatory practices: to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations; to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence; to establish consultative mechanisms among

parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

Electronic commerce: to ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronic commerce; to ensure that electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and the classification of such goods and services ensures the most liberal trade treatment possible; to ensure that governments refrain from implementing trade-related measures that impede electronic commerce; where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment, and to extend the moratorium of the WTO on duties on electronic transmissions.

Agriculture: to ensure that the U.S. trade negotiators duly recognize the importance of agricultural issues; to obtain competitive market opportunities for U.S. exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade; to reduce or eliminate trade distorting subsidies; to impose disciplines on the operations of state-trading enterprises or similar administrative mechanisms; to eliminate unjustified restrictions on products derived from biotechnology; to eliminate sanitary or phytosanitary restrictions that contravene the Uruguay Round Agreement as they are not based on scientific principles and to improve import relief mechanisms to accommodate the unique aspects of perishable and cyclical agriculture.

Labor and the environment: to ensure that a party does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or Inaction, in a manner affecting trade between the United States and that party; to recognize that a party to a trade agreement is effectively enforcing its laws if a course of inaction or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection; to strengthen the capacity of U.S. trading partners to promote respect for core labor standards and to protect the environment through the promotion of sustainable development; to reduce or eliminate government practices or policies that unduly threaten sustainable development; to seek market access for U.S. environmental technologies, goods, and services; and to ensure that labor, environmental, health, or safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade.

Dispute settlement and enforcement: to seek provisions in trade agreements providing for resolution of disputes between gov-

ernments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and the principles of the agreement, with the goal of increasing compliance; seek to strengthen the capacity of the WTO Trade Policy Review Mechanism to review compliance; seek provisions encouraging the early identification and settlement of disputes through consultations; seek provisions encouraging trade-expanding compensation; seek provisions to impose a penalty that encourages compliance, is appropriate to the parties, nature, subject matter, and scope of the violation, and has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and seek provisions that treat U.S. principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies.

Extended WTO negotiations: concerning extended WTO negotiations on financial services, civil aircraft, and rules of origin.

Senate amendment

The Senate Amendment is substantially similar to the House Amendment, with the exception of several key provisions:

Small Business: The Senate Amendment contains an overall negotiating objective "to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses."

Trade in Motor Vehicles and Parts: The Senate Amendment contains a principal negotiating objective on expanding competitive opportunities for exports of U.S. motor vehicles and parts.

Foreign Investment: The Senate Amendment states as an objective of the United States in the context of investor-state dispute settlement "ensuring that foreign investors in the United States are not accorded greater rights than United States investors in the United States." The Senate Amendment's objective with respect to investor-state dispute settlement also differs from the House Amendment in the following respects:

> It sets as an objective" seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process."
>
> It sets deterrence of the filing of frivolous claims as an objective, "in addition to the prompt elimination of frivolous claims.
>
> The Senate Amendment seeks to establish "procedures to enhance opportunities for public input into the formulation of government positions."
>
> The Senate Amendment seeks to establish a single appellate body to review decisions by arbitration panels 'in investor-state dispute settlement cases. Also, unlike the House Amendment, the Senate Amendment does not prescribe a standard of review for an eventual appellate body.

Intellectual Property: The Senate Amendment contains an objective to respect the Declaration on the TRIPS Agreement and

Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001."

Trade in Agriculture: The Senate Amendment's negotiating objective on export subsidies differs from the House Amendment, stating that an objective of the United States is "seeking to eliminate all export subsidies on agricultural commodities while maintaining bona fide food aid and preserving U.S. agriculture development and export credit programs that allow the U.S. to compete with other foreign export promotion efforts." The Senate Amendment also provides that it is a negotiating objective of the United States to "strive to complete a general multilateral round in the WTO by January 1, 2005, and seek the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on US import-sensitive commodities (including those subject to tariff-rate quotas)."

Human Rights and Democracy: The Senate Amendment contains a negotiating objective "to obtain provisions in trade agreements that require parties to those agreements to strive to protect internationally recognized civil, political, and human rights."

Dispute Settlement: The Senate Amendment contains a negotiating objective absent in the House Amendment "to seek improved adherence by panels convened under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes and by the WTO Appellate Body to the standard of review applicable under the WTO Agreement involved in the dispute, including greater deference, where appropriate, to the fact finding and technical expertise of national investigating authorities."

Border Taxes: The Senate Amendment contains an objective absent from the House Amendment on border taxes. The objective seeks "to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes." The objective is addressed to a decision by the WTO Dispute Settlement Body holding the foreign sales corporation provisions of the Internal Revenue Code to be inconsistent with WTO rules.

Textiles: The Senate Amendment contains an extensive objective on opening foreign markets to U.S. textile exports. There is no similar provision in the House Amendment.

Worst Forms of Child Labor: The Senate Amendment contains a negotiating objective to prevent distortions in the conduct of international trade caused by the use of the worst forms of child labor and to redress unfair and illegitimate competition based upon the use of the worst forms of child labor.

Conference agreement

The Senate recedes to the House with several modifications. With respect to the overall negotiating objectives, the Conferees agree to the overall negotiating objective regarding small business in section 2102(a)(8) of the Senate amendment. Second, the Conferees agree to an overall negotiating objective to promote universal

compliance with ILO Declaration 182 concerning the worst forms of child labor.

With respect to the principal negotiating objectives, the Conferees agree to expand the negotiating objective on intellectual property to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the WTO at Doha (section 2102(b)(4)(c) of the Senate amendment).

With respect to the principal negotiating objectives regarding foreign investment, the Conferees believe that it is a priority for negotiators to seek agreements protecting the rights of U.S. investors abroad and ensuring the existence of a neutral investor-state dispute settlement mechanism. At the same time, these protections must be balanced so that they do not come at the expense of making Federal, State and local laws and regulations more vulnerable to successful challenges by foreign investors than by similarly situated U.S. investors.

No Greater Rights: The House recedes to the Senate with a technical modification to clarify that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States. That is, the reciprocal obligations regarding investment protections that the United States undertakes in pursuing its goals should not result in foreign investors being entitled to compensation for government actions where a similarly situated U.S. investor would not be entitled to any form of relief, while ensuring that U.S. investors abroad can challenge host government measures which violate the terms of the investment agreement. Thus, this language expresses Congress' direction that the substantive investment protections (e.g., expropriation, fair and equitable treatment, and full protection and security) should be consistent with United States legal principles and practice and not provide greater rights to foreign investors in the United States.

This language applies to substantive protections only and is not applicable to procedural issues, such as access to investor-state dispute settlement. The Conferees recognize that the procedures for resolving disputes between a foreign investor and a government may differ from the procedures for resolving disputes between a domestic investor and a government and may be available at different times during the dispute. Thus, the "no greater rights" direction does not, for instance, apply to such issues as the dismissal of frivolous claims, the exhaustion of remedies, access to appellate procedures, or other similar issues.

The Conferees also agree that negotiators should seek to provide for an appellate body, or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements.

With respect to the principal negotiating objective on agriculture, the Conferees agree to section 2102(b)(10)(A)(iii) and (xv) of the House amendment, in lieu of section 2102(b)(10)(A)(iii) of the Senate amendment. The Conferees also accept section 2102(b)(10)(A)(xvi) of the Senate amendment on the timing and sequence of WTO agriculture negotiations relative to other negotiations.

The Conferees agree to section 2102(b)(13)(C) of the Senate amendment, relating to dispute settlement in dumping, subsidy, and safeguard cases, as modified, to seek adherence by WTO panels to the applicable standard of review.

The Conferees recognize the importance of preserving the ability of the United States to enforce rigorously its trade remedy laws, including the antidumping, countervailing duty and safeguard laws. Because this issue is significant to many Members of Congress in both the House and Senate, the Conferees have made this priority a principal negotiating objective. Negotiators must also avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, as well as domestic and international safeguard provisions. In addition, section 2102(b)(14)(B) directs the President to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

The Conferees agree to section 2012(b)(14) of the Senate amendment stating that the United States should seek a revision of WTO rules on the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes. The Conferees agree that such a revision of WTO rules is one among other options for the United States, including domestic legislation, to redress such a disadvantage.

The Conferees agree to include as a principal negotiating objective to obtain competitive market opportunities for U.S. exports of textiles substantially equivalent to those for foreign textiles in the United States.

The Conferees agree to a principal negotiating objective concerning the worst forms of child labor, to seek commitments by trade agreement parties to vigorously enforce their own laws prohibiting the worst forms of child labor.

SEC. 2102(c)—PROMOTION OF CERTAIN PRIORITIES

Present/expired law

No provision.

House amendment

Section 2102(c) of the House amendment to H.R. 3009 sets forth certain priorities for the President to address. These provisions include seeking greater cooperation between WTO and the ILO; seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards; seeking to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for environment and human health based on sound science; conducting environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 and its relevant guidelines; reviewing the impact of future trade agreements on U.S. employment, modeled after Executive Order 13141; taking into account, in negotiating trade agreements, protection of legitimate health or safety, essential se-

curity, and consumer interests; requiring the Secretary of Labor to consult with foreign parties to trade negotiations as to their labor laws and providing technical assistance where needed; reporting to Congress on the extent to which parties to an agreement have in effect laws governing exploitative child labor; preserving the ability of the United States to enforce rigorously its trade laws, including antidumping and countervailing duty laws, and avoiding agreements which lessen their effectiveness; ensuring that U.S. exports are not subject to the abusive use of trade laws, including antidumping and countervailing duty laws, by other countries; continuing to promote consideration of Multilateral Environmental Agreements (MEAs) and consulting with parties to such agreements regarding the consistency of any MEA that includes trade measures with existing environmental exceptions under Article XX of the GATT.

In addition, USTR, twelve months after the imposition of a penalty or remedy by the United States permitted by an agreement to which this Act applies, is to report to the Committee on the effectiveness of remedies applied under U.S. law to enforce U.S. rights under trade agreements. USTR shall address whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on parties or interests not party to the dispute.

Finally, section 2102(c) would direct the President to seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

Senate amendment

With several notable exceptions, the priorities set forth in section 2102(c) of the Senate Amendment are identical to the priorities set forth in the House Amendment. The exceptions are:

With respect to the study that the President must perform on the impact of future trade agreements on employment, the Senate Amendment requires the President to examine particular criteria, as follows: the impact on job security, the level of compensation of new jobs and existing jobs, the displacement of employment, and the regional distribution of employment, utilizing experience from previous trade agreements and alternative models of employment analysis. The Senate Amendment also requires that the report be made available to the public.

The Senate Amendment requires that, in connection with new trade agreement negotiations, the President shall "submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating."

The Senate Amendment adds to the House Amendment priority on preserving the ability of the United States to enforce vigorously its trade laws, by including U.S. "safeguards" law in the list of laws at issue. This is the U.S. law authorizing the President to provide relief to parties seriously injured or threatened with seri-

ous injury due to surges of imports. The priority in the Senate Amendment also directs the President to remedy certain market distorting measures that underlie unfair trade practices.

Conference agreement

The Senate recedes to the House amendment with several modifications. With respect to the worst forms of child labor, the Conferees agree to expand section 2102(c)(2) of the House amendment to include the worst forms of child labor within requirement to seek to establish consultative mechanisms to strengthen the capacity of U.S. trading partners to promote respect for core labor standards.

The Conferees agree to modify section 2105(c)(5) of the House amendment to require the President to report on impact of future trade agreements on US employment, including on labor markets, modeled after E.O. 13141 to the extent appropriate in establishing procedures and criteria, and to make the report public.

With respect to the labor rights report in section 2102(c)(8) of both bills, the Conferees agree to the Senate provision. Furthermore, the Conferees agree to section 2107(b)(2)(E) of the Senate amendment to require that guidelines for the Congressional Oversight Group include the time frame for submitting this report.

SEC. 2102(d)—CONSULTATIONS, ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2102(d) of the House amendment to H.R. 3009 requires that USTR consult closely and on a timely basis with the Congressional Oversight Group appointed under section 2107. In addition, USTR would be required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. With regard to negotiations concerning agriculture trade, USTR would also be required to consult with the House and Senate Committees on Agriculture.

In determining whether to enter into negotiations with a particular country, section 2102(e) would require the President to take into account whether that country has implemented its obligations under the Uruguay Round Agreements.

Senate amendment

Section 2102(d) of the Senate amendment is identical to the House provision in the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2103—TRADE AGREEMENTS AUTHORITY

Present/expired law

Tariff proclamation authority. Section 1102(a) of the 1988 Act provided authority to the President to proclaim modifications in duties without the need for Congressional approval, subject to certain limitations. Specifically, for rates that exceed 5 percent ad valorem, the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase had to be approved by Congress.

Staging authority required that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging was not required if the International Trade Commission determined there was no U.S. production of that article.

Negotiation of bilateral agreements. Section 1102(c) of the 1988 Act set forth three requirements for the negotiation of a bilateral agreement:

The foreign country must request the negotiation of the bilateral agreement;

The agreement must make progress in meeting applicable U.S. trade negotiating objectives; and

The President must provide written notice of the negotiations to the Committee on Ways and Means and the Committee on Finance of the Senate and consult with these committees.

The negotiations could proceed unless either Committee disapproved the negotiations within 60 days prior to the 90 calendar days advance notice required of entry into an agreement (described below).

Negotiation of multilateral non-tariff agreements. With respect to multilateral agreements, section 1102(b) of the 1988 Act provided that whenever the President determines that any barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, he may enter into a trade agreement with the foreign countries involved. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion.

Provisions qualifying for fast track procedures. Section 1103(b)(1)(A) of the 1988 Act provided that fast track apply to implementing bills submitted with respect to any trade agreements entered into under the statute. Section 151(b)(1) of the Trade Act of 1974 further defined "implementing bill" as a bill containing provisions "necessary or appropriate" to implement the trade agreement, as well as provisions approving the agreement and the statement of administrative action.

Time period. The authority applied with respect to agreements entered into before June 1, 1991, and until June 1, 1993 unless Congress passed an extension disapproval resolution. The authority was then extended to April 15, 1994, to cover the Uruguay Round

of multilateral negotiations under the General Agreement on Tariffs and Trade.

House amendment

Section 2103 of the House amendment provides:

Proclamation authority. Section 2103(a) would provide the President the authority to proclaim, without Congressional approval, certain duty modifications in a manner very similar to the expired provision. Specifically, for rates that exceed 5 percent ad valorem, the President would not be authorized to reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent ad valorem could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase would have to be approved by Congress.

In addition, section 2103(a) would not allow the use of tariff proclamation authority on import sensitive agriculture.

Staging authority would require that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the International Trade Commission determined there is no U.S. production of that article.

These limitations would not apply to reciprocal agreements to eliminate or harmonize duties negotiated under the auspices of the World Trade Organization, such as so-called "zero-for-zero" negotiations.

Agreements on tariff and non-tariff barriers. Section 2103(b)(1) would authorize the President to enter into a trade agreement with a foreign country whenever he determined that any duty or other import restriction or any other barrier to or distortion of international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion. No distinction would be made between bilateral and multilateral agreements.

Conditions. Section 2103(b)(2) would provide that the special implementing bills procedures may be used only if the agreement makes progress in meeting the applicable objectives set forth in section 2102(a) and (b) and the President satisfies the consultation requirements set forth in section 2104.

Bills qualifying for trade authorities procedures. Section 2103(b)(3)(A) would provide that bills implementing trade agreements may qualify for trade promotion authority TPA procedures only if those bills consist solely of the following provisions:

Provisions approving the trade agreement and statement of administrative action; and

Provisions necessary or appropriate to implement the trade agreement.

Time period. Sections 2103(a)(1)(A) and 2103(b)(1)(C) would extend trade promotion authority to agreements entered into before June 1, 2005. An extension until June 1, 2007, would be permitted

unless Congress passed a disapproval resolution, as described under section 2103(c).

Senate amendment

In most respects, section 2103 of the Senate Amendment is identical to section 2103 of the House Amendment. However, there are several key differences, as follows:

The Senate Amendment limits the President's proclamation authority with respect to "import sensitive agricultural products," a term defined in section 2113(5) of the Senate Amendment. This limitation differs from the limitation in the House Amendment, inasmuch as it includes certain products subject to tariff rate quotas.

The Senate Amendment contains a provision making a trade agreement implementing bill ineligible for "fast track" procedures if the bill modifies, amends, or requires modification or amendment to certain trade remedy laws. A bill that does modify, amend or require modification or amendment to those laws is subject to a point of order in the Senate, which may be waived by a majority vote.

The Senate Amendment requires the U.S. International Trade Commission to submit a report to Congress on negotiations during the initial period for which the President is granted trade promotion authority. This report would be made in connection with a request by the President to have such authority extended.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to the new definition of import sensitive agriculture in section 2103(a)(2)(B), 2104(b)(2)(A)(i), and 2113(5) of the Senate amendment to encompass products subject to tariff rate quotas, as well as products subject to the lowest tariff reduction in the Uruguay Round.

The Conferees agree to section 2103(c)(3)(B) of the Senate amendment, which requires the ITC to submit a report to Congress by May 1, 2005 (if the President seeks extension of TPA until June 2, 2007) analyzing the economic impact on the United States of all trade agreements implemented between enactment and the extension request.

SEC. 2104—CONSULTATIONS AND ASSESSMENT

Present/expired law

Section 102 of the Trade Act of 1974 and sections 1102(d) and 1103 of the 1988 Act set forth the fast track requirements. These provisions required the President, before entering into any trade agreement, to consult with Congress as to the nature of the agreement, how and to what extent the agreement will achieve applicable purposes, policies, and objectives, and all matters relating to agreement implementation. In addition, before entering into an agreement, the President was required to give Congress at least 90 calendar days advance notice of his intent. The purpose of this period was to provide the Congressional Committees of jurisdiction an opportunity to review the proposed agreement before it was signed.

Section 135(e) of the Trade Act of 1974 required that the Advisory Committee for Trade Policy and Negotiations meet at the con-

clusion of negotiations for each trade agreement and provide a report as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives of section 1101 of the 1988 Act. The report was due not later than the date on which the President notified Congress of his intent to enter into an agreement. With regard to the Uruguay Round, the report was due 30 days after the date of notification.

House amendment

Section 2104 of the House amendment to H.R. 3009 would establish a number of requirements that the President consult with Congress. Specifically, section 2104(a)(1) would require the President to provide written notice and consult with the relevant committees at least 90 calendar days prior to entering into negotiations. Section 2104(a)(c) also provides that President shall meet with the Congressional Oversight Group established under section 2107 upon a request of a majority of its members. Trade promotion authority would not apply to an implementing bill if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to notify or consult with Congress.

Section 2104(b)(1) would establish a special consultation requirement for agriculture. Specifically, before initiating negotiations concerning tariff reductions in agriculture, the President is to assess whether U.S. tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition and Forestry of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

Section 2104(b)(2) provides special consultations on import sensitive agriculture products. Specifically, before initiating negotiations on agriculture and as soon as practicable with respect to the Free Trade Area of the Americas and WTO negotiations, USTR is to identify import sensitive agriculture products and consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition, and Forestry in the Senate concerning whether any further tariff reduction should be appropriate, and whether the identified products face unjustified sanitary or phytosanitary barriers. USTR is also to request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the U.S. industry producing the product and on the U.S. economy as a whole. USTR is to then notify the Committees of those products for which it intends to seek tariff liberalization as

well as the reasons. If USTR commences negotiations and then identifies additional import sensitive agriculture products, or a party to the negotiations requests tariff reductions on such a product, then USTR shall notify the Committees as soon as practicable of those products and the reasons for seeking tariff reductions.

Section 2104(c) would establish a special consultation requirement for textiles. Specifically, before initiating negotiations concerning tariff reductions in textiles and apparel, the President is to assess whether U.S. tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committee on Ways and Means of the House and the Committee on Finance of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions under such circumstances and how all applicable negotiating objectives would be met.

In addition, section 2104(d) would require the President, before entering into any trade agreement, to consult with the relevant Committees concerning the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in the House amendment to H.R. 3009 and all matters relating, to implementation under section 2105, including the general effect of the agreement on U.S. laws.

Section 2104(e) would require that the report of the Advisory Committee for Trade Policy and Negotiations under section 135(e)(1) of the Trade Act of 1974 be provided not later than 30 days after the date on which the President notifies Congress of his intent to enter into the agreement under section 2105(a)(1)(A).

Finally, section 2104(f) would require the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days from the date after the President enters into the agreement.

Senate amendment

The Senate Amendment is substantially similar to the House bill, with the following exceptions:

Consultations on export subsidies and distorting policies. Section 2104(b)(2)(A)(ii)(III) requires consultations on whether nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers.

Consultations relating to fishing trade. Section 2104(b)(3) requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Special reporting requirements on U.S. trade remedy laws. Section 2104(d) provides that the President, at least 90 calendar days before the President enters into a trade agreement, shall notify the House Ways and Means Committee and the Senate Finance Committee in writing any amendments to U.S. antidumping and countervailing duty laws (title VII of the Tariff Act of 1930) or U.S. safeguard provisions (chapter 1 of title II of the Trade Act of 1974) that the President proposes to include in the implementing legislation. On the date that the President transmits the notification, the President must also transmit to the Committees a report explaining his reasons for believing that amendments to these trade remedy laws are necessary to implement the trade agreement and his reasons for believing that such amendments are consistent with the negotiating objective on this issue. Not later than 60 calendar days after the date on which the President transmits notification to the relevant committees, the Chairman and ranking members of the House Ways and Means Committee and the Senate Finance Committees shall issue reports stating whether the proposed amendments described in the President's notification are consistent with the negotiating objectives on trade laws.

Conference agreement

The Senate recedes to the House with several modifications. The Conferees agree to section 2104(b)(2)(A)(ii)(III) of the Senate amendment, which requires consultations on whether other nations producing identified products maintain export subsidies or distorting policies that distort trade and impact of policies on U.S. producers. In addition, the Conferees agree to section 2104(b)(3) of the Senate amendment, which requires that for negotiations relating to fishing trade, the Administration will keep fully apprised and on timely basis consult with the House Resources Committee and the Senate Commerce Committee.

Finally, the Conferees agree to include the notification and report on changes to trade remedy laws in sections 2104(d)(3)(A) and (B) in the Senate amendment with modifications. Given the priority that Conferees attach to keeping U.S. trade remedy laws strong and ensuring that they remain fully enforceable, the Conference agreement puts in place a process requiring special scrutiny of any impact that trade agreements may have on these laws. The process requires the President, at least 180 calendar days before the day on which he enters into a trade agreement, to report to the Committees on Ways and Means and the Committee on Finance the range of proposals advanced in trade negotiations and may be in the final agreement that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974; and how these proposals relate to the objectives described in section 2102(b)(14).

The Conference agreement also provides a mechanism for any Member in the House or Senate to introduce at any time after the President's report is issued a nonbinding resolution which states "that the _____ finds that the proposed changes to U.S. trade remedy laws contained in the report of the President transmitted to the Congress on _____ under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to _____, are

inconsistent with the negotiating objectives described in section 2102(b)(14) of that Act.", with the first blank space being filled in with either the "House of Representatives" or the "Senate", as the case may be, the second blank space filled in with the appropriate date of the report, and the third blank space being filled in with the name of the country or countries involved.

The resolution is referred to the Ways and Means and Rules Committees in the House and the Finance Committee in the Senate, and is privileged on the floor if it is reported by the Committees. The Conference agreement allows only one resolution (either a nonbinding resolution or a disapproval resolution) per agreement to be eligible for the trade promotion authority procedures contained in sections 152 (d) and (e) of the Trade Act of 1974. The one resolution quota is satisfied for the House only after the Ways and Means Committee reports a resolution, and for the Senate only after the Finance Committee reports a resolution.

The Conference agreement states that, with respect to agreements entered into with Chile and Singapore, the report referenced in section 2104(d)(3)(A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into a trade agreement with either country.

SEC. 2105—IMPLEMENTATION OF TRADE AGREEMENTS

Present/expired law

Before entering into the draft agreement, the President was required to give Congress 90 days advance notice (120 days for the Uruguay Round) to provide an opportunity for revision before signature. After entering into the agreement, the President was required to submit formally the draft agreement, implementing legislation, and a statement of administrative action. Once the bill was formally introduced, there was no opportunity to amend any portion of the bill—whether on the floor or in committee. Consequently, before the formal introduction took place, the committees of jurisdiction would hold hearings, "unofficial" or "informal" mark-up sessions and a "mock conference" with the Senate committees of jurisdiction in order to develop a draft implementing bill together with the Administration and to make their concerns known to the Administration before it introduced the legislation formally.

After formal introduction of the implementing bill, the House committees of jurisdiction had 45 legislative days to report the bill, and the House was required to vote on the bill within 15 legislative days after the measure was reported or discharged from the committees. Fifteen additional days were provided for Senate committee consideration (assuming the implementing bill was a revenue bill), and the Senate floor action was required within 15 additional days. Accordingly, the maximum period for Congressional consideration of an implementing bill from the date of introduction was 90 legislative days. Amendments to the legislation were not permitted once the bill was introduced; the committee and floor actions consisted of "up or down" votes on the bill as introduced.

Finally, section 1103(d) of the 1988 Act specified that the fast track rules were enacted as an exercise of the rulemaking power

of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

House amendment

Under Section 2105 of the House amendment to H.R. 3009, the President would be required, at least 90 days before entering into an agreement, to notify Congress of his intent to enter into the agreement. Section 2105(a) also would establish a new requirement that the President, within 60 days of signing an agreement, submit to Congress a preliminary list of existing laws that he considers would be required to bring the United States into compliance with agreement.

Section 2105(b) would provide that trade promotion authority would not apply if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration failed to notify or consult with Congress, which is defined as failing or refusing to consult in accordance with section 2104 or 2105, failing to develop or meet guidelines under section 2107(b), failure to meet with the Congressional Oversight Group, or the agreement fails to make progress in achieving the purposes. policies, priorities, and objectives of the Act. In a change from the expired law, such a resolution may be introduced by any Member of the House or Senate. Only one such privileged resolution would be permitted to be considered per trade agreement per Congress.

Most of the remaining provisions are identical to the expired law. Specifically, section 2105(a) would require the President, after entering into agreement, to submit formally the draft agreement, the implementing legislation, and a statement of administrative action to Congress, and there would be no time limit to do so, but with the new requirement that the submission be made on a date on which both Houses are in session, The procedures of section 151 of the Trade Act of 1974 would then apply. Specifically, on the same day as the President formally submits the legislation, the bill would be introduced (by request) by the Majority Leaders of the House and the Senate. After formal introduction of the legislation, the House Committees of jurisdiction would have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the Committees. Fifteen additional days would be provided for Senate Committee consideration (assuming the implementing bill was a revenue bill), and Senate floor action would be required within 15 additional days. Accordingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be 90 legislative days.

As with the expired provisions, once the bill has been formally introduced, no amendments would be permitted either in Committee or floor action, and a straight "up or down" vote would be required. Of course, before formal introduction, the bill could be developed by the Committees of jurisdiction together with the Administration during the informal Committee mark-up process.

Finally, as with the expired provision, section 2105(c) specifies that sections 2105(b) and 3(c) are enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

Senate amendment

The Senate Amendment is substantially similar to the House Bill, with the following exception:

Reporting requirements. Section 2105(a)(1)(A)(ii) requires the President to transmit to the House Ways and Means Committee and the Senate Finance Committee the notification and report described in section 2104(d)(3)(A) regarding changes to U.S. trade remedy laws.

Disclosure Requirements. Section 2105(a)(4) of the Senate bill specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body.

Senate Procedures. Section 2105(b)(1)(C)(i)(II) provides that any Member of the Senate may introduce a procedural disapproval resolution, and that that resolution will be referred to the Senate Finance Committee. Section 2105(b)(1)(C)(iv) provides that the Senate may not consider a disapproval resolution that has not been reported by the Senate Finance Committee.

Conference agreement

The Senate recedes to the House amendment with several modifications. The Conferees agree to section 2105(a)(4) of the Senate amendment, which specifies that any trade agreement or understanding with a foreign government (oral or written) not disclosed to Congress will not be considered part of trade agreement approved by Congress and shall have no effect under U.S. law or in any dispute settlement body. The Conferees also agree to sections 2105(b)(1)(C)(i)(II) and (b)(1)(C)(iv) of the Senate amendment, which applies the same procedures for consideration of bills in the Senate as for the House.

Finally, the Conferees agree to section 2105(b)(2) of the Senate amendment with modifications, which requires the Secretary of Commerce, in consultation with the Secretaries of State and Treasury, the Attorney General, and the United States Trade Representative, to transmit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report prior to December 31, 2002.

SEC. 2106—TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/expired law

No provision.

House amendment

Section 2106 of the House amendment to H.R. 3009 exempts agreements resulting from ongoing negotiations with Chile or Singapore, an agreement establishing a Free Trade Area of the

Americas, and agreements concluded under the auspices of the WTO from prenegotiation consultation requirements of section 2104(a) only. However, upon enactment of H.R. 3009, the Administration is required to consult as to those elements set forth in section 2104(a) as soon as feasible.

Senate amendment

Section 2106 of the Senate amendment is substantially similar to the House bill.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2107—CONGRESSIONAL OVERSIGHT GROUP

Present/expired law

No provision.

House amendment

Section 2107 of the House amendment to H.R. 3009 would require the Chairman of the Committee on Ways and Means and the Chairman of the Committee on Finance to chair and convene, sixty days after the effective date of this Act, the Congressional Oversight Group. The Group would be comprised of the following Members of the House: the Chairman and Ranking Member of the Committee on Ways and Means and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the House, jurisdiction over provisions of law affected by a trade negotiation. The Group would be comprised of the following Members of the Senate: the Chairman and Ranking Member of the Committee on Finance and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade negotiation.

Members are to be accredited as official advisors to the U.S. delegation in the negotiations. USTR is to develop guidelines to facilitate the useful and timely exchange of information between USTR and the Group, including regular briefings, access to pertinent documents, and the closest possible coordination at all critical periods during the negotiations, including at negotiation sites.

Finally, section 2107(c) provides that upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Group before initiating negotiations or any other time concerning the negotiations.

Senate amendment

Section 2107 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2108—ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS

Present/expired law

No provision.

House amendment

Section 2108 of the House amendment to H.R. 3009 would require the President to submit to the Congress a plan for implementing and enforcing any trade agreement resulting from this Act. The report is to be submitted simultaneously with the text of the agreement and is to include a review of the Executive Branch personnel needed to enforce the agreement as well as an assessment of any U.S. Customs Service infrastructure improvements required. The range of personnel to be addressed in the report is very comprehensive, including U.S. Customs and Department of Agriculture border inspectors, and monitoring and implementing personnel at USTF, the Departments of Agriculture, Commerce, and the Treasury, and any other agencies as may be required.

Senate amendment

Section 2108 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2109—COMMITTEE STAFF

Present/expired law

No provision.

House amendment

Section 2109 of the House amendment to H.R. 3009 states that the grant of trade promotion authority is likely to increase the activities of the primary committees of jurisdiction and the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader Members of Congress in the formulation of U.S. trade policy and oversight of the U.S. trade agenda. The provision specifies that the primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

Senate amendment

Section 2109 of the Senate amendment is identical to the House amendment to H.R. 3009.

Conference agreement

The Conference agreement follows the House amendment and the Senate amendment.

SEC. 2111—REPORT ON THE IMPACT OF TRADE PROMOTION AUTHORITY

Present/expired law

No provision.

House amendment

No provision.

Senate amendment

Section 2111 requires the International Trade Commission, within one year following enactment of this Act, to issue a report regarding the economic impact of the following trade agreements: (1) The U.S.-Israel Free Trade Agreement; (2) the U.S.-Canada Free Trade Agreement; (3) the North American Free Trade Agreement (NAFTA); (4) The Uruguay Round Agreements, which established the World Trade Organization; and (5) The Tokyo Round of Multilateral Trade Negotiations.

Conference agreement

The House recedes to the Senate amendment.

SEC. 2112—SMALL BUSINESS

Present/expired law

No provision.

House amendment

No provision.

Senate amendment

WTO small business advocate. Section 2112(a) provides that the U.S. Trade Representative shall pursue identification of a small business advocate at the World Trade Organization Secretariat to examine the impact of WTO agreements on the interests of small businesses, address the concerns of small businesses, and recommend ways to address those interests in trade negotiations involving the WTO.

Assistant USTR responsible for small businesses. Section 2112(b) provides that the Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small businesses are considered in trade negotiations.

Conference agreement

The Senate recedes to the House amendment with a modification. The Conferees agree to section 2112(b) of the Senate amendment, which provides that the Assistant USTR for Industry and Telecommunications will be responsible for ensuring that the interests of small business are considered in trade negotiations.

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

SEC. 3101—SHORT TITLE

Present law

No provision.

House amendment

Section 3101 of H.R. 3009, as amended, provides that the Act may be cited as the "Andean Trade Promotion and Drug Eradication Act."

Senate amendment

Section 3101 provides that the Act may be cited as the "Andean Trade Preference Expansion Act."

Conference agreement

The Senate recedes.

SEC. 3102—FINDINGS

Present law

No provision.

House amendment

Section 1302 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counter narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provide sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005 as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

Senate amendment

Section 3101 is identical.

Conference agreement

The conference agreement follows the House amendment and the Senate amendment.

SEC. 3103—ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT

Articles (Except Apparel) Eligible for Preferential Treatment

Present law

The Andean Trade Preference Act (ATPA), enacted on December 4, 1991 as title II of Public Law 102–182, authorizes preferential trade benefits for the Andean nations of Bolivia, Colombia, Ecuador, and Peru, similar to those benefits granted to beneficiaries under the Caribbean Basin Initiative program. The ATPA authorizes the President to proclaim duty-free treatment for all eligible articles from Bolivia, Colombia, Ecuador, Peru. This authority applies only to normal column I rates of duty in the Harmonized Tariff Schedule of the United States (HTS); any additional duties imposed under U.S. unfair trade practice laws, such as the anti-dumping or countervailing duty laws, are not affected by this authority.

The ATPA contains a list of products that are ineligible for duty-free treatment. More specifically, ATPA duty-free treatment does not apply to textile and apparel articles that are subject to textile agreements; petroleum and petroleum products; footwear not eligible for duty-free treatment under the Generalized System of Preferences; certain watches and watch parts; certain leather products; and sugar, syrups and molasses subject to over-quota rates of duty.

House amendment

Section 3103 (a) amends the Andean Trade Preference Act to authorize the President to proclaim duty-free treatment for any of the following articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that

the article is not import-sensitive in the context of imports from beneficiary countries:

(1) Footwear not designated at the time of the effective date of this Act as eligible for the purposes of the Generalized System of Preferences under title V of the Trade Act of 1974;

(2) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(3) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(4) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that—(i) are the product of any beneficiary country; and (ii) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

Under H.R. 3009, textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below. Imports of tuna, prepared or preserved in any manner, in airtight containers would receive immediate duty-free treatment.

Senate amendment

Section 3102 of the bill replaces the list of excluded products under section 204(b) of the current ATPA with a new provision that extends duty preferences to most of those products. The new preferences take the form of exceptions to the general rule that the excluded products are not eligible for duty-free treatment.

The enhanced preferences are made available to "ATPEA beneficiary countries." Paragraph (5) of section 204(b) of the ATPA as amended by the present bill defines ATPEA beneficiary countries as those countries previously designated by the President as "beneficiary countries" (i.e., Bolivia, Colombia, Ecuador, and Peru) which subsequently are designated by the President as "ATPEA beneficiary countries," based on the President's consideration of additional eligibility criteria.

In the event that the President did not designate a current "beneficiary country" as an "ATPEA beneficiary country," that country would remain eligible for ATPA benefits under the law as expired on December 4, 2001, but would not be eligible for the enhanced benefits provided under the present bill.

Footwear not eligible for duty-free treatment under GSP receives the same tariff treatment as like products from Mexico, except that duties on articles in particular tariff subheadings are to be reduced by 1/15 per year.

The Senate Amendment provides special treatment for rum and tafia, allowing them to receive the same tariff treatment as like products from Mexico. The bill also allows certain handbags, luggage, flat goods, work gloves, and leather wearing apparel to receive the same tariff treatment as like products from Mexico.

Under the bill, the President is authorized to proclaim duty-free treatment for tuna that is harvested by United States or ATPEA vessels, subject to a quantitative yearly cap of 20 percent of the domestic United States tuna pack in the preceding year.

Conference agreement

Senate recedes on the authority of President to proclaim duty-free treatment for particular articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries.

Textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below.

House recedes on the treatment of tuna with an amendment to: (1) retain U.S. or Andean flagged vessel rule of origin requirement in Senate amendment; (2) authorize the President to grant duty-free treatment for Andean exports of tuna packed in flexible (e.g., foil), airtight containers weighing with their contents not more than 6.8 kg each; and (3) update calculation of current MFN tariff-rate quota to be an amount based on 4.8 percent of apparent domestic consumption of tuna in airtight containers rather than domestic production.

Eligible Apparel Articles

Present law

Under the ATPA, apparel articles are on the list of products excluded from eligibility for duty-free treatment.

House amendment

Under Section 3103, the President may proclaim duty-free and quota-free treatment for apparel articles sewn or otherwise assembled in one or more beneficiary countries exclusively from any one or any combination of the following:

(1) Fabrics or fabric components formed, or components knit-to-shape, in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

(2) Fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries) are in chief weight of llama, or alpaca.

(3) Fabrics or yarn not produced in the United States or in the region, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA (short supply provisions). Any interested party

may request the President to consider such treatment for additional fabrics and yarns on the basis that they cannot be supplied by the domestic industry in commercial quantities in a timely manner, and the President must make a determination within 60 calendar days of receiving the request from the interested party.

(4) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics or fabric components formed or components knit-to-shape, in one or more beneficiary countries, from yarns formed in the United States or in one or more beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape in the United States described in paragraph 1. Imports of apparel made from regional fabric and regional yarn would be capped at 3% of U.S. imports growing to 6% of U.S. imports in 2006, measured in square meter equivalents.

Senate amendment

Paragraph (2) of section 204(b) of the ATPA as amended by section 3102 of the present bill extends duty-free treatment to certain textile and apparel articles from ATPEA beneficiary countries. The provision divides articles eligible for this treatment into several different categories and limits duty-free treatment to a period defined as the "transition period." The transition period is defined in paragraph (5) of section 204(b) of the ATPA as amended to be the period from enactment of the present bill through the earlier of February 28, 2006 or establishment of a FTAA.

In general, the different categories of textile and apparel articles eligible for duty-free treatment are defined according to the origin of the yarn and fabric from which the articles are made. Under the first category, apparel sewn or otherwise assembled in one or more ATPEA beneficiary countries is eligible for duty-free treatment if it is made exclusively from one or a combination of several sub-categories of components, as follows:

(1) United States fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in the United States;

(2) A combination of both United States and ATPEA beneficiary country components knit-to-shape from yarns wholly formed in the United States;

(3) ATPEA beneficiary country fabric, fabric components, or knit-to-shape components, made from yarns wholly formed in one or more ATPEA beneficiary countries, if the constituent fibers are primarily llama or alpaca hair; and

(4) Fabrics or yarns, regardless of origin, if such fabrics or yarns have been deemed, under the North American Free Trade Agreement, not to be widely available in commercial quantities in the United States. A separate provision of section 204(b) of the ATPA as amended by the present bill sets forth a process for interested parties to petition the President for in-

clusion of additional yarns and fabrics in the "short supply" list. This process includes obtaining advice from the United States International Trade Commission and industry advisory groups, and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

A second category of apparel articles eligible for duty-free treatment is apparel articles knit-to-shape (except socks) in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. To qualify under this category, the entire article must be knit-to-shape—as opposed to being assembled from components that are themselves knit-to-shape.

A third category of apparel articles eligible for duty-free treatment is apparel articles wholly assembled in one or more ATPEA beneficiary countries from fabric or fabric components knit, or components knit-to-shape in one or more ATPEA beneficiary countries from yarns wholly formed in the United States. The quantity of apparel eligible for this benefit is subject to an annual cap. The cap is set at 70 million square meter equivalents for the one-year period beginning March 1, 2002. The cap will increase by 16 percent, compounded annually, in each succeeding one-year period, through February 28, 2006.

Thus, the cap applied to this category in each year following enactment will be as follows:

70 million square meter equivalents (SME) in the year beginning March 1, 2002;

81.2 million SME in the year beginning March 1, 2003;

94.19 million SME in the year beginning March 1, 2004; and

109.26 million SME in the year beginning March 1, 2005.

A separate provision makes clear that goods otherwise qualifying under the latter category will not be disqualified if they happen to contain United States fabric made from United States yarn.

A fourth category of apparel eligible for duty-free treatment under the Senate bill is brassieres that are cut or sewn, or otherwise assembled, in one or more ATPEA beneficiary countries, or in such countries and the United States. This separate category requires that, in the aggregate, brassieres manufactured by a given producer claiming duty-free treatment for such products contain certain quantities of United States fabric.

A fifth category of textile and apparel eligible for duty-free treatment is handloomed, handmade, and folklore articles.

A final category of textile and apparel goods eligible for duty-free treatment is textile luggage assembled in an ATPEA beneficiary country from fabric and yarns formed in the United States.

In addition to the foregoing categories, the bill sets forth special rules for determining whether particular textile and apparel articles qualify for duty-free treatment.

Conference agreement

In general the conferees agreed to follow the House amendment on apparel provisions with the exception that the House receded to the Senate on the treatment of textile luggage. With respect to category 2 in the House bill relating to fabrics or fabric

components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics are in chief weight of llama, or alpaca, conferees agreed to include vicuna and calculate product eligibility based on chief value instead of chief weight. Also, conferees agreed to cap imports of apparel made from regional fabric and regional yarn (category 4 in the House bill) at 2% of U.S. imports growing to 5% of U.S. imports in 2006, measured in square meter equivalents.

It is the intention of the conferees that in cases where fabrics or yarns determined by the President to be in short supply impart the essential character to an article, the remaining textile components may be constructed of fabrics or yarns regardless of origin, as in Annex 401 of the NAFTA. In cases where the fabrics or yarns determined by the President to be in short supply do not impart the essential character of the article, the article shall not be ineligible for preferential treatment under this Act because the article contains the short supply fabric or yarn.

Special Origin Rule for Nylon Filament Yarn

House amendment

No provision.

Senate amendment

Articles otherwise eligible for duty-free treatment and quota free treatment under the bill are not ineligible because they contain certain nylon filament yarn (other than elastomeric yarn) from a country that had an FTA with the U.S. in force prior to January 1, 1995.

Conference agreement

House recedes.

Dyeing, Finishing and Printing Requirement

House amendment

New requirement that apparel made of U.S. knit or woven fabric assembled in CBTPA country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States. Apparel made of U.S. knit or woven fabric assembled in an Andean beneficiary country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States.

Senate provision

No provision.

Conference agreement

Senate recedes.

Penalties for Transshipment

Present law

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful transshipment. These include penalties

under 19 U.S.C. 1592 for up to a maximum of the domestic value of the imported merchandise or eight times the loss of revenue, as well as denial of entry, redelivery or liquidated damages for failure to redeliver the merchandise determined to be inaccurately represented. In addition, an importer may be liable for criminal penalties, including imprisonment for up to five years, under section 1001 of title 18 of the United States Code for making false statements on import documentation.

Under the North American Free Trade Agreement (NAFTA), Parties to the Agreement must observe Customs procedures and documentation requirements, which are established in Chapter 5 of NAFTA. Requirements regarding Certificates of Origin for imports receiving preferential tariffs are detailed in Article 502.1 of NAFTA.

House amendment

Section 3103 requires that importers comply with requirements similar in all material respects to the requirements regarding Certificates of Origin contained in Article 502.1 of the North American Free Trade Agreement (NAFTA) for a similar importation from Mexico.

In addition, if an exporter is determined under the laws of the United States to have engaged in illegal transshipment of apparel products from an Andean country, then the President shall deny all benefits under the bill to such exporter, and to any successors of such exporter, for a period of two years.

In cases where the President has requested a beneficiary country to take action to prevent transshipment and the country has failed to do so, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from that country by three times the quantity of articles transshipped, to the extent that such action is consistent with World Trade Organization (WTO) rules.

Senate amendment

In amending, section 204(b) of the ATPA, section 3102 of the present bill provides special penalties for transshipment of textile and apparel articles from an ATPEA beneficiary country. Transshipment is defined as claiming duty-free treatment for textile and apparel imports on the basis of materially false information. An exporter found to have engaged in such transshipment (or a successor of such exporter) shall be denied all benefits under the ATPA for a period of two years.

The bill further provides penalties for an ATPEA beneficiary country that fails to cooperate with the United States in efforts to prevent transshipment. Where textile and apparel articles from such country are subject to quotas on importation into the United States consistent with WTO rules, the President must reduce the quantity of such articles that may be imported into the United States by three times the quantity of transshipped articles, to the extent consistent with WTO rules.

Conference agreement

Conference agreement follows House and Senate bill.

Import Relief Actions

Present law

The import relief procedures and authorities under sections 201–204 of the Trade Act of 1974 apply to imports from ATPA beneficiary countries, as they do to imports from other countries. If ATPA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive article, section 204(d) of the ATPA authorizes the President to suspend ATPA duty-free treatment and proclaim a rate of duty or other relief measures.

Under NAFTA, the United States may invoke a special safeguard provision at any time during the tariff phase-out period if a NAFTA-origin textile or apparel good is being imported in such increased quantities and under such conditions as to cause "serious damage, or actual threat thereof," to a domestic industry producing a like or directly competitive good. The President is authorized to either suspend further duty reductions or increase the rate of duty to the NTR rate for up to three years.

House amendment

Under Section 3103 normal safeguard authorities under ATPA would apply to imports of all products except textiles and apparel. A NAFTA equivalent safeguard authorities would apply to imports of apparel products from ATPA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.

Senate amendment

The bill establishes similar textile and apparel safeguard provisions based on the NAFTA textile and apparel safeguard provision.

Conference agreement

Conference Agreement follows House and Senate bill.

Designation Criteria

Present law

In determining whether to designate any country as an ATPA beneficiary country, the President must take into account seven mandatory and 12 discretionary criteria, which are listed in section 203 of the ATPA.

Under Section 203 of the ATPA, the President shall not designate any country a ATPA beneficiary country if:

(1) The country is a Communist country;

(2) The country has nationalized, expropriated, imposed taxes or other exactions or otherwise seized ownership or control of U.S. property (including intellectual property), unless he determines that prompt, adequate, and effective compensation has been or is being made, or good faith negotiations to provide such compensation are in progress, or the country is otherwise taking steps to dis-

charge its international obligations, or a dispute over compensation has been submitted to arbitration;

(3) The country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens;

(4) The country affords "reverse" preferences to developed countries and whether such treatment has or is likely to have a significant adverse effect on U.S. commerce;

(5) A government-owned entity in the country engages in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent or the country fails to work toward the provision of adequate and effective intellectual property rights;

(6) The country is not a signatory to an agreement regarding the extradition of U.S. citizens;

(7) If the country has not or is not taking steps to afford internationally recognized worker rights to workers in the country;

In determining whether to designate a country as eligible for ATPA benefits, the President shall take into account (discretionary criteria):

(1) An expression by the country of its desire to be designated;

(2) The economic conditions in the country, its living standards, and any other appropriate economic factors;

(3) The extent to which the country has assured the United States it will provide equitable and reasonable access to its markets and basic commodity resources;

(4) The degree to which the country follows accepted rules of international trade under the World Trade Organization;

(5) The degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade;

(6) The degree to which the trade policies of the country are contributing to the revitalization of the region;

(7) The degree to which the country is undertaking self-help measures to protect its own economic development;

(8) Whether or not the country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized workers rights;

(9) The extent to which the country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights;

(10) The extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(11) Whether such country has met the narcotics cooperation certification criteria of the Foreign Assistance Act of 1961 for eligibility for U.S. assistance; and

(12) The extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Under the ATPA the President is prohibited from designating a country a beneficiary country if any of criteria (1)–(7) apply to that country, subject to waiver if the President determines that country designation will be in the U.S. national economic or security interest. The waiver does not apply to criteria (4) and (6).

Under the ATPA criteria on (7) is included as both mandatory and discretionary.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country should be barred from designation as a result of changed circumstances. The President must submit a triennial report to the Congress on the operation of the program. The report shall include any evidence that the crop eradication and crop substitution efforts of the beneficiary country are directly related to the effects of the legislation.

House amendment

The House amendment provides that the President, in designating a country as eligible for the enhanced ATPDEA benefits, shall take into account the existing eligibility criteria established under ATPA described above, as well as other appropriate criteria, including: whether a country has demonstrated a commitment to undertake its WTO obligations and participate in negotiations toward the completion of the FTAA or comparable trade agreement; the extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights; the extent to which the country provides internationally recognized worker rights; whether the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which a country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and the extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement equivalent to those included in the WTO Agreement on Government Procurement and otherwise contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

Senate amendment

Section 3102(5) contains identical provisions.

Conference agreement

Conference Agreement follows the House and Senate amendments. In evaluating a potential beneficiary's compliance with its WTO obligations, the conferees expect the President to take into account the extent to which the country follows the rules on customs valuation set forth in the WTO Customs Valuation Agreement. With respect to intellectual property protection, it is the Conferees intent that the President will also take into account the extent to which potential beneficiary countries are providing or taking steps to provide protection of intellectual property rights comparable to the protections provided to the United States in bilateral intellectual property agreements.

Since April 1995, Colombia has applied a variable import duty system, known as the "price band" system, on fourteen basic agriculture products such as wheat, corn, and soybean oil. An additional 147 commodities, considered substitutes or related products, are subject to the price band system which establishes ceiling,

floor, and reference prices on imports. The Conferees's view is that the price band system is non-transparent and easily manipulated as a protectionist device. In early 2000, the United States reached agreement with Colombia in the WTO that Colombia would delink wet pet food, the only finished product in this system, from the price band system. In implementing the eligibility criteria relating to market access and implementation of WTO commitments, it is the Conferees intent that USTR insist that Colombia implement its WTO commitment to remove pet food from the price band tariff system and to apply the 20% common external tariff to imported pet food.

With respect to whether beneficiary countries are following established WTO rules, the Conferees believe it is important for Andean governments to provide transparent and non-discriminatory regulatory procedures. Unfortunately, the Conferees know of instances where regulatory policies in Andean countries are opaque, unpredictable, and arbitrarily applied. As such, it is the Conferees's view that Andean countries that seek trade benefits should adopt, implement, and apply transparent and non-discriminatory regulatory procedures. The development of such procedures would help create regulatory stability in the Andean region and thus provide mere certainty to U.S. companies that would like to invest in these countries.

Determination regarding retention of designation

Present law

Under Section 203(e) of the ATPA, the President may withdraw or suspend a country's beneficiary country designation, or withdraw, suspend, or limit the application of duty-free treatment to particular articles of a beneficiary country, due to changed circumstances.

House amendment

Section 3102(b) amends section 203(e) of the ATPA to provide that President may withdraw or suspend ATPA designation, or withdraw, suspend or limit benefits is a country's performance under eligibility criteria are no longer satisfactory.

Senate amendment

Identical.

Conference agreement

Conference agreement follows the House amendment and Senate amendment.

Reporting Requirements

Present law

Provides for: (1) an annual report by the International Trade Commission on the economic impact of the bill and; (2) an annual report by the Secretary of Labor on the impact of the bill with respect to U.S. labor. Also under present law, USTR is required to report triannually on operation of the program.

House amendment

Retains current law on reports.

Senate amendment

Senate bill requires same ITC and Labor reports as well as an annual report by the Customs Service on compliance and anti-circumvention on the part of beneficiary countries in the area of textile and apparel trade. It also requires USTR to report biannually on operation of the program.

Conference agreement

House recedes.

Petitions for review

Present law

No provision.

House amendment

No provision.

Senate amendment

Section 3102(e) of the bill directs the President to promulgate regulations regarding the review of eligibility of articles and countries under the ATPA. Such regulations are to be similar to regulations governing the Generalized System of Preferences petition process.

Conference agreement

House recedes.

SEC. 3104—TERMINATION OF DUTY-FREE TREATMENT

Present law

Duty-free treatment under the ATPA expires on December 4, 2001.

House amendment

Duty-free treatment terminates under the Act on December 31, 2006.

Senate amendment

Section 3103 of the bill amends section 208(b) of the ATPA to provide for a termination date of February 28, 2006. Basic ATPA benefits apply retroactively to December 4, 2001.

Conference agreement

House recedes on retroactivity for basic ATPA benefits; Senate recedes on termination.

SEC. 3106—TRADE BENEFITS UNDER THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT (CBTPA) AND THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Knit-to-shape Apparel

Present law

Draft regulations issued by Customs to implement P.L. 106–200 stipulate that knit to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.

House amendment

Sec. 3106 and 3107 of the House bill amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Present law

Draft regulations issued by Customs to implement P.L. 106–200 deny preferential access to garments that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so-called "hybrid cutting problem").

House amendment

Sec. 3107 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

Senate amendment

No provision.

Conference agreement

Senate recedes

CBI Knit Cap

Present law

P.L. 106–200 extended duty-free benefits to knit apparel made in CBI] countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), up to a cap of 250,000,000 square meter equivalents (SMEs), with a growth rate of 16% per year for first 3 years.

House amendment

Sec. 3106 of H.R. 2009 would raise this cap to the following amounts: 250.000,000 SMEs for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on

October 1, 2002; 850,000,000 SMEs for the 1-year period beginning, on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes.

CBI T-shirt Cap

Present law

P.L. 106–200 extends benefits for an additional category of CBI regional knit apparel products (T-shirts) up to a cap of 4.2 million dozen, growing 16% per year for the first 3 years.

House amendment

Section 3106 of H.R 3006 would raise this cap to the following amounts: 4,200,000 dozen during the 1-year period beginning October 1, 2001; 9,000,000 dozen for the 1-year period beginning on October 1, 2002; 10,000,00 dozen for the 1-year period beginning on October 1, 2003; 12,000,000 dozen in each succeeding 1-year period through September 30, 2009.

Senate amendment

No provision.

Conference agreement

Senate recedes

Present law

Section 112(b)(3) of the AGOA provides preferential treatment for apparel made in beneficiary sub-Saharan African countries from "regional" fabric (i.e., fabric formed in one or more beneficiary countries) from yarn originating either in the United States or one or more such countries. Section 112(b)(3)(B) establishes a special rule for lesser developed beneficiary sub-Saharan African countries, which provides preferential treatment, through September 30, 2004, for apparel wholly assembled in one or more such countries regardless of the origin of the fabric used to make the articles. Section 112(b)(3)(A) establishes a quantitative limit or "cap" on the amount of apparel that may be imported under section 112(b)(3) or section 112(b)(3)(B). This "cap" is 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States for the year that began October 1, 2000, and increases in equal increments to 3.5 percent for the year beginning October 1, 2007.

House amendment

Section 3107 would clarify that apparel wholly assembled in one or more beneficiary, sub-Saharan African countries from components knit-to-shape in one or more such countries from U.S. or regional yarn is eligible for preferential treatment under section

112(b)(3) of AGOA. Similarly, Section 5 would clarify that apparel knit-to-shape and wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries is eligible for preferential treatment, regardless of the origin of the yarn used to make such articles. The House amendment also would increase the "cap" by changing the applicable percentages from 1.5 percent to 3 percent in the year that began October 1, 2000, and from 3.5 percent to 7 percent in the year beginning October 1, 2007.

Senate amendment

No provision.

Conference agreement

Conference agreement follows House Amendment accept the increase in the cap is limited to apparel products made with regional or U.S. fabric and yarn. No increases in amounts of apparel made of third-country fabric over current law.

Present law

AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. However, due to a drafting problem, the wrong diameter was included, making it impossible to use the provision.

House amendment

Section 3107 corrects the yarn diameter in the AGOA legislation so that sweaters knit to shape from merino wool of a specific diameter are eligible.

Senate amendment

No provision.

Conference agreement

Senate recedes.

Africa: Namibia and Botswana

Present law

The GDBs of Botswana and Namibia exceed the LLDC limit of $1500 and therefore these countries are not eligible to use third country fabric for the transition period under the AGOA regional fabric country cap.

House amendment

Section 5 allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.

Senate amendment

No provision.

Conference agreement

Senate recedes.

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

SEC. 4101—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

Expired law

Section 505 of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V (the Generalized System of Preferences) shall remain in effect after September 30, 2001.

House bill

The House amendment to H.R. 3009 would amend section 505 of the Trade Act of 1974 to authorize an extension through December 31, 2002. It would also provide retroactive relief in that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001, and was made after September 30, 2001, and before the enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of Treasury shall refund any duty paid, upon proper request filed with the appropriate Customs officer, within 180 days after the date of enactment.

Senate amendment

The Senate amendment authorizes an extension of GSP through December 31, 2006. The extension is retroactive to September 30, 2001, permitting importers to liquidate or reliquidate entries made since that date and to seek a return of duties paid on goods that would have entered the United States free of duty, but for expiration of GSP.

The Senate Amendment also amends the definition of "internationally recognized worker rights" set forth in the GSP statute (section 507(4) of the Trade Act of 1974). Specifically, it adds to that definition "a prohibition on discrimination with respect to employment and occupation" and a "prohibition of the worst forms of child labor." These two prohibitions come from the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work, which defines certain worker rights as "fundamental."

The GSP statute identifies certain criteria that the President must take into account in determining whether to designate a country as eligible for GSP benefits. Conversely, a country's lapse in compliance with one or more of these criteria may be grounds for withdrawal, suspension, or limitation of benefits. Whether a country is taking steps to afford its workers internationally recognized worker rights is one of those criteria. The Senate Amendment seeks to make the concept of "internationally recognized worker rights" as defined for GSP consistent with the concept as defined by the ILO.

Finally, the Senate Amendment establishes a new eligibility criterion for GSP: "A country is ineligible for GSP if it has not taken steps to support the efforts of the United States to combat terrorism."

Conference agreement

The Conference agreement authorizes an extension of GSP through December 31, 2006. Conferees approved the Senate provision to include a prohibition on the worst forms of child labor in the definition of internationally recognized worker rights in Section 507(a) of the Trade Act of 1974. Conferees declined to include the Senate provision on discrimination with respect to employment in the definition of "international recognized worker rights under Sec. 507(a) of the Trade Act of 1974. Agreement follows the House and the Senate bill with respect to providing retroactive relief.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101—WOOL MANUFACTURER PAYMENT CLARIFICATION AND TECHNICAL CORRECTIONS ACT

Present law

Title V of the Trade and Development Act of 2000 (Pub. L. No. 106–200) included certain tariff relief for the domestic tailored clothing and textile industries. The relief was largely aimed at reducing the harmful affects of a "tariff inversion"—i.e., a tariff structure that levies higher duties on the raw material (such as wool fabric) than on the finished goods (such as mens' suits). A component of the relief to the U.S. tailored clothing and textile industry was a refund of duties paid in calendar year 1999, spread out over calendar years 2000, 2001 and 2002. Pub. L. No. 106–2000, § 505.

House amendment

No provision.

Senate amendment

The Senate bill amends section 505 of the Trade and Development Act of 2000 to simplify the process for refunding to eligible parties duties paid in 1999. Specifically, it creates three special refund pools for each of the affected wool articles (fabric, yarn, and fiber and top). Refunds for importing manufacturers will be distributed in three installments—the first and second on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment and Clarification and Technical Corrections Act, and the third on or before April 15, 2003. Refunds for nonimporting manufacturers will be distributed in two installments—the first on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second on or before April 15, 2003.

The provision also streamlines the paperwork process, in light of the destruction of previously filed claims and supporting infor-

mation in the September 11, 2001 attacks on the World Trade Center in New York, New York. Finally, the provision identifies all persons eligible for the refunds.

Conference agreement

The House recedes to the Senate.

SEC. 5102—DUTY SUSPENSION ON WOOL

Present law

Sections 501(a) and (b) of the Trade and Development Act of 2000 provide temporary duty reductions for certain worsted wool fabrics through 2003.

Section 501(d) limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.11 from January 1 to December 31 of each year, inclusive, to 2,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act. Further, the section limits the aggregate quantity of worsted wool fabrics entered under heading 9902.51.12 from January 1 to December 31 of each year, inclusive, to 1,500,000 square meter equivalents, or such other quantity proclaimed by the President pursuant to section 504(b)(3) of the Trade and Development Act.

House amendment

No provision.

Senate bill

The Senate bill extends the temporary duty reductions on fabrics of worsted wool from 2003 to 2005. The provision increases the limitation on the quantity of imports of worsted wool fabrics entered under heading 9902.51.11 to 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003. Imports of worsted wool fabrics entered under heading 9902.51.12 are increased to 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003.

The bill extends the payments made to manufacturers under section 505 of the Trade and Development Act of 2000 and requires an affidavit that the manufacturer will remain a manufacturer in the United States as of January 1 of the year of payment. The two additional payments will occur as follows: the first to be made after January 1, 2004, but on or before April 15, 2004, and the second after January 1, 2005, but on or before April 15, 2005.

Finally, the bill extends the "Wool Research Trust Fund" for two years through 2006.

Conference agreement

The House recedes to the Senate.

SUBTITLE B—OTHER PROVISIONS

SEC. 5201—FUND FOR WTO DISPUTE SETTLEMENT

Present law

No applicable section.

House amendment

The provision authorizes a settlement fund within the United States Trade Representative's Office in the amount of $50 million for the use in settling disputes that occur related to the World Trade Organization. The Trade Representative must certify to the Secretary of the Treasury that the settlement is in the best interest of the United States in cases of not more than $10 million. For cases above $10 million, the Trade Representative must make the same certification to the United States Congress.

Senate bill

No provision.

Conference agreement

The Senate recedes to the House.

SEC. 5202—CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES

Present law

Under present law, certain steam or other vapor generating boilers used in nuclear facilities imported into the United States prior to December 31, 2003 are charged a duty rate of 4.9 percent ad valorem. This rate took effect pursuant to section 1268 of Public Law Number 106–476 ("Tariff Suspension and Trade Act of 2000"). Previously, the rate had been 5.2 percent ad valorem.

House amendment

No provision.

Senate amendment

Section 203 of the Senate amendment changes the duty rate on certain steam or other vapor generating boilers used in nuclear facilities to zero for such goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, and on or before December 31, 2006. The provision was intended to lower the cost of inputs into the operation of nuclear facilities and thereby lower the cost of energy to consumers.

Committee agreement

The House recedes to the Senate.

SEC. 5203—SUGAR TARIFF RATE QUOTA CIRCUMVENTION

Present law

No applicable section.

House amendment

No provision.

Senate amendment

The Senate bill establishes a sugar anti-circumvention program which requires the Secretary of Agriculture to identify imports of articles that are circumventing tariff-rate quotas on sugars, syrups, or sugar-containing products imposed under chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule. The Secretary shall then report to the President articles found to be circumventing such tariff-rate quotas. Upon receiving the Secretary's report, the President shall, by proclamation, include any identified article in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule.

Conference agreement

Conferees agreed to a provision directing the Secretary of Agriculture and the Commissioner of Customs shall monitor for sugar circumvention and shall report and make recommendations to Congress and the President.

This provision amends the Harmonized Tariff Schedule of the United States ("HTSUS") to make clear in the statute an important element of the ruling of the Court of Appeals for the Federal Circuit in Heartland By-Products, Inc. v. United States, 264 F. 3rd 1126 (Fed. Cir. 2001), i.e., that molasses is one of the foreign substances that must be excluded when calculating the percentage of soluble non-sugar solids under subheading 1702.90.40.

The provision requires the Secretary of Agriculture and the Commissioner of Customs to establish a monitoring program to identify existing or likely circumvention of the tariff-rate quotas in Chapters 17, 18, 19 and 21 of the HTSUS. The Secretary and the Commissioner shall report the results of their monitoring to Congress and the President every six months, together with data and a description of developments and trends in the composition of trade provided for in such chapters. This report will be made public. The report will discuss any indications that imports of articles not subject to the tariff-rate quotas are being used for commercial extraction of sugar in the United States. Imports of so-called "high-test molasses" currently classified under subheading 1703.10.30 will be examined particularly closely for such indications.

Finally, the Secretary and the Commissioner will include in the report their recommendations for ending circumvention, including their recommendations for legislation. The Managers emphasize that rapid action to stop circumvention is the best way to prevent a problem from developing and that quick administrative or legislative action is preferable to protracted procedures and litigation, as occurred in the Heartland case.

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
PHILLIP M. CRANE,

From the Committee on Education and the Workforce, for consideration of sec. 603 of the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
SAM JOHNSON,

From the Committee on Energy and Commerce, for consideration of sec. 603 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,

From the Committee on Government Reform, for consideration of sec. 344 of the House amendment, and sec. 1143 of the Senate amendment, and modifications committed to conference:

DAN BURTON,
BOB BARR,

From the Committee on the Judiciary, for consideration of secs. 111, 601, and 701 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,

From the Committee on Rules, for consideration of secs. 2103, 2105, and 2106 of the House amendment and secs. 2103, 2105, and 2106 of the Senate amendment, and modifications committed to conference:

DAVID DREIER,
JOHN LINDER,
Managers on the Part of the House.

MAX BAUCUS,
JOHN BREAUX,
CHUCK GRASSLEY,
ORRIN HATCH,
Managers on the Part of the Senate.

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