resources in sub-Saharan Africa necessary to fight the HIV/AIDS epidemic.

(b) Sense of the Congress

It is the sense of the Congress that—

(1) addressing the HIV/AIDS crisis in sub-Saharan Africa should be a central component of United States foreign policy with respect to sub-Saharan Africa;

(2) significant progress needs to be made in preventing and treating HIV/AIDS in sub-Saharan Africa in order to sustain a mutually beneficial trade relationship between the United States and sub-Saharan African countries; and

(3) the HIV/AIDS crisis in sub-Saharan Africa is a global threat that merits further attention through greatly expanded public, private, and joint public-private efforts, and through appropriate United States legislation.

(Pub. L. 106–200, title I, §129, May 18, 2000, 114 Stat. 273.)

§ 3740. Study on improving African agricultural practices

(a) In general

The Secretary of Agriculture, in consultation with American Land Grant Colleges and Universities and not-for-profit international organizations, is authorized to conduct a 2-year study on ways to improve the flow of American farming techniques and practices to African farmers. The study shall include an examination of ways of improving or utilizing—

(1) knowledge of insect and sanitation procedures;

(2) modern farming and soil conservation techniques;

(3) modern farming equipment (including maintaining the equipment);

(4) marketing crop yields to prospective purchasers; and

(5) crop maximization practices.

The Secretary of Agriculture shall submit the study to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than September 30, 2001.

(b) Land Grant Colleges and not-for-profit institutions

In conducting the study under subsection (a) of this section, the Secretary of Agriculture is encouraged to consult with American Land Grant Colleges and not-for-profit international organizations that have firsthand knowledge of current African farming practices.

(Pub. L. 106–200, title I, §130, May 18, 2000, 114 Stat. 274.)

§ 3741. Sense of the Congress regarding efforts to combat desertification in Africa and other countries

(a) Findings

The Congress finds that—

(1) desertification affects approximately one-sixth of the world's population and one-quarter of the total land area;

(2) over 1,000,000 hectares of Africa are affected by desertification;

(3) dryland degradation is an underlying cause of recurrent famine in Africa;

(4) the United Nations Environment Programme estimates that desertification costs the world $42,000,000,000 a year, not including incalculable costs in human suffering; and

(5) the United States can strengthen its partnerships throughout Africa and other countries affected by desertification, help alleviate social and economic crises caused by misuse of natural resources, and reduce dependence on foreign aid, by taking a leading role to combat desertification.

(b) Sense of the Congress

It is the sense of the Congress that the United States should expeditiously work with the international community, particularly Africa and other countries affected by desertification, to—

(1) strengthen international cooperation to combat desertification;

(2) promote the development of national and regional strategies to address desertification and increase public awareness of this serious problem and its effects;

(3) develop and implement national action programs that identify the causes of desertification and measures to address it; and

(4) recognize the essential role of local governments and nongovernmental organizations in developing and implementing measures to address desertification.

(Pub. L. 106–200, title I, §131, May 18, 2000, 114 Stat. 274.)

CHAPTER 24—BIPARTISAN TRADE PROMOTION AUTHORITY

§3801. Short title and findings

(a) Short title

This chapter 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 permissible 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.

(Pub. L. 107–210, div. B, title XXI, §2101, Aug. 6, 2002, 116 Stat. 993.)

References in Text

This chapter, referred to in subsec. (a), was in the original ''This title'', meaning title XXI of Pub. L. 107–210, div. B, Aug. 6, 2002, 116 Stat. 993, which enacted this chapter and amended sections 2151 to 2155, 2191, and 2212 of this title. For complete classification of title XXI to the Code, see Tables.

Short Title

Pub. L. 107–210, §1, Aug. 6, 2002, 116 Stat. 933, provided that: ''This Act [see Tables for classification] may be cited as the 'Trade Act of 2002'.''

Ex. Ord. No. 13277. Delegation of Certain Authorities and Assignment of Certain Functions Under the Trade Act of 2002

Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, as amended by Ex. Ord. No. 13346, §4, July 8, 2004, 69 F.R. 41906, provided:

By the authority vested in me as President by the Constitution and the laws of the United States, including the Trade Act of 2002 (the ''Act'') (Public Law 107–210) [see Short Title note above] and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Trade Promotion*. (a) Except as provided in subsections (b) and (c) of this section, the authorities granted to and functions specifically assigned to the President under Division B of the Act [19 U.S.C. 3801 et seq.] are delegated and assigned, respectively, to the United States Trade Representative (U.S. Trade Representative).

(b) The exercise of the following authorities of, and functions specifically assigned to the President, under Division B of the Act are reserved to the President:

(1) Section 2102(c)(1), (c)(6), (c)(10) and (e) of the Act [19 U.S.C. 3802(c)(1), (6), (10), (e)];

(2) Section 2103(a)(1), (a)(4), (a)(6), b(1) [(b)(1)], (c)(1)(B)(i), and (c)(2) of the Act [19 U.S.C. 3803(a)(1), (4), (6), (b)(1), (c)(1)(B)(i), (2)];

(3) Section 2105(a)(1)(A) and (C) of the Act [19 U.S.C. 3805(a)(1)(A), (C)]; and

(4) Section 2108(b) of the Act [19 U.S.C. 3808(b)].

(c)(i) The Secretary of State, in consultation with the Secretary of Labor and the U.S. Trade Representative, shall carry out the functions of section 2102(c)(2) of the Act [19 U.S.C. 3802(c)(2)] with respect to establishing consultative mechanisms. The U.S. Trade Representative, in consultation with the Secretary of State and the Secretary of Labor, shall carry out the reporting function under section 2102(c)(2).

(ii) The Secretary of State, in consultation with the U.S. Trade Representative, shall carry out the functions under section 2102(c)(3) of the Act with respect to establishing consultative mechanisms, with the advice and assistance of the Secretary of the Interior, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the Secretary of Commerce and, as the Secretary of State determines appropriate, the heads of such other departments and agencies. The U.S. Trade Representative, in consultation with the Secretary of State, shall carry out the reporting function under section 2103(c)(3) [19 U.S.C. 3803(c)(3)].

(iii) The U.S. Trade Representative shall carry out the functions under section 2102(c)(5) of the Act. The U.S. Trade Representative shall, in consultation with the Secretary of Labor, carry out the reporting function and the function of making a report available under section 2102(c)(5).

(iv) The Secretary of Labor shall carry out section 2102(c)(7) of the Act, in consultation with the Secretary of State.

(v) The Secretary of Labor, in consultation with the Secretary of State and the U.S. Trade Representative, shall carry out the functions under section 2102(c)(8) and (c)(9).

(vi) The Secretary of the Treasury shall carry out section 2102(c)(12) of the Act, including any appropriate consultations with the Congress relating thereto.

SEC. 2. *Andean Trade*. (a) Except as provided in subsection (b) of this section, the authorities granted and the functions specifically assigned to the President under Division C of the Act [see Short Title of 2002 Amendment note set out under section 3201 of this title] are delegated and assigned respectively, to the U.S. Trade Representative, in consultation with the Secretaries of State, Commerce, the Treasury, and Labor.

(b) The exercise of the following authorities of, and functions specifically assigned to, the President under Division C of the Act are reserved to the President:

(i) The authority to proclaim under sections 204(b)(1) and 204(b)(3)(B)(ii), and the authority to designate beneficiary countries under section 204(b)(6)(B), of the Andean Trade Preference Act [19 U.S.C. 3203(b)(1), (3)(B)(ii), (6)(B)] as amended by section 3103(a)(2) of the Act; and

(ii) The authority to make determinations under section 203(e)(1)(B) of the Andean Trade Preference Act [19 U.S.C. 3202(e)(1)(B)] as amended by section 3103(b) of the Act.

(c) The head of the executive department of which the United States Customs Service is a part shall take such actions to carry out determinations and actions pursuant to the Andean Trade Preference Act, as amended [19 U.S.C. 3201 et seq.], as directed pursuant to the authority delegated to the U.S. Trade Representative under this order.

SEC. 3. *Guidance for Exercising Authority and Performing Duties*. (a) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) In exercising authority delegated by, or performing functions assigned in, this order, and in performing duties related to the trade agreements program as defined in Executive Order 11846 [19 U.S.C. 2111 note], officers of the United States:

(i) Shall ensure that all actions taken by them are consistent with the President's constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations, (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties, (C) recommend for congressional consideration such measures as the President may judge necessary or expedient, and (D) supervise the unitary executive branch;

(ii) May redelegate authority delegated by this order and may further assign functions assigned by this order to officers of any other department or agency within the executive branch to the extent permitted by law and such redelegation or further assignment shall be published in the Federal Register; and

(iii) Shall consult the Attorney General as appropriate in implementing this subsection.

SEC. 4. [Amended Ex. Ord. No. 11846, set out as a note under section 2111 of this title.]

SEC. 5. *Judicial Review*. This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 3802. 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 3803 of this title 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 3813(6) of this title) 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 3521(b) of this title.

(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 3511(d)(15) of this title, 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 detriment 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 3803(a) or (b) of this title, including any trade agreement entered into under section 3803(a) or (b) of this title 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 3813(6) of this title);

(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 3555(c) of this title and regarding rules of origin are the conclusion of an agreement described in section 3552 of this title.

(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 3813(6) of this title) 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 chapter, 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 3807(b)(2)(E) of this title;

(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 chapter 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 is 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 chapter, 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 3807 of this title 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 chapter, 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 2211 of this title, 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 3807 of this title; 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.

(Pub. L. 107–210, div. B, title XXI, §2102, Aug. 6, 2002, 116 Stat. 994; Pub. L. 108–429, title II, §2004(a)(16), Dec. 3, 2004, 118 Stat. 2591.)

REFERENCES IN TEXT

Executive Order 13141, referred to in subsec. (c)(4) and (5), is set out as a note under section 2112 of this title.

This chapter, referred to in subsec. (c)(8), was in the original ''this title'', meaning title XXI of Pub. L. 107–210, div. B, Aug. 6, 2002, 116 Stat. 993, which enacted this chapter and amended sections 2151 to 2155, 2191, and 2212 of this title. For complete classification of title XXI to the Code, see Tables.

AMENDMENTS

2004—Subsec. (c)(8). Pub. L. 108–429, §2004(a)(16)(A), substituted ''this chapter'' for ''this Act''.

Subsec. (c)(12). Pub. L. 108–429, §2004(a)(16)(B), substituted ''government is engaged'' for ''government engaged''.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§3803. 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 chapter will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) July 1, 2005; or

(ii) July 1, 2007, if trade authorities procedures are extended under subsection (c) of this section; 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 August 6, 2002) to a rate of duty which is less than 50 percent of the rate of such duty that applies on August 6, 2002;

(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 August 6, 2002.

(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 3805 of this title 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 [19 U.S.C. 3524], 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 [19 U.S.C. 3501(5)], 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 chapter 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) July 1, 2005; or

(ii) July 1, 2007, if trade authorities procedures are extended under subsection (c) of this section.

(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 3802(a) and (b) of this title and the President satisfies the conditions set forth in section 3804 of this title.

(3) Bills qualifying for trade authorities procedures

(A) The provisions of section 2191 of this title (in this chapter 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 2191 of this title applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this chapter 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 3805(b) of this title—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) of this section 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) of this section 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 July 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 April 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) of this section 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 chapter, 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 2155 of this title 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 June 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 chapter; 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 June 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 August 6, 2002, 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 2192(d) and (e) of this title (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 3802(b) of this title.

(Pub. L. 107–210, div. B, title XXI, § 2103, Aug. 6, 2002, 116 Stat. 1004; Pub. L. 108–429, title II, § 2004(a)(17), Dec. 3, 2004, 118 Stat. 2591.)

REFERENCES IN TEXT

The Bipartisan Trade Promotion Authority Act of 2002, referred to in subsec. (c)(5)(A), is title XXI of Pub. L. 107–210, div. B, Aug. 6, 2002, 116 Stat. 993, which is classified principally to this chapter. Section 2103 of the Act is classified to this section. For complete classification of title XXI to the Code, see section 3801(a) of this title and Tables.

AMENDMENTS

2004—Subsec. (a)(1)(A). Pub. L. 108–429, § 2004(a)(17)(A), substituted ''July 1'' for ''June 1'' in two places.

Subsec. (b)(1)(C). Pub. L. 108–429, § 2004(a)(17)(B), substituted ''July 1'' for ''June 1'' in two places.

Subsec. (c)(1)(B)(ii). Pub. L. 108–429, § 2004(a)(17)(C)(i), substituted ''July 1'' for ''June 1''.

Subsec. (c)(2). Pub. L. 108–429, § 2004(a)(17)(C)(ii), substituted ''April 1'' for ''March 1'' in introductory provisions.

Subsec. (c)(3). Pub. L. 108–429, § 2004(a)(17)(C)(iii), substituted ''June 1'' for ''May 1'' in two places.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 3804. Consultations and assessment

(a) Notice and consultation before negotiation

The President, with respect to any agreement that is subject to the provisions of section 3803(b) of this title, 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 3807 of this title; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 3807(c) of this title, 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 3802(b)(10)(A)(i) of this title 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 August 6, 2002, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on August 6, 2002, 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 3803(b) of this title, 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 3807 of this title.

(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 chapter; and

(C) the implementation of the agreement under section 3805 of this title, 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 3803(b) of this title, 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 [19 U.S.C. 1671 et seq.] or to chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.]; and

(ii) how these proposals relate to the objectives described in section 3802(b)(14) of this title.

(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 3805(b) of this title 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)[1] 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)[1] 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 [19 U.S.C. 2155(e)(1)] regarding any trade agreement entered into under section 3803(a) or (b) of this title 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 3803(a)(1) or 3805(a)(1)(A) of this title 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 3803(b) of this title, 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

[1] So in original. Two cls. (iv) have been enacted.

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.

(Pub. L. 107–210, div. B, title XXI, § 2104, Aug. 6, 2002, 116 Stat. 1008.)

REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsec. (d)(3)(A)(i), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended. Title VII of the Act is classified generally to subtitle IV (§ 1671 et seq.) of chapter 4 of this title. For complete classification of this Act to the Code, see section 1654 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (d)(3)(A)(i), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

Sections 2104(d)(3) and 2102(b)(14) of the Bipartisan Trade Promotion Authority Act of 2002, referred to in subsec. (d)(3)(C)(ii), are classified to subsec. (d)(3) of this section and section 3802(b)(14) of this title, respectively.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 3805. Implementation of trade agreements

(a) In general

(1) Notification and submission

Any agreement entered into under section 3803(b) of this title 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 3803(b)(3) of this title;

(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 chapter; 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 3803(b)(3) of this title; and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 3802(c) of this title 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 3803(b) of this title 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 3803(b) of this title 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 3804 of this title or this section with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 3807(b) of this title 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 3807(c) of this title 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 chapter.

(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 2192(d) and (e) of this title (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 3804(d)(3)(C)(ii) of this title 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 3804(d)(3)(C) of this title.

(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 3801(b)(3) of this title. 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 3803(c) of this title, and section 3804(d)(3)(C) of this title 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 procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(Pub. L. 107–210, div. B, title XXI, § 2105, Aug. 6, 2002, 116 Stat. 1013; Pub. L. 108–429, title II, § 2004(a)(18), Dec. 3, 2004, 118 Stat. 2591.)

REFERENCES IN TEXT

The Bipartisan Trade Promotion Authority Act of 2002, referred to in subsec. (b)(1)(B), is title XXI of Pub. L. 107–210, div. B, Aug. 6, 2002, 116 Stat. 993, which is classified principally to this chapter. For complete classification of title XXI to the Code, see section 3801(a) of this title and Tables.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–429 substituted ''and'' for ''aand'' in introductory provisions.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

UNITED STATES-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–302, Aug. 17, 2004, 118 Stat. 1103, provided that:

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

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Morocco Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and Morocco entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

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

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

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

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Morocco Free Trade Agreement approved by Congress under section 101(a)(1).

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

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

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

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

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

''(1) the United States-Morocco Free Trade Agreement entered into on June 15, 2004, with Morocco and submitted to Congress on July 15, 2004; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on July 15, 2004.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Morocco has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force [July 1, 2005], the President is authorized to exchange notes with the Government of Morocco providing for the entry into force, on or after January 1, 2005, of the Agreement with respect to the United States.

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

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

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

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

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

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

unless specifically provided for in this Act.

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

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

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

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

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

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

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

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

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Aug. 17, 2004]—

''(A) the President may proclaim such actions, and

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

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [July 1, 2005] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

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

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force [July 1, 2005] of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force [July 1, 2005]. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

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

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

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

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

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

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

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

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

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2004 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''The United States is authorized to resolve any claim against the United States covered by article 10.15.1(a)(i)(C) or article 10.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force [July 1, 2005].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Aug. 17, 2004].

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

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 4.1, 4.3.9, 4.3.10, 4.3.11, 4.3.13, 4.3.14, and 4.3.15, and Annex IV of the Agreement.

''(2) EFFECT ON MOROCCAN GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of Morocco as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date of entry into force of the Agreement [July 1, 2005].

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

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

''(2) such modifications as the United States may agree to with Morocco regarding the staging of any duty treatment set forth in Annex IV of the Agreement,

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

''(4) such additional duties,

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

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Tariff Schedule of the United States to Annex IV of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

''(a) DEFINITIONS.—In this section:

''(1) AGRICULTURAL SAFEGUARD GOOD.—The term 'agricultural safeguard good' means a good—

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

''(B) that is included in the U.S. Agricultural Safeguard List set forth in Annex 3–A of the Agreement; and

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

''(2) APPLICABLE NTR (MFN) RATE OF DUTY.—The term 'applicable NTR (MFN) rate of duty' means, with respect to an agricultural safeguard good, a rate of duty that is the lesser of—

''(A) the column 1 general rate of duty that would have been imposed under the HTS on the same agricultural safeguard good entered, without a claim for preferential tariff treatment, on the date on which the additional duty is imposed under subsection (b); or

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

''(3) F.O.B.—The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

''(4) SCHEDULE RATE OF DUTY.—The term 'schedule rate of duty' means, with respect to an agricultural safeguard good, the rate of duty for that good set out in the Tariff Schedule of the United States to Annex IV of the Agreement.

''(5) TRIGGER PRICE.—The 'trigger price' for a good means the trigger price indicated for that good in the U.S. Agricultural Safeguard List set forth in Annex 3–A of the Agreement or any amendment thereto.

''(6) UNIT IMPORT PRICE.—The 'unit import price' of a good means the price of the good determined on the basis of the F.O.B. import price of the good, expressed in either dollars per kilogram or dollars per liter, whichever unit of measure is indicated for the good in the U.S. Agricultural Safeguard List set forth in Annex 3–A of the Agreement.

''(b) ADDITIONAL DUTIES ON AGRICULTURAL SAFEGUARD GOODS.—

''(1) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to paragraphs (3), (4), (5), and (6) of this subsection, the Secretary of the Treasury shall assess a duty on an agricultural safeguard good, in the amount determined under paragraph (2), if the Secretary determines that the unit import price of the good when it enters the United States is less than the trigger price for that good.

''(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty assessed under this subsection on an agricultural safeguard good shall be an amount determined in accordance with the following table:

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

''(3) EXCEPTIONS.—No additional duty shall be assessed on a good under this subsection if, at the time of entry, the good is subject to import relief under—

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

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

''(4) TERMINATION.—The assessment of an additional duty on a good under this subsection shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Tariff Schedule of the United States to Annex IV of the Agreement.

''(5) TARIFF-RATE QUOTAS.—If an agricultural safeguard good is subject to a tariff-rate quota under the Agreement, any additional duty assessed under this subsection shall be applied only to over-quota imports of the good.

''(6) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury assesses an additional duty on a good under this subsection, the Secretary shall notify the Government of Morocco in writing of such action and shall provide to the Government of Morocco data supporting the assessment of additional duties.

''SEC. 203. RULES OF ORIGIN.

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

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

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

''(b) ORIGINATING GOODS.—

''(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, a good is an originating good if—

''(A) the good is imported directly—

''(i) from the territory of Morocco into the territory of the United States; or

''(ii) from the territory of the United States into the territory of Morocco; and

''(B)(i) the good is a good wholly the growth, product, or manufacture of Morocco or the United States, or both;

''(ii) the good (other than a good to which clause (iii) applies) is a new or different article of commerce that has been grown, produced, or manufactured in Morocco, the United States, or both, and meets the requirements of paragraph (2); or

''(iii)(I) the good is a good covered by Annex 4–A or 5–A of the Agreement;

''(II)(aa) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in such Annex as a result of production occurring entirely in the territory of Morocco or the United States, or both; or

''(bb) the good otherwise satisfies the requirements specified in such Annex; and

''(III) the good satisfies all other applicable requirements of this section.

''(2) REQUIREMENTS.—A good described in paragraph (1)(B)(ii) is an originating good only if the sum of—

''(A) the value of each material produced in the territory of Morocco or the United States, or both, and

''(B) the direct costs of processing operations performed in the territory of Morocco or the United States, or both,

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

''(c) CUMULATION.—

''(1) ORIGINATING GOOD OR MATERIAL INCORPORATED INTO GOODS OF OTHER COUNTRY.—An originating good or a material produced in the territory of Morocco or the United States, or both, that is incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PROCEDURES.—A good that is grown, produced, or manufactured in the territory of Morocco or the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the value of a material produced in the territory of Morocco or the United States, or both, includes the following:

''(A) The price actually paid or payable for the material by the producer of such good.

''(B) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant, if such costs are not included in the price referred to in subparagraph (A).

''(C) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap.

''(D) Taxes or customs duties imposed on the material by Morocco, the United States, or both, if the taxes or customs duties are not remitted upon exportation from the territory of Morocco or the United States, as the case may be.

''(2) EXCEPTION.—If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of Morocco or the United States, or both, includes the following:

''(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses.

''(B) A reasonable amount for profit.

''(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

''(e) PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Packaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers have been included in meeting the requirements set forth in subsection (b)(2).

''(f) INDIRECT MATERIALS.—Indirect materials shall be disregarded in determining whether a good qualifies as an originating good, except that the cost of such indirect materials may be included in meeting the requirements set forth in subsection (b)(2).

''(g) TRANSIT AND TRANSSHIPMENT.—A good shall not be considered to meet the requirement of subsection (b)(1)(A) if, after exportation from the territory of Morocco or the United States, the good undergoes production, manufacturing, or any other operation outside the territory of Morocco or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of the United States or Morocco.

''(h) TEXTILE AND APPAREL GOODS.—

''(1) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

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

''(C) YARN, FABRIC, OR GROUP OF FIBERS.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the yarn, fabric, or group of fibers.

''(2) GOODS PUT UP IN SETS FOR RETAIL SALE.—Notwithstanding the rules set forth in Annex 4–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(i) DEFINITIONS.—In this section:

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

''(A) IN GENERAL.—The term 'direct costs of processing operations', with respect to a good, includes, to the extent they are includable in the appraised value of the good when imported into Morocco or the United States, as the case may be, the following:

''(i) All actual labor costs involved in the growth, production, or manufacture of the good, including fringe benefits, on-the-job training, and the costs of engineering, supervisory, quality control, and similar personnel.

''(ii) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the good.

''(iii) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the good.

''(iv) Costs of inspecting and testing the good.

''(v) Costs of packaging the good for export to the territory of the other country.

''(B) EXCEPTIONS.—The term 'direct costs of processing operations' does not include costs that are not directly attributable to a good or are not costs of growth, production, or manufacture of the good, such as—

''(i) profit; and

''(ii) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and sales staff salaries, commissions, or expenses.

''(2) GOOD.—The term 'good' means any merchandise, product, article, or material.

''(3) GOOD WHOLLY THE GROWTH, PRODUCT, OR MANUFACTURE OF MOROCCO, THE UNITED STATES, OR BOTH.—The term 'good wholly the growth, product, or manufacture of Morocco, the United States, or both' means—

''(A) a mineral good extracted in the territory of Morocco or the United States, or both;

''(B) a vegetable good, as such a good is provided for in the HTS, harvested in the territory of Morocco or the United States, or both;

''(C) a live animal born and raised in the territory of Morocco or the United States, or both;

''(D) a good obtained from live animals raised in the territory of Morocco or the United States, or both;

''(E) a good obtained from hunting, trapping, or fishing in the territory of Morocco or the United States, or both;

''(F) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Morocco or the United States and flying the flag of that country;

''(G) a good produced from goods referred to in subparagraph (F) on board factory ships registered or recorded with Morocco or the United States and flying the flag of that country;

''(H) a good taken by Morocco or the United States or a person of Morocco or the United States from the seabed or beneath the seabed outside territorial waters, if Morocco or the United States has rights to exploit such seabed;

''(I) a good taken from outer space, if such good is obtained by Morocco or the United States or a person of Morocco or the United States and not processed in the territory of a country other than Morocco or the United States;

''(J) waste and scrap derived from—

''(i) production or manufacture in the territory of Morocco or the United States, or both; or

''(ii) used goods collected in the territory of Morocco or the United States, or both, if such goods are fit only for the recovery of raw materials;

''(K) a recovered good derived in the territory of Morocco or the United States from used goods and utilized in the territory of that country in the production of remanufactured goods; and

''(L) a good produced in the territory of Morocco or the United States, or both, exclusively—

''(i) from goods referred to in subparagraphs (A) through (J), or

''(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

''(4) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment and buildings;

''(D) lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

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

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

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture.

''(5) MATERIAL.—The term 'material' means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in Morocco, the United States, or both.

''(6) MATERIAL PRODUCED IN THE TERRITORY OF MOROCCO OR THE UNITED STATES, OR BOTH.—The term 'material produced in the territory of Morocco or the United States, or both' means a good that is either wholly the growth, product, or manufacture of Morocco, the United States, or both, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of Morocco or the United States, or both.

''(7) NEW OR DIFFERENT ARTICLE OF COMMERCE.—

''(A) IN GENERAL.—The term 'new or different article of commerce' means, except as provided in subparagraph (B), a good that—

''(i) has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Morocco, the United States, or both; and

''(ii) has a new name, character, or use distinct from the good or material from which it was transformed.

''(B) EXCEPTION.—A good shall not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

''(8) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that result from—

''(A) the complete disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing of those parts that is necessary for improvement to sound working condition.

''(9) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good that is assembled in the territory of Morocco or the United States and that—

''(A) is entirely or partially comprised of recovered goods;

''(B) has a similar life expectancy to, and meets similar performance standards as, a like good that is new; and

''(C) enjoys a factory warranty similar to that of a like good that is new.

''(10) SIMPLE COMBINING OR PACKAGING OPERATIONS.—The term 'simple combining or packaging operations' means operations such as adding batteries to electronic devices, fitting together a small number of components by bolting, gluing, or soldering, or packing or repacking components together.

''(11) SUBSTANTIALLY TRANSFORMED.—The term 'substantially transformed' means, with respect to a good or material, changed as the result of a manufacturing or processing operation so that—

''(A)(i) the good or material is converted from a good that has multiple uses into a good or material that has limited uses;

''(ii) the physical properties of the good or material are changed to a significant extent; or

''(iii) the operation undergone by the good or material is complex by reason of the number of processes and materials involved and the time and level of skill required to perform those processes; and

''(B) the good or material loses its separate identity in the manufacturing or processing operation.

''(j) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

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

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Morocco pursuant to article 4.3.6 of the Agreement; and

''(ii) before the end of the 1-year period beginning on the date of the enactment of this Act [Aug. 17, 2004], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Morocco to conduct a verification pursuant to article 4.4 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

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

''(A) that an exporter or producer in Morocco is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

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

''(i) qualifies as an originating good under section 203 of this Act, or

''(ii) is a good of Morocco,

is accurate.

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

''(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

''(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

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

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

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

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

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''SEC. 205. REGULATIONS.

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

''(1) subsections (a) through (i) of section 203;

''(2) amendments to existing law made by the subsections referred to in paragraph (1); and

''(3) proclamations issued under section 203(j).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) MOROCCAN ARTICLE.—The term 'Moroccan article' means an article that qualifies as an originating good under section 203(b) of this Act or receives preferential tariff treatment under paragraphs 9 through 15 of article 4.3 of the Agreement.

''(2) MOROCCAN TEXTILE OR APPAREL ARTICLE.—The term 'Moroccan textile or apparel article' means an article that—

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

''(B) is a Moroccan article.

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

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

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—

''(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

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

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

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Moroccan article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Moroccan article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

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

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

''(2) Subsection (c).

''(3) Subsection (d).

''(4) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Moroccan article if, after the date on which the Agreement enters into force [July 1, 2005], import relief has been provided with respect to that Moroccan article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

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

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

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930) (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

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

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

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

''(c) NATURE OF RELIEF.—

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

''(A) The suspension of any further reduction provided for under Annex IV of the Agreement in the duty imposed on such article.

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

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

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [July 1, 2005].

''(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

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

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

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period in which the relief is in effect.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 3 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

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

''(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 5 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

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

''(1) is subject to an assessment of additional duty under section 202(b); or

''(2) has been subject to import relief under this subtitle after the date on which the Agreement enters into force [July 1, 2005].

"SEC. 314. TERMINATION OF RELIEF AUTHORITY.

"(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle with respect to a good after the date that is 5 years after the date on which duty-free treatment must be provided by the United States to that good pursuant to Annex IV of the Agreement.

"(b) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of a Moroccan article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Morocco has consented to such relief.

"SEC. 315. COMPENSATION AUTHORITY.

"For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

"SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

"SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

"SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

"(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

"(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

"SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

"(a) DETERMINATION.—

"(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Moroccan textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

"(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

"(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

"(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

"(b) PROVISION OF RELIEF.—

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

"(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

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

"(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [July 1, 2005].

"SEC. 323. PERIOD OF RELIEF.

"(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

"(b) EXTENSION.—

"(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 2 years, if the President determines that—

"(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

"(B) there is evidence that the industry is making a positive adjustment to import competition.

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

"SEC. 324. ARTICLES EXEMPT FROM RELIEF.

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

"(1) the article has been subject to import relief under this subtitle after the date on which the Agreement enters into force [July 1, 2005]; or

"(2) the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

"SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

"When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

"SEC. 326. TERMINATION OF RELIEF AUTHORITY.

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

"SEC. 327. COMPENSATION AUTHORITY.

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

"SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

"The President may not release information which is submitted in a proceeding under this subtitle and which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party also shall submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted."

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

UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–286, Aug. 3, 2004, 118 Stat. 919, provided that:

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

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Australia Free Trade Agreement Implementation Act'.

(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

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

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

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

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

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Australia Free Trade Agreement approved by Congress under section 101(a)(1).

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

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

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

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

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

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

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on July 6, 2004.

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

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

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

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

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

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

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

unless specifically provided for in this Act.

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

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

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

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

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

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

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

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

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Aug. 3, 2004]—

''(A) the President may proclaim such actions, and

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

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [Jan. 1, 2005] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

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

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force [Jan. 1, 2005] of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force [Jan. 1, 2005], initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

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

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

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

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

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

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

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

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

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2004 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 21 of the Agreement.

''SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force [Jan. 1, 2005].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Aug. 3, 2004].

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

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

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

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

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

''(3) such additional duties,

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

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

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

''(2) such modifications as the United States may agree to with Australia regarding the staging of any duty treatment set forth in Annex 2–B of the Agreement,

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

''(4) such additional duties,

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

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 2–B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

''(a) GENERAL PROVISIONS.—

''(1) APPLICABILITY OF SUBSECTION.—This subsection applies to additional duties assessed under subsections (b), (c), and (d).

''(2) APPLICABLE NTR (MFN) RATE OF DUTY.—For purposes of subsections (b), (c), and (d), the term 'applicable NTR (MFN) rate of duty' means, with respect to a safeguard good, a rate of duty that is the lesser of—

''(A) the column 1 general rate of duty that would have been imposed under the HTS on the same safeguard good entered, without a claim for preferential treatment, at the time the additional duty is imposed under subsection (b), (c), or (d), as the case may be; or

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

''(3) SCHEDULE RATE OF DUTY.—For purposes of subsections (b) and (c), the term 'schedule rate of duty' means, with respect to a safeguard good, the rate of duty for that good set out in the Schedule of the United States to Annex 2–B of the Agreement.

''(4) SAFEGUARD GOOD.—In this subsection, the term 'safeguard good' means—

''(A) a horticulture safeguard good described [in] subsection (b)(1)(B); or

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

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

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

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

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

''(7) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury assesses an additional duty on a good under subsection (b), (c), or (d), the Secretary shall notify the Government of Australia in writing of such action and shall provide to that Government data supporting the assessment of the additional duty.

''(b) ADDITIONAL DUTIES ON HORTICULTURE SAFEGUARD GOODS.—

''(1) DEFINITIONS.—In this subsection:

''(A) F.O.B.—The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

''(B) HORTICULTURE SAFEGUARD GOOD.—The term 'horticulture safeguard good' means a good—

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

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

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

''(C) UNIT IMPORT PRICE.—The 'unit import price' of a good means the price of the good determined on the basis of the F.O.B. import price of the good, expressed in either dollars per kilogram or dollars per liter, whichever unit of measure is indicated for the good in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement.

''(D) TRIGGER PRICE.—The 'trigger price' for a good is the trigger price indicated for that good in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement or any amendment thereto.

''(2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section, the Secretary of the Treasury shall assess a duty on a horticulture safeguard good, in the amount determined under paragraph (3), if the Secretary determines that the unit import price of the good when it enters the United States is less than the trigger price for that good.

''(3) CALCULATION OF ADDITIONAL DUTY.—The additional duty assessed under this subsection on a horticulture safeguard good shall be an amount determined in accordance with the following table:

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

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

''(1) DEFINITION.—In this subsection, the term 'beef safeguard good' means a good—

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

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

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

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

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

''(4) WAIVER.—

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

''(B) NOTICE AND CONSULTATIONS.—Promptly after receiving a request for a waiver of this subsection, the Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and may make the determination provided for in subparagraph (A) only after consulting with—

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

''(ii) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding—

''(I) the reasons supporting the determination to grant the waiver; and

''(II) the proposed scope and duration of the waiver.

''(C) NOTIFICATION OF THE SECRETARY OF THE TREASURY AND PUBLICATION.—Upon granting a waiver under this paragraph, the Trade Representative shall promptly notify the Secretary of the Treasury of the period in which the waiver will be in effect, and shall publish notice of the waiver in the Federal Register.

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

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

''(1) DEFINITIONS.—In this subsection:

''(A) BEEF SAFEGUARD GOOD.—The term 'beef safeguard good' means a good—

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

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

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

''(B) CALENDAR QUARTER.—

''(i) IN GENERAL.—The term 'calendar quarter' means any 3-month period beginning on January 1, April 1, July 1, or October 1 of a calendar year.

''(ii) FIRST CALENDAR QUARTER.—The term 'first calendar quarter' means the calendar quarter beginning on January 1.

''(iii) SECOND CALENDAR QUARTER.—The term 'second calendar quarter' means the calendar quarter beginning on April 1.

''(iv) THIRD CALENDAR QUARTER.—The term 'third calendar quarter' means the calendar quarter beginning on July 1.

''(v) FOURTH CALENDAR QUARTER.—The term 'fourth calendar quarter' means the calendar quarter beginning on October 1.

''(C) MONTHLY AVERAGE INDEX PRICE.—The term 'monthly average index price' means the simple average, as determined by the Secretary of Agriculture, for a calendar month of the daily average index prices for Wholesale Boxed Beef Cut-Out Value Select 1–3 Central U.S. 600–750 lbs., or its equivalent, as such simple average is reported by the Agricultural Marketing Service of the Department of Agriculture in Report LM–XB459 or any equivalent report.

''(D) 24-MONTH TRIGGER PRICE.—The term '24-month trigger price' means, with respect to any calendar month, the average of the monthly average index prices for the 24 preceding calendar months, multiplied by 0.935.

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

''(A)(i) the good is imported in the first calendar quarter, second calendar quarter, or third calendar quarter of a calendar year; and

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

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

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

''(II) the monthly average index price, in any of the 4 calendar months preceding January 1 of the succeeding calendar year, is less than the 24-month trigger price.

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

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

''(A) the quantity of goods of Australia eligible to enter the United States in that year specified in Additional United States Note 3 to Chapter 2 of the HTS; and

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

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

''(5) WAIVER.—

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

''(B) NOTICE AND CONSULTATIONS.—Promptly after receiving a request for a waiver of this subsection, the Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and may make the determination provided for in subparagraph (A) only after consulting with—

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

''(ii) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding—

''(I) the reasons supporting the determination to grant the waiver; and

''(II) the proposed scope and duration of the waiver.

''(C) NOTIFICATION OF THE SECRETARY OF THE TREASURY AND PUBLICATION.—Upon granting a waiver under this paragraph, the Trade Representative shall promptly notify the Secretary of the Treasury of the period in which the waiver will be in effect, and shall publish notice of the waiver in the Federal Register.

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

''SEC. 203. RULES OF ORIGIN.

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

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

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or subheading, such reference shall be a reference to a heading or subheading of the HTS.

''(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Australia or the United States).

''(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential treatment provided for under the Agreement, a good is an originating good if—

''(1) the good is a good wholly obtained or produced entirely in the territory of Australia, the United States, or both;

''(2) the good—

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

''(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4–A or Annex 5–A of the Agreement;

''(ii) the good otherwise satisfies any applicable regional value-content requirement referred to in Annex 5–A of the Agreement; or

''(iii) the good meets any other requirements specified in Annex 4–A or Annex 5–A of the Agreement; and

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

''(3) the good is produced entirely in the territory of Australia, the United States, or both, exclusively from materials described in paragraph (1) or (2); or

''(4) the good otherwise qualifies as an originating good under this section.

''(c) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 5–A of the Agreement is an originating good if—

''(A) the value of all nonoriginating materials that—

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

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

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

''(B) the good meets all other applicable requirements of this section; and

''(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

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

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

''(B) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 that is used in the production of a good provided for in subheading 1901.10, 1901.20, or 1901.90, heading 2105, or subheading 2106.90, 2202.90, or 2309.90.

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

''(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, or in heading 1512, 1514, or 1515.

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

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

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

''(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) TEXTILE AND APPAREL GOODS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

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

''(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the yarn, fabric, or group of fibers.

''(d) ACCUMULATION.—

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

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

''(e) REGIONAL VALUE-CONTENT.—

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

''(2) BUILD-DOWN METHOD.—

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

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

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

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

''(3) BUILD-UP METHOD.—

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

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

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

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

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

''(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

''(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 5–A of the Agreement shall be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

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

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

''(i) AUTOMOTIVE GOOD.—The term 'automotive good' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

''(ii) RVC.—The term 'RVC' means the regional value-content of the automotive good, expressed as a percentage.

''(iii) NC.—The term 'NC' means the net cost of the automotive good.

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

''(C) MOTOR VEHICLES.—

''(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer's fiscal year—

''(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

''(II) with respect to all motor vehicles in any such category that are exported to the territory of the United States or Australia.

''(ii) CATEGORIES.—A category is described in this clause if it—

''(I) is the same model line of motor vehicles, is in the same class of vehicles, and is produced in the same plant in the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated;

''(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

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

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

''(i) average the amounts calculated under the formula contained in subparagraph (A) over—

''(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

''(II) any quarter or month, or

''(III) its own fiscal year,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

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

''(iii) make a separate determination under clause (i) or (ii) for automotive goods that are exported to the territory of the United States or Australia.

''(E) CALCULATING NET COST.—Consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, the net cost of the automotive good under subparagraph (B) shall be calculated by—

''(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

''(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

''(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

''(f) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (e), and for purposes of applying the de minimis rules under subsection (c), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation; or

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

''(i) all expenses incurred in the production of the material, including general expenses; and

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

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

''(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Australia, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Australia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

''(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Australia, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Australia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

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

''(v) The cost of originating materials used in the production of the nonoriginating material in the territory of Australia, the United States, or both.

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

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

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

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 5–A of the Agreement.

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

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

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

''(C) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(h) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Australia or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of that person.

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

''(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether—

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

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

''(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced, and its value shall be the cost registered in the accounting records of the producer of the good.

''(*l*) THIRD COUNTRY OPERATIONS.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territory of Australia or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Australia or the United States.

''(m) TEXTILE AND APPAREL GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined under Articles 1 through 8, Article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the good from the country of exportation to the place of importation.

''(2) CLASS OF MOTOR VEHICLES.—The term 'class of motor vehicles' means any one of the following categories of motor vehicles:

''(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

''(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

''(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

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

''(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term 'fungible good' or 'fungible material' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

''(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles' means the recognized consensus or substantial authoritative support in the territory of Australia or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

''(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF AUSTRALIA, THE UNITED STATES, OR BOTH.—The term 'good wholly obtained or produced entirely in the territory of Australia, the United States, or both' means—

''(A) a mineral good extracted in the territory of Australia, the United States, or both;

''(B) a vegetable good, as such goods are provided for in the HTS, harvested in the territory of Australia, the United States, or both;

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

''(D) a good obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Australia, the United States, or both;

''(E) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Australia or the United States and flying the flag of that country;

''(F) a good produced exclusively from products referred to in subparagraph (E) on board factory ships registered or recorded with Australia or the United States and flying the flag of that country;

''(G) a good taken by Australia or the United States or a person of Australia or the United States from the seabed or beneath the seabed outside territorial waters, if Australia or the United States has rights to exploit such seabed;

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

''(I) waste and scrap derived from—

''(i) production in the territory of Australia, the United States, or both; or

''(ii) used goods collected in the territory of Australia, the United States, or both, if such goods are fit only for the recovery of raw materials;

''(J) a recovered good derived in the territory of Australia or the United States from goods that have passed their life expectancy, or are no longer usable due to defects, and utilized in the territory of that country in the production of remanufactured goods; or

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

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

''(ii) from the derivatives of goods referred to in clause (i), at any stage of production.

''(6) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

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

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

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

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

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

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

''(8) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means an originating material that is produced by a producer of a good and used in the production of that good.

''(9) MODEL LINE.—The term 'model line' means a group of motor vehicles having the same platform or model name.

''(10) NONALLOWABLE INTEREST COSTS.—The term 'nonallowable interest costs' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country (whether Australia or the United States).

''(11) NONORIGINATING MATERIAL.—The term 'nonoriginating material' means a material that does not qualify as originating under this section.

''(12) PREFERENTIAL TREATMENT.—The term 'preferential treatment' means the customs duty rate, and the treatment under article 2.12 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

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

''(14) PRODUCTION.—The term 'production' means growing, raising, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(15) REASONABLY ALLOCATE.—The term 'reasonably allocate' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

''(16) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that result from—

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

''(B) the cleaning, inspecting, or testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

''(17) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good that is assembled in the territory of Australia or the United States, that is classified under chapter 84, 85, or 87 of the HTS or heading 9026, 9031, or 9032, other than a good classified under heading 8418 or 8516 or any of headings 8701 through 8706, and that—

''(A) is entirely or partially comprised of recovered goods;

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

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

''(18) TOTAL COST.—The term 'total cost' means all product costs, period costs, and other costs for a good incurred in the territory of Australia, the United States, or both.

''(19) USED.—The term 'used' means used or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

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

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Australia pursuant to article 4.2.5 of the Agreement; and

''(ii) before the end of the 1-year period beginning on the date of the enactment of this Act [Aug. 3, 2004], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''SEC. 204. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 205. DISCLOSURE OF INCORRECT INFORMATION.

[Amended section 1592 of this title.]

''SEC. 206. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Australia to conduct a verification pursuant to article 4.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

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

''(A) that an exporter or producer in Australia is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

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

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

''(ii) is a good of Australia,

is accurate.

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

''(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

''(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

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

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

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

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

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

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

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

''SEC. 207. REGULATIONS.

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

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

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

''(3) proclamations issued under section 203(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''As used in this title:

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

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

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

''(B) that is an Australian article.

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

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

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—

''(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

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

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

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, an Australian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Australian article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

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

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

''(2) Subsection (c).

''(3) Subsection (d).

''(4) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Australian article if, after the date on which the Agreement enters into force [Jan. 1, 2005], import relief has been provided with respect to that Australian article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

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

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

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930) [sic] (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

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

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

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

''(c) NATURE OF RELIEF.—

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

''(A) The suspension of any further reduction provided for under Annex 2–B of the Agreement in the duty imposed on such article.

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

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

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2005].

''(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

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

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

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 9.2.7 of the Agreement) of such relief at regular intervals during the period in which the relief is in effect.

''(d) PERIOD OF RELIEF.—

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

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

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

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

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

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

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 2–B of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the provision of relief under subsection (a); and

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

''(A) the applicable NTR (MFN) rate of duty for that article set out in the Schedule of the United States to Annex 2–B of the Agreement; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the Schedule of the United States to Annex 2–B of the Agreement for the elimination of the tariff.

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

''(1) is subject to—

''(A) import relief under subtitle B; or

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

''(2) has been subject to import relief under this subtitle after the date on which the Agreement enters into force [Jan. 1, 2005].

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 2005].

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

''(c) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of an Australian article after the date on which such relief would, but for this subsection, terminate under subsection (a) or (b), if the President determines that Australia has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

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

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

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

''(c) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(c), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, an Australian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

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

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

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

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2005].

''(c) CRITICAL CIRCUMSTANCES.—

''(1) PRESIDENTIAL DETERMINATION.—When a request filed under section 321(a) contains an allegation of critical circumstances and a request for provisional relief under section 321(b), the President shall, not later than 60 days after the request is filed, determine, on the basis of available information, whether—

''(A) there is clear evidence that—

''(i) imports from Australia have increased as the result of the reduction or elimination of a customs duty under the Agreement; and

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

''(B) delay in taking action under this subtitle would cause damage to that industry that would be difficult to repair.

''(2) EXTENT OF PROVISIONAL RELIEF.—If the determinations under subparagraphs (A) and (B) of paragraph (1) are affirmative, the President shall determine the extent of provisional relief that is necessary to remedy or prevent the serious damage. The nature of the provisional relief available shall be the relief described in subsection (b)(2). Within 30 days after making affirmative determinations under subparagraphs (A) and (B) of paragraph (1), the President, if the President considers provisional relief to be warranted, shall provide, for a period not to exceed 200 days, such provisional relief that the President considers necessary to remedy or prevent the serious damage.

''(3) SUSPENSION OF LIQUIDATION.—If provisional relief is provided under paragraph (2), the President shall order the suspension of liquidation of all imported articles subject to the affirmative determinations under subparagraphs (A) and (B) of paragraph (1) that are entered, or withdrawn from warehouse for consumption, on or after the date of the determinations.

''(4) TERMINATION OF PROVISIONAL RELIEF.—

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

''(i) the President makes a negative determination under subsection (a) regarding serious damage or actual threat thereof by imports of such article;

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

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

''(iv) the President determines that, because of changed circumstances, such relief is no longer warranted.

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

''(C) RATES OF DUTY.—If an increase in, or the imposition of, a duty that is provided under subsection (b) on an imported article is different from a duty increase or imposition that was provided for such an article under this subsection, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.

"(D) RATE OF DUTY IF PROVISIONAL RELIEF.—If provisional relief is provided under this subsection with respect to an imported article and neither a duty increase nor a duty imposition is provided under subsection (b) for such article, the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at the rate of duty that applied before the provisional relief was provided.

"SEC. 323. PERIOD OF RELIEF.

"(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under subsections (b) and (c) of section 322 may not, in the aggregate, be in effect for more than 2 years.

"(b) EXTENSION.—

"(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 2 years, if the President determines that—

"(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

"(B) there is evidence that the industry is making a positive adjustment to import competition.

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

"SEC. 324. ARTICLES EXEMPT FROM RELIEF.

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

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

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

"(A) subtitle A; or

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

"SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

"When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

"SEC. 326. TERMINATION OF RELIEF AUTHORITY.

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

"SEC. 327. COMPENSATION AUTHORITY.

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

"SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

"The President may not release information which is submitted in a proceeding under this subtitle and which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party also shall submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

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

"SEC. 331. FINDINGS AND ACTION ON GOODS FROM AUSTRALIA.

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

"(b) PRESIDENTIAL DETERMINATION REGARDING AUSTRALIAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the President shall determine whether imports from Australia are a substantial cause of the serious injury or threat thereof found by the Commission and, if such determination is in the negative, may exclude from such action imports from Australia.

"TITLE IV—PROCUREMENT

"SEC. 401. ELIGIBLE PRODUCTS."

[Amended section 2518 of this title.]

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

[Proc. No. 7857, Dec. 20, 2004, 69 F.R. 77136, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Australia Free Trade Agreement Implementation Act (USAFTA Act) (Pub. L. 108–286, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 206 of the USAFTA Act to exclude textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of and capability to produce goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; and in par. (6) that the CITA is authorized to exercise the authority of the President under sections 321–328 of the USAFTA Act to review requests, including allegations of critical circumstances, and to determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of an Australian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination, and if critical circumstances are alleged, to determine whether there is clear evidence that imports from Australia have increased as the result of the reduction or elimination of a customs duty under the United States-Australia Free Trade Agreement, whether there is clear evidence that such imports are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and whether delay in taking action would cause damage to that industry that would be difficult to repair, and to provide provisional relief with respect to imports that are subject to an affirmative determination of critical circumstances that is necessary to remedy or prevent the serious damage.]

UNITED STATES-SINGAPORE FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–78, Sept. 3, 2003, 117 Stat. 948, provided that:

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

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Singapore Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and the Republic of Singapore entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 [19 U.S.C. 3803(b)];

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

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

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

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Singapore Free Trade Agreement approved by Congress under section 101(a).

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

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

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

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

''(1) the United States-Singapore Free Trade Agreement entered into on May 6, 2003, with the Government of Singapore and submitted to Congress on July 15, 2003; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on July 15, 2003.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Singapore has taken measures necessary to bring it into compliance with those provisions of the Agreement that take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Singapore providing for the entry into force, on or after January 1, 2004, of the Agreement for the United States.

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

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

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

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

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

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

unless specifically provided for in this Act.

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

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

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

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

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

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

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

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

''SEC. 103. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

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

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

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

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

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

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

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

''(3) a period of 60 calendar days beginning on the first day on which the requirements of paragraphs (1) and (2) have been met has expired; and

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

''(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''SEC. 104. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of enactment of this Act [Sept. 3, 2003]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations—

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [Jan. 1, 2004] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

''(2) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in section 103(b) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement [Jan. 1, 2004]. In the case of any implementing action that takes effect on a date after the date of entry into force of the Agreement, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. Such office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2003 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

''SEC. 106. ARBITRATION OF CERTAIN CLAIMS.

''(a) SUBMISSION OF CERTAIN CLAIMS.—The United States is authorized to resolve any claim against the United States covered by article 15.15.1(a)(i)(C) or article 15.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section C of chapter 15 of the Agreement.

''(b) CONTRACT CLAUSES.—All contracts executed by any agency of the United States on or after the date of entry into force of the Agreement [Jan. 1, 2004] shall contain a clause specifying the law that will apply to resolve any breach of contract claim.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force [Jan. 1, 2004].

''(b) EXCEPTIONS.—

''(1) Sections 1 through 3 and this title take effect on the date of enactment of this Act [Sept. 3, 2003].

''(2) Section 205 takes effect on the date on which the textile and apparel provisions of the Agreement take effect pursuant to article 5.10 of the Agreement.

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

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

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

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

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

''(3) such additional duties—

as the President determines to be necessary or appropriate to carry out or apply articles 2.2, 2.5, 2.6, and 2.12 and Annex 2B of the Agreement.

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim—

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

''(2) such modifications as the United States may agree to with Singapore regarding the staging of any duty treatment set forth in Annex 2B of the Agreement,

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

''(4) such additional duties—

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

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States set forth in Annex 2B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. RULES OF ORIGIN.

''(a) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(1) the good is wholly obtained or produced entirely in the territory of Singapore, the United States, or both;

''(2) each nonoriginating material used in the production of the good—

''(A) undergoes an applicable change in tariff classification set out in Annex 3A of the Agreement as a result of production occurring entirely in the territory of Singapore, the United States, or both; or

''(B) if no change in tariff classification is required, the good otherwise satisfies the applicable requirements of such Annex; or

''(3) the good itself, as imported, is listed in Annex 3B of the Agreement and is imported into the territory of the United States from the territory of Singapore.

''(b) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided for in paragraphs (2) and (3), a good shall be considered to be an originating good if—

''(A) the value of all nonoriginating materials used in the production of the good that do not undergo the required change in tariff classification under Annex 3A of the Agreement does not exceed 10 percent of the adjusted value of the good;

''(B) if the good is subject to a regional value-content requirement, the value of such nonoriginating materials is taken into account in calculating the regional value-content of the good; and

''(C) the good satisfies all other applicable requirements of this section.

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

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

''(B) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 of the HTS that is used in the production of a good provided for in heading 2105 or in any of subheadings 1901.10, 1901.20, 1901.90, 2106.90, 2202.90, and 2309.90 of the HTS.

''(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11.00 through 2009.39, of the HTS, that is used in the production of a good provided for in any of subheadings 2009.11.00 through 2009.39 or in subheading 2106.90 or 2202.90 of the HTS.

''(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, 1512, 1514, and 1515 of the HTS.

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

''(F) A nonoriginating material provided for in chapter 17 of the HTS or heading 1805.00.00 of the

HTS that is used in the production of a good provided for in subheading 1806.10 of the HTS.

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

''(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) GOODS PROVIDED FOR IN CHAPTERS 50 THROUGH 63 OF THE HTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a good provided for in any of chapters 50 through 63 of the HTS that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—

''(i) TREATMENT AS ORIGINATING GOOD.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Singapore or the United States.

''(ii) DEFINITION OF TEXTILE OR APPAREL GOOD.—For purposes of this subparagraph, the term 'textile or apparel good' means a product listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''(c) ACCUMULATION.—

''(1) ORIGINATING GOODS INCORPORATED IN GOODS OF OTHER COUNTRY.—Originating materials from the territory of either Singapore or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of Singapore, the United States, or both, by 1 or more producers is an originating good if the good satisfies the requirements of subsection (a) and all other applicable requirements of this section.

''(d) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (a)(2), the regional value-content of a good referred to in Annex 3A of the Agreement shall be calculated, at the choice of the person claiming preferential tariff treatment for the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3), unless otherwise provided in Annex 3A of the Agreement.

''(2) BUILD-DOWN METHOD.—

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

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

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good.

''(3) BUILD-UP METHOD.—

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

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

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VOM' means the value of originating materials that are acquired or self-produced and are used by the producer in the production of the good.

''(e) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For purposes of calculating the regional value-content of a good under subsection (d), and for purposes of applying the de minimis rules under subsection (b), the value of a material is—

''(A) in the case of a material imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, except for a material to which subparagraph (C) applies, the adjusted value of the material; or

''(C) in the case of a material that is self-produced, or in a case in which the relationship between the producer of the good and the seller of the material influenced the price actually paid or payable for the material, including a material obtained without charge, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit.

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

''(A) ORIGINATING MATERIALS.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

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

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Singapore, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproduct.

''(B) NONORIGINATING MATERIALS.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

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

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Singapore, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproduct.

''(iv) The cost of processing incurred in the territory of Singapore or the United States in the production of the nonoriginating material.

''(v) The cost of originating materials used in the production of the nonoriginating material in the territory of Singapore or the United States.

''(f) ACCESSORIES, SPARE PARTS, OR TOOLS.—

''(1) IN GENERAL.—Subject to paragraph (2), accessories, spare parts, or tools delivered with the good that form part of the good's standard accessories, spare parts, or tools shall—

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

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 3A of the Agreement.

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

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

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

''(C) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming preferential tariff treatment for a good may claim that a fungible good or material is originating either based on the physical segregation of each fungible good or material or by using an inventory management method.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Singapore or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for particular fungible goods or materials shall continue to use that method for those fungible goods or materials throughout the fiscal year of that person.

''(h) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 3A of the Agreement and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether—

''(1) the nonoriginating materials used in the production of a good undergo an applicable change in tariff classification set out in Annex 3A of the Agreement; and

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

''(j) INDIRECT MATERIALS.—An indirect material shall be considered to be an originating material without regard to where it is produced, and its value shall be the cost registered in the accounting records of the producer of the good.

''(k) THIRD COUNTRY OPERATIONS.—A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of subsection (a) if, subsequent to that production, the good undergoes further production or any other operation outside the territories of Singapore and the United States, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of Singapore or the United States.

''(*l*) SPECIAL RULE FOR APPAREL GOODS LISTED IN CHAPTER 61 OR 62 OF THE HTS.—

''(1) IN GENERAL.—An apparel good listed in chapter 61 or 62 of the HTS shall be considered to be an originating good if it is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore, the United States, or both, from fabric or yarn, regardless of origin, designated in the manner described in paragraph (2) as fabric or yarn not available in commercial quantities in a timely manner in the United States.

''(2) DESIGNATION OF CERTAIN FABRIC AND YARN.—The designation referred to in paragraph (1) means a designation made in a notice published in the Federal Register on or before November 15, 2002, identifying apparel goods made from fabric or yarn eligible for entry into the United States under subheading 9819.11.24 or 9820.11.27 of the HTS. For purposes of this subsection, a reference in the notice to fabric or yarn formed in the United States is deemed to include fabric or yarn formed in Singapore.

''(m) APPLICATION AND INTERPRETATION.—In this section:

''(1) The basis for any tariff classification is the HTS.

''(2) Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Singapore or the United States).

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value of a good determined under articles 1 through 8, article 15, and the corresponding interpretative notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], except that such value may be adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the good from the country of exportation to the place of importation.

''(2) FUNGIBLE GOODS AND FUNGIBLE MATERIALS.—The terms 'fungible goods' and 'fungible materials' mean goods or materials, as the case may be, that are interchangeable for commercial purposes and the properties of which are essentially identical.

''(3) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles' means the recognized consensus or substantial authoritative support in the territory of Singapore or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, and assets and liabilities, the disclosure of information, and the preparation of financial statements. The standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

''(4) GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF SINGAPORE, THE UNITED STATES, OR BOTH.—The term 'goods wholly obtained or produced entirely in the territory of Singapore, the United States, or both' means—

''(A) mineral goods extracted in the territory of Singapore, the United States, or both;

''(B) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of Singapore, the United States, or both;

''(C) live animals born and raised in the territory of Singapore, the United States, or both;

''(D) goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Singapore, the United States, or both;

''(E) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Singapore or the United States and flying the flag of that country;

''(F) goods produced exclusively from products referred to in subparagraph (E) on board factory ships registered or recorded with Singapore or the United States and flying the flag of that country;

''(G) goods taken by Singapore or the United States, or a person of Singapore or the United States, from the seabed or beneath the seabed outside territorial waters, if Singapore or the United States has rights to exploit such seabed;

''(H) goods taken from outer space, if the goods are obtained by Singapore or the United States or a person of Singapore or the United States and not processed in the territory of a country other than Singapore or the United States;

''(I) waste and scrap derived from—

''(i) production in the territory of Singapore, the United States, or both; or

''(ii) used goods collected in the territory of Singapore, the United States, or both, if such goods are fit only for the recovery of raw materials;

''(J) recovered goods derived in the territory of Singapore, the United States, or both, from used goods; or

''(K) goods produced in the territory of Singapore, the United States, or both, exclusively—

''(i) from goods referred to in any of subparagraphs (A) through (I); or

''(ii) from the derivatives of goods referred to in clause (i).

''(5) HARMONIZED SYSTEM.—The term 'Harmonized System' means the Harmonized Commodity Description and Coding System.

''(6) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

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

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

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

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

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

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

''(8) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means a material, such as a part or ingredient, produced by a producer of a good and used by the producer in the production of another good.

''(9) NONORIGINATING MATERIAL.—The term 'nonoriginating material' means a material that does not qualify as an originating good under the rules set out in this section.

''(10) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs duty rate that is applicable to an originating good pursuant to chapter 2 of the Agreement.

''(11) PRODUCER.—The term 'producer' means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles, or disassembles a good.

''(12) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(13) RECOVERED GOODS.—

''(A) IN GENERAL.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

''(i) the complete disassembly of used goods into individual parts; and

''(ii) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition by one or more of the processes described in subparagraph (B), in order for such parts to be assembled with other parts, including other parts that have undergone the processes described in this paragraph, in the production of a remanufactured good described in Annex 3C of the Agreement.

''(B) PROCESSES.—The processes referred to in subparagraph (A)(ii) are welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding.

''(14) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good assembled in the territory of Singapore or the United States, that is listed in Annex 3C of the Agreement, and—

''(A) is entirely or partially comprised of recovered goods;

''(B) has the same life expectancy and meets the same performance standards as a new good; and

''(C) enjoys the same factory warranty as such a new good.

''(15) TERRITORY.—The term 'territory' has the meaning given that term in Annex 1A of the Agreement.

''(16) USED.—The term 'used' means used or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

''(A) the provisions set out in Annexes 3A, 3B, and 3C of the Agreement; and

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

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than—

''(i) the provisions of Annex 3B of the Agreement; and

''(ii) provisions of chapters 50 through 63 of the HTS, as included in Annex 3A of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 103(a), the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) that are necessary to implement an agreement with Singapore pursuant to article 3.18.4(c) of the Agreement; and

''(ii) before the 1st anniversary of the date of enactment of this Act [Sept. 3, 2003], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 3A of the Agreement.

''SEC. 203. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 204. DISCLOSURE OF INCORRECT INFORMATION.

[Amended section 1592 of this title.]

''SEC. 205. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) DENIAL OF PERMISSION TO CONDUCT SITE VISITS.—

''(1) IN GENERAL.—Subject to paragraph (2), if the Secretary of the Treasury proposes to conduct a site visit at an enterprise registered under article 5.3 of the Agreement, and responsible officials of the enterprise do not consent to the proposed visit, the President may exclude from the customs territory of the United States textile and apparel goods produced or exported by that enterprise.

''(2) TERMINATION OF EXCLUSION.—An exclusion of textile and apparel goods produced or exported by an enterprise under paragraph (1) shall terminate when the President determines that the enterprise's production of, and capability to produce, the goods are consistent with statements by the enterprise that textile or apparel goods the enterprise produces or has produced are originating goods or products of Singapore, as the case may be.

''(b) KNOWING OR WILLFUL CIRCUMVENTION.—

''(1) IN GENERAL.—If the President finds that an enterprise of Singapore has knowingly or willfully engaged in circumvention, the President may exclude from the customs territory of the United States textile and apparel goods produced or exported by the enterprise. An exclusion under this paragraph may be imposed on the date beginning on the date a finding of knowing or willful circumvention is made and shall be in effect for a period not longer than the applicable period described in paragraph (2).

''(2) TIME PERIODS.—

''(A) FIRST FINDING.—With respect to a first finding under paragraph (1), the applicable period is 6 months.

''(B) SECOND FINDING.—With respect to a second finding under paragraph (1), the applicable period is 2 years.

''(C) THIRD AND SUBSEQUENT FINDING.—With respect to a third or subsequent finding under paragraph (1), the applicable period is 2 years. If, at the time of a third or subsequent finding, an exclusion is in effect as a result of a previous finding, the 2-year period applicable to the third or subsequent finding shall begin on the day after the day on which the previous exclusion terminates.

''(c) CERTAIN OTHER INSTANCES OF CIRCUMVENTION.—If the President consults with Singapore pursuant to article 5.8 of the Agreement, the consultations fail to result in a mutually satisfactory solution to the matters at issue, and the President presents to Singapore clear evidence of circumvention under the Agreement, the President may—

''(1) deny preferential tariff treatment to the goods involved in the circumvention; and

''(2) deny preferential tariff treatment, for a period not to exceed 4 years from the date on which consultations pursuant to article 5.8 of the Agreement conclude, to—

''(A) textile and apparel goods produced by the enterprise found to have engaged in the circumvention, including any successor of such enterprise; and

''(B) textile and apparel goods produced by any other entity owned or operated by a principal of the enterprise, if the principal also is a principal of the other entity.

''(d) DEFINITIONS.—In this section:

''(1) GENERAL DEFINITIONS.—The terms 'circumvention', 'preferential tariff treatment', 'principal', and 'textile and apparel goods' have the meanings given such terms in chapter 5 of the Agreement.

''(2) ENTERPRISE.—The term 'enterprise' has the meaning given that term in article 1.2.3 of the Agreement.

''SEC. 206. REGULATIONS.

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

''(1) subsections (a) through (n) of section 202, and section 203;

''(2) amendments made by the sections referred to in paragraph (1); and

''(3) proclamations issued under section 202(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

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

''(2) SINGAPOREAN ARTICLE.—The term 'Singaporean article' means an article that qualifies as an originating good under section 202(a) of this Act.

''(3) SINGAPOREAN TEXTILE OR APPAREL ARTICLE.—The term 'Singaporean textile or apparel article' means an article—

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

''(B) that is a Singaporean article.

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

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—

''(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

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

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

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Singaporean article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Singaporean article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

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

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

''(2) Subsection (c).

''(3) Subsection (d).

''(4) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Singaporean article if, after the date that the Agreement enters into force [Jan. 1, 2004], import relief has been provided with respect to that Singaporean article under—

''(1) this subtitle;

''(2) subtitle B;

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

''(4) article 6 of the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); or

''(5) article 5 of the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

''SEC. 312. COMMISSION ACTION ON PETITION.

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

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

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

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

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

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

''(c) NATURE OF RELIEF.—

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

''(A) The suspension of any further reduction provided for under Annex 2B of the Agreement in the duty imposed on such article.

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

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

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

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

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

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 7.28 of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), the import relief that the President is authorized to provide under this section may not exceed 2 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

''(i) the import relief continues to be necessary to prevent or remedy serious injury and to facilitate adjustment; and

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

''(B) ACTION BY COMMISSION.—

''(i) Upon a petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—The effective period of any import relief imposed under this section, including any extensions thereof, may not, in the aggregate, exceed 4 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that has been subject to import relief, after the entry into force of the Agreement [Jan. 1, 2004], under—

''(1) this subtitle;

''(2) subtitle B;

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

''(4) article 6 of the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); or

''(5) article 5 of the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—No import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''(b) EXCEPTION.—Import relief may be provided under this subtitle in the case of a Singaporean article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Singapore has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—Pursuant to a request made by an interested party, the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Singaporean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions that imports of the article constitute a substantial cause of serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(3) SUBSTANTIAL CAUSE.—For purposes of this subsection, the term 'substantial cause' means a cause that is important and not less than any other cause.

''(b) PROVISION OF RELIEF.—

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

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is—

''(A) the suspension of any further reduction provided for under Annex 2B of the Agreement in the duty imposed on the article; or

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

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

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), the import relief that the President is authorized to provide under section 322 may not exceed 2 years.

''(b) EXTENSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle if the President determines that—

''(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment; and

''(B) there is evidence that the industry is making a positive adjustment to import competition.

''(2) LIMITATION.—The effective period of any action under this subtitle, including any extensions thereof, may not, in the aggregate, exceed 4 years.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if import relief previously has been provided under this subtitle with respect to that article.

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to an article after the date that is 10 years after the date on which the provisions of the Agreement relating to trade in textile and apparel goods take effect pursuant to article 5.10 of the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

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

''SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

''The President may not release information which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent business confidential information is provided, a nonconfidential version of the information shall also be provided, in which the business confidential information is summarized or, if necessary, deleted.

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

''SEC. 331. FINDINGS AND ACTION ON GOODS FROM SINGAPORE.

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

''(b) PRESIDENTIAL DETERMINATION REGARDING SINGAPOREAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the President shall determine whether imports from Singapore are a substantial cause of the serious injury or threat thereof found by the Commission and, if such determination is in the negative, may exclude from such action imports from Singapore.

''TITLE IV—TEMPORARY ENTRY OF BUSINESS PERSONS

''SEC. 401. NONIMMIGRANT TRADERS AND INVESTORS.

''Upon a basis of reciprocity secured by the Agreement, an alien who is a national of Singapore (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of such alien, if accompanying or following to join the alien) may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in clause (i) or (ii) of such section 101(a)(15)(E). For purposes of this section, the term 'national' has the meaning given such term in Annex 1A of the Agreement.

''SEC. 402. NONIMMIGRANT PROFESSIONALS.''

[Amended section 1184 of Title 8, Aliens and Nationality.]

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

[Proc. No. 7747, Dec. 30, 2003, 68 F.R. 75794, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Singapore Free Trade Agreement Implementation Act (USSFTA Act) (Pub. L. 108–78, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 205 of the USSFTA Act to exclude textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of, and capability to produce, textile and apparel goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; and in par. (6) that the CITA is authorized to exercise the authority of the President under subtitle B of title III of the USSFTA Act to review requests and to determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of a Singaporean textile or apparel article constitute a substantial cause of serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination.]

UNITED STATES-CHILE FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–77, Sept. 3, 2003, 117 Stat. 909, as amended by Pub. L. 108–429, title II, § 2004(d)(7), Dec. 3, 2004, 118 Stat. 2593, provided that:

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

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Chile Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and the Republic of Chile entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 [19 U.S.C. 3803(b)];

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

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

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

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Chile Free Trade Agreement approved by the Congress under section 101(a)(1).

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

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

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

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

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

''(1) the United States-Chile Free Trade Agreement entered into on June 6, 2003, with the Government of Chile and submitted to the Congress on July 15, 2003; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on July 15, 2003.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Chile has taken measures necessary to bring it into compliance with the provisions of the Agreement that take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Chile providing for the entry into force, on or after January 1, 2004, of the Agreement for the United States.

"SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

"(a) RELATIONSHIP TO UNITED STATES LAW.—

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

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

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

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

unless specifically provided for in this Act.

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

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

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

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

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

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

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

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

"SEC. 103. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

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

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

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

"(B) the United States International Trade Commission;

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

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

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

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

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

"(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

"SEC. 104. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

"(a) IMPLEMENTING ACTIONS.—

"(1) PROCLAMATION AUTHORITY.—After the date of enactment of this Act [Sept. 3, 2003]—

"(A) the President may proclaim such actions, and

"(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [Jan. 1, 2004] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

"(2) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in section 103(b) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

"(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action referred to in section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement [Jan. 1, 2004]. In the case of any implementing action that takes effect on a date after the date of entry into force of the Agreement, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

"SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

"(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 22 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2003 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 22 of the Agreement.

"SEC. 106. ARBITRATION OF CLAIMS.

"(a) SUBMISSION OF CERTAIN CLAIMS.—The United States is authorized to resolve any claim against the United States covered by article 10.15(1)(a)(i)(C) or 10.15(1)(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

"(b) CONTRACT CLAUSES.—All contracts executed by any agency of the United States on or after the date of entry into force of the Agreement [Jan. 1, 2004] shall contain a clause specifying the law that will apply to resolve any breach of contract claim.

"SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

"(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force [Jan. 1, 2004].

"(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Sept. 3, 2003].

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

"TITLE II—CUSTOMS PROVISIONS

"SEC. 201. TARIFF MODIFICATIONS.

"(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.7, 3.9, article 3.20 (8), (9), (10), and (11), and Annex 3.3 of the Agreement.

''(2) EFFECT ON CHILEAN GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of Chile as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date of entry into force of the Agreement [Jan. 1, 2004].

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim—

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

''(2) such modifications as the United States may agree to with Chile regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,

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

''(4) such additional duties,

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

''(c) ADDITIONAL TARIFFS ON AGRICULTURAL SAFEGUARD GOODS.—

''(1) IN GENERAL.—In addition to any duty proclaimed under subsection (a) or (b), and subject to paragraphs (3) through (5), the Secretary of the Treasury shall assess a duty, in the amount prescribed under paragraph (2), on an agricultural safeguard good if the Secretary of the Treasury determines that the unit import price of the good when it enters the United States, determined on an F.O.B. basis, is less than the trigger price indicated for that good in Annex 3.18 of the Agreement or any amendment thereto.

''(2) CALCULATION OF ADDITIONAL DUTY.—The amount of the additional duty assessed under this subsection shall be determined as follows:

''(A) If the difference between the unit import price and the trigger price is less than, or equal to, 10 percent of the trigger price, no additional duty shall be imposed.

''(B) If the difference between the unit import price and the trigger price is greater than 10 percent, but less than or equal to 40 percent, of the trigger price, the additional duty shall be equal to 30 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(C) If the difference between the unit import price and the trigger price is greater than 40 percent, but less than or equal to 60 percent, of the trigger price, the additional duty shall be equal to 50 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(D) If the difference between the unit import price and the trigger price is greater than 60 percent, but less than or equal to 75 percent, of the trigger price, the additional duty shall be equal to 70 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(E) If the difference between the unit import price and the trigger price is greater than 75 percent of the trigger price, the additional duty shall be equal to 100 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(3) EXCEPTIONS.—No additional duty under this subsection shall be assessed on an agricultural safeguard good if, at the time of entry, the good is subject to import relief under—

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

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

''(4) TERMINATION.—This subsection shall cease to apply on the date that is 12 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''(5) TARIFF-RATE QUOTAS.—If an agricultural safeguard good is subject to a tariff-rate quota, and the in-quota duty rate for the good proclaimed pursuant to subsection (a) or (b) is zero, any additional duty assessed under this subsection shall be applied only to over-quota imports of the good.

''(6) NOTICE.—Not later than 60 days after the Secretary of the Treasury first assesses additional duties on an agricultural safeguard good under this subsection, the Secretary shall notify the Government of Chile in writing of such action and shall provide to the Government of Chile data supporting the assessment of additional duties.

''(7) MODIFICATION OF TRIGGER PRICES.—Not later than 60 calendar days before agreeing with the Government of Chile pursuant to article 3.18(2)(b) of the Agreement on a modification to a trigger price for a good listed in Annex 3.18 of the Agreement, the President shall notify the Committees on Ways and Means and Agriculture of the House of Representatives and the Committees on Finance and Agriculture of the Senate of the proposed modification and the reasons therefor.

''(8) DEFINITIONS.—In this subsection:

''(A) AGRICULTURAL SAFEGUARD GOOD.—The term 'agricultural safeguard good' means a good—

''(i) that qualifies as an originating good under section 202;

''(ii) that is included in the United States Agricultural Safeguard Product List set forth in Annex 3.18 of the Agreement; and

''(iii) for which a claim for preferential tariff treatment under the Agreement has been made.

''(B) F.O.B.—The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

''(C) UNIT IMPORT PRICE.—The term 'unit import price' means the price expressed in dollars per kilogram.

''(d) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. RULES OF ORIGIN.

''(a) ORIGINATING GOODS.—

''(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(A) the good is wholly obtained or produced entirely in the territory of Chile, the United States, or both;

''(B) the good—

''(i) is produced entirely in the territory of Chile, the United States, or both, and

''(I) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement, or

''(II) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

''(ii) satisfies all other applicable requirements of this section; or

''(C) the good is produced entirely in the territory of Chile, the United States, or both, exclusively from materials described in subparagraph (A) or (B).

''(2) SIMPLE COMBINATION OR MERE DILUTION.—A good shall not be considered to be an originating good and a material shall not be considered to be an originating material by virtue of having undergone—

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

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

''(b) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

''(A) the value of all nonoriginating materials that are used in the production of the good and do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good;

''(B) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement; and

''(C) the good meets all other applicable requirements of this section.

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

''(A) A nonoriginating material provided for in chapter 4 of the HTS, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90 of the HTS, that is used in the production of a good provided for in chapter 4 of the HTS.

''(B) A nonoriginating material provided for in chapter 4 of the HTS, or nonoriginating dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 of the HTS, that are used in the production of the following goods:

''(i) Infant preparations containing over 10 percent in weight of milk solids provided for in subheading 1901.10 of the HTS.

''(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20 of the HTS.

''(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90 of the HTS.

''(iv) Goods provided for in heading 2105 of the HTS.

''(v) Beverages containing milk provided for in subheading 2202.90 of the HTS.

''(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90 of the HTS.

''(C) A nonoriginating material provided for in heading 0805 of the HTS, or any of subheadings 2009.11.00 through 2009.39 of the HTS, that is used in the production of a good provided for in any of subheadings 2009.11.00 through 2009.39 of the HTS, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90 of the HTS.

''(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, 1512, 1514, and 1515 of the HTS.

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

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

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

''(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) GOODS PROVIDED FOR IN CHAPTERS 50 THROUGH 63 OF THE HTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a good provided for in any of chapters 50 through 63 of the HTS that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4.1 of the Agreement, shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

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

''(c) ACCUMULATION.—

''(1) ORIGINATING GOODS INCORPORATED IN GOODS OF OTHER COUNTRY.—Originating goods or materials of Chile or the United States that are incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of Chile, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (a) and all other applicable requirements of this section.

''(d) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (a)(1)(B), the regional value-content of a good referred to in Annex 4.1 of the Agreement shall be calculated, at the choice of the person claiming preferential tariff treatment for the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3), unless otherwise provided in Annex 4.1 of the Agreement.

''(2) BUILD-DOWN METHOD.—

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

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

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VNM' means the value of nonoriginating materials used by the producer in the production of the good.

''(3) BUILD-UP METHOD.—

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

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

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VOM' means the value of originating materials used by the producer in the production of the good.

''(e) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For purposes of calculating the regional value-content of a good under subsection (d), and for purposes of applying the de minimis rules under subsection (b), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material with respect to that importation;

''(B) in the case of a material acquired in the territory in which the good is produced, except for a material to which subparagraph (C) applies, the producer's price actually paid or payable for the material;

''(C) in the case of a material provided to the producer without charge, or at a price reflecting a discount or similar reduction, the sum of—

''(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses; and

''(ii) an amount for profit; or

''(D) in the case of a material that is self-produced, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit.

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

''(A) ORIGINATING MATERIALS.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

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

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Chile, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

''(B) NONORIGINATING MATERIALS.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

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

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Chile, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of Chile or the United States.

''(f) ACCESSORIES, SPARE PARTS, OR TOOLS.—Accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall be regarded as a material used in the production of the good, if—

''(1) the accessories, spare parts, or tools are classified with and not invoiced separately from the good; and

''(2) the quantities and value of the accessories, spare parts, or tools are customary for the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming preferential tariff treatment for a good may claim that a fungible good or material is originating either based on the physical segregation of each fungible good or material or by using an inventory management method.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Chile or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for particular fungible goods or materials shall continue to use that method for those goods or materials throughout the fiscal year of that person.

''(h) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether—

''(1) the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 4.1 of the Agreement; and

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

''(j) INDIRECT MATERIALS.—An indirect material shall be considered to be an originating material without regard to where it is produced.

''(k) TRANSIT AND TRANSSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (a) shall not be considered to be an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territory of Chile or the United States, other than unloading, reloading, or any other process necessary to preserve the good in good condition or to transport the good to the territory of Chile or the United States.

''(*l*) TEXTILE AND APPAREL GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4.1 of the Agreement, textile and apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the Harmonized System shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(m) APPLICATION AND INTERPRETATION.—In this section:

"(1) The basis for any tariff classification is the HTS.

"(2) Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Chile or the United States).

"(n) DEFINITIONS.—In this section:

"(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined in accordance with articles 1 through 8, article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], except that such value may be adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

"(2) FUNGIBLE GOODS OR FUNGIBLE MATERIALS.—The terms 'fungible goods' and 'fungible materials' mean goods or materials, as the case may be, that are interchangeable for commercial purposes and the properties of which are essentially identical.

"(3) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles' means the principles, rules, and procedures, including both broad and specific guidelines, that define the accounting practices accepted in the territory of Chile or the United States, as the case may be.

"(4) GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF CHILE, THE UNITED STATES, OR BOTH.—The term 'goods wholly obtained or produced entirely in the territory of Chile, the United States, or both' means—

"(A) mineral goods extracted in the territory of Chile, the United States, or both;

"(B) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of Chile, the United States, or both;

"(C) live animals born and raised in the territory of Chile, the United States, or both;

"(D) goods obtained from hunting, trapping, or fishing in the territory of Chile, the United States, or both;

"(E) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Chile or the United States and flying the flag of that country;

"(F) goods produced on board factory ships from the goods referred to in subparagraph (E), if such factory ships are registered or recorded with Chile or the United States and fly the flag of that country;

"(G) goods taken by Chile or the United States or a person of Chile or the United States from the seabed or beneath the seabed outside territorial waters, if Chile or the United States has rights to exploit such seabed;

"(H) goods taken from outer space, if the goods are obtained by Chile or the United States or a person of Chile or the United States and not processed in the territory of a country other than Chile or the United States;

"(I) waste and scrap derived from—

"(i) production in the territory of Chile, the United States, or both; or

"(ii) used goods collected in the territory of Chile, the United States, or both, if such goods are fit only for the recovery of raw materials;

"(J) recovered goods derived in the territory of Chile or the United States from used goods, and used in the territory of that country in the production of remanufactured goods; and

"(K) goods produced in the territory of Chile, the United States, or both, exclusively—

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

"(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

"(5) HARMONIZED SYSTEM.—The term 'Harmonized System' means the Harmonized Commodity Description and Coding System.

"(6) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

"(A) fuel and energy;

"(B) tools, dies, and molds;

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

"(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

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

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

"(G) catalysts and solvents; and

"(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

"(7) MATERIAL.—The term 'material' means a good that is used in the production of another good, including a part, ingredient, or indirect material.

"(8) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means a material that is an originating good produced by a producer of a good and used in the production of that good.

"(9) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The terms 'nonoriginating good' and 'nonoriginating material' mean a good or material, as the case may be, that does not qualify as an originating good under this section.

"(10) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term 'packing materials and containers for shipment' means the goods used to protect a good during its transportation, and does not include the packaging materials and containers in which a good is packaged for retail sale.

"(11) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs duty rate that is applicable to an originating good pursuant to chapter 3 of the Agreement.

"(12) PRODUCER.—The term 'producer' means a person who engages in the production of a good in the territory of Chile or the United States.

"(13) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

"(14) RECOVERED GOODS.—

"(A) IN GENERAL.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

"(i) the complete disassembly of used goods into individual parts; and

"(ii) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition by one or more of the processes described in subparagraph (B), in order for such parts to be assembled with other parts, including other parts that have undergone the processes described in this paragraph, in the production of a remanufactured good.

"(B) PROCESSES.—The processes referred to in subparagraph (A)(ii) are welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding.

"(15) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good assembled in the territory of Chile or the United States, that is listed in Annex 4.18 of the Agreement, and—

"(A) is entirely or partially comprised of recovered goods;

"(B) has the same life expectancy and meets the same performance standards as a new good; and

''(C) enjoys the same factory warranty as such a new good.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

''(A) the provisions set out in Annex 4.1 of the Agreement; and

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

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4.1 of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 103(a), the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) that are necessary to implement an agreement with Chile pursuant to article 3.20(5) of the Agreement; and

''(ii) before the 1st anniversary of the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4.1 of the Agreement.

''SEC. 203. DRAWBACK.

''(a) DEFINITION OF A GOOD SUBJECT TO CHILE FTA DRAWBACK.—For purposes of this Act and the amendments made by subsection (b), the term 'good subject to Chile FTA drawback' means any imported good other than the following:

''(1) A good entered under bond for transportation and exportation to Chile.

''(2)(A) A good exported to Chile in the same condition as when imported into the United States.

''(B) For purposes of subparagraph (A)—

''(i) processes such as testing, cleaning, repacking, inspecting, sorting, or marking a good, or preserving it in its same condition, shall not be considered to change the condition of the good; and

''(ii) if a good described in subparagraph (A) is commingled with fungible goods and exported in the same condition, the origin of the good for the purposes of subsection (j)(1) of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313(j)(1)) may be determined on the basis of the inventory methods provided for in the regulations implementing this title.

''(3) A good—

''(A) that is—

''(i) deemed to be exported from the United States;

''(ii) used as a material in the production of another good that is deemed to be exported to Chile; or

''(iii) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is deemed to be exported to Chile; and

''(B) that is delivered—

''(i) to a duty-free shop;

''(ii) for ship's stores or supplies for a ship or aircraft; or

''(iii) for use in a project undertaken jointly by the United States and Chile and destined to become the property of the United States.

''(4) A good exported to Chile for which a refund of customs duties is granted by reason of—

''(A) the failure of the good to conform to sample or specification; or

''(B) the shipment of the good without the consent of the consignee.

''(5) A good that qualifies under the rules of origin set out in section 202 that is—

''(A) exported to Chile;

''(B) used as a material in the production of another good that is exported to Chile; or

''(C) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is exported to Chile.

''(b) CONSEQUENTIAL AMENDMENTS.—

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

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

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

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

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

''(c) INAPPLICABILITY TO COUNTERVAILING AND ANTIDUMPING DUTIES.—Nothing in this section or the amendments made by this section shall be considered to authorize the refund, waiver, or reduction of countervailing duties or antidumping duties imposed on an imported good.

''SEC. 204. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 205. DISCLOSURE OF INCORRECT INFORMATION; DENIAL OF PREFERENTIAL TARIFF TREATMENT; FALSE CERTIFICATES OF ORIGIN.

''(a) DISCLOSURE OF INCORRECT INFORMATION.—[Amended section 1592 of this title.]

''(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—[Amended section 1514 of this title.]

''SEC. 206. RELIQUIDATION OF ENTRIES.

[Amended section 1520 of this title.]

''SEC. 207. RECORDKEEPING REQUIREMENTS.

[Amended section 1508 of this title.]

''SEC. 208. ENFORCEMENT OF TEXTILE AND APPAREL RULES OF ORIGIN.

''(a) ACTION DURING VERIFICATION.—If the Secretary of the Treasury requests the Government of Chile to conduct a verification pursuant to article 3.21 of the Agreement for purposes of determining that—

''(1) an exporter or producer in Chile is complying with applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods, or

''(2) claims that textile or apparel goods exported or produced by such exporter or producer—

''(A) qualify as originating goods under section 202 of this Act, or

''(B) are goods of Chile,

are accurate,

the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a) includes—

''(1) suspension of liquidation of entries of textile and apparel goods exported or produced by the person that is the subject of the verification, in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

''(2) publication of the name of the person that is the subject of the verification.

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a) is insufficient to make a determination under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

''(1) publication of the identity of the person that is the subject of the verification;

''(2) denial of preferential tariff treatment under the Agreement to any textile or apparel goods exported or produced by the person that is the subject of the verification; and

''(3) denial of entry into the United States of any textile or apparel goods exported or produced by the person that is the subject of the verification.

''SEC. 209. CONFORMING AMENDMENTS.

[Amended section 1508 of this title.]

''SEC. 210. REGULATIONS.

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

''(1) subsections (a) through (n) of section 202, and sections 203 and 204;

''(2) amendments made by the sections referred to in paragraph (1); and

''(3) proclamations issued under section 202(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

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

''(2) CHILEAN ARTICLE.—The term 'Chilean article' means an article that qualifies as an originating good under section 202(a) of this Act.

''(3) CHILEAN TEXTILE OR APPAREL ARTICLE.—The term 'Chilean textile or apparel article' means an article—

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

''(B) that is a Chilean article.

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

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Chilean article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Chilean article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

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

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

''(2) Subsection (c).

''(3) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Chilean article if, after the date that the Agreement enters into force [Jan. 1, 2004], import relief has been provided with respect to that Chilean article under this subtitle, or if, at the time the petition is filed, the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

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

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

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

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

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

''(c) NATURE OF RELIEF.—

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

''(A) The suspension of any further reduction provided for under Annex 3.3 of the Agreement in the duty imposed on such article.

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

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

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2(2) of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), the import relief that the President is authorized to provide under this section, including any extensions thereof, may not, in the aggregate, exceed 3 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 3 years, the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment; and

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

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

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

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

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States in Annex 3.3 of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the provision of relief under subsection (a); and

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

''(A) the applicable rate of duty for that article set out in the Schedule of the United States in Annex 3.3 of the Agreement; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the United States Schedule in Annex 3.3 of the Agreement for the elimination of the tariff.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article subject to import relief under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—No import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set out in the Schedule of the United States to Annex 3.3 of the Agreement, is 12 years, no relief under this subtitle may be provided for that article after the date that is 12 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a Chilean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

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

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—The import relief that the President is authorized to provide under section 322, including any extensions thereof, may not, in the aggregate, exceed 3 years.

''(b) EXTENSION.—If the initial period for any import relief provided under this section is less than 3 years, the President may extend the effective period of any import relief provided under this section, subject to the limitation set forth in subsection (a), if the President determines that—

''(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment; and

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

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if import relief previously has been provided under this subtitle with respect to that article.

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be duty-free.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 8 years after the date on which duties on the article are eliminated pursuant to the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

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

''SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

''The President may not release information which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent business confidential information is provided, a nonconfidential version of the information shall also be provided, in which the business confidential information is summarized or, if necessary, deleted.

''TITLE IV—TEMPORARY ENTRY OF BUSINESS PERSONS

''SEC. 401. NONIMMIGRANT TRADERS AND INVESTORS.

''Upon a basis of reciprocity secured by the Agreement, an alien who is a national of Chile (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of such alien, if accompanying or following to join the alien) may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in clause (i) or (ii) of such section 101(a)(15)(E). For purposes of this section, the term 'national' has the meaning given such term in article 14.9 of the Agreement.

''SEC. 402. NONIMMIGRANT PROFESSIONALS; LABOR ATTESTATIONS.

''(a) NONIMMIGRANT PROFESSIONALS.—

''(1) DEFINITIONS.—[Amended section 1101 of Title 8, Aliens and Nationality.]

''(2) ADMISSION OF NONIMMIGRANTS.—[Amended section 1184 of Title 8.]

''(b) LABOR ATTESTATIONS.—[Amended section 1182 of Title 8.]

''(c) SPECIAL RULE FOR COMPUTATION OF PREVAILING WAGE.—[Amended section 1182 of Title 8.]

''(d) FEE.—

''(1) IN GENERAL.—[Amended section 1184 of Title 8.]

''(2) USE OF FEE.—[Amended section 1356 of Title 8.]

''SEC. 403. LABOR DISPUTES.

[Amended section 1184 of Title 8.]

''SEC. 404. CONFORMING AMENDMENTS.''

[Amended section 1184 of Title 8.]

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

[Proc. No. 7746, Dec. 30, 2003, 68 F.R. 75790, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Chile Free Trade Agreement Implementation Act (USCFTA Act) (Pub. L. 108–77, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (4) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 208 of the USCFTA Act with respect to verifications conducted in a manner consistent with article 3.21 of the United States-Chile Free Trade Agreement; and in par. (5) that the CITA is authorized to exercise the authority of the President under subtitle B of title III of the USCFTA Act to review requests and to determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether a Chilean textile or apparel article is being imported into the United States in such increased quantities and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination.]

§ 3806. Treatment of certain trade agreements for which negotiations have already begun

(a) Certain agreements

Notwithstanding the prenegotiation notification and consultation requirement described in section 3804(a) of this title, if an agreement to which section 3803(b) of this title 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 August 6, 2002, subsection (b) of this section shall apply.

(b) Treatment of agreements

In the case of any agreement to which subsection (a) of this section applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 3804(a) of this title (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 3805(b)(1)(B) of this title shall not be in order on the basis of a failure or refusal to comply with the provisions of section 3804(a) of this title; and

(2) the President shall, as soon as feasible after August 6, 2002—

(A) notify the Congress of the negotiations described in subsection (a) of this section, 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 3804(a)(2) of this title and the Congressional Oversight Group convened under section 3807 of this title.

(Pub. L. 107–210, div. B, title XXI, § 2106, Aug. 6, 2002, 116 Stat. 1016.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 3807. Congressional Oversight Group

(a) Members and functions

(1) In general

By not later than 60 days after August 6, 2002, 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 chapter 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 chapter would apply.

(4) Accreditation

Each member of the Congressional Oversight Group described in paragraph[1] (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 chapter applies. Each member of the Congressional Oversight Group described in paragraph[1] (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 August 6, 2002, 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.

[1] So in original. Probably should be "paragraphs".

(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 3802(c) of this title, and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional 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 3802(c)(8) of this title.

(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.

(Pub. L. 107–210, div. B, title XXI, § 2107, Aug. 6, 2002, 116 Stat. 1017.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 3808. 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 3805(a)(1)(C) of this title, 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) of this section in the first budget that the President submits to the Congress after the submission of the plan.

(Pub. L. 107–210, div. B, title XXI, § 2108, Aug. 6, 2002, 116 Stat. 1018.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 3809. Committee staff

The grant of trade promotion authority under this chapter 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 3807 of this title 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.

(Pub. L. 107–210, div. B, title XXI, § 2109, Aug. 6, 2002, 116 Stat. 1019.)

§ 3810. Application of certain provisions

For purposes of applying sections 2135, 2136, and 2137 of this title—

(1) any trade agreement entered into under section 3803 of this title shall be treated as an

agreement entered into under section 2111 or 2112 of this title, as appropriate; and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3803 of this title shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 2112 of this title.

(Pub. L. 107–210, div. B, title XXI, § 2110(b), Aug. 6, 2002, 116 Stat. 1020.)

REFERENCES IN TEXT

Section 2137 of this title, referred to in text, was in the original a reference to section 127 of the Trade Act of 1974, Pub. L. 93–618, which enacted section 2137 of this title and amended section 1862 of this title.

§ 3811. Report on impact of trade promotion authority

(a) In general

Not later than 1 year after August 6, 2002, 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) of this section.

(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.

(Pub. L. 107–210, div. B, title XXI, § 2111, Aug. 6, 2002, 116 Stat. 1021.)

§ 3812. 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 3802(a)(8) of this title. 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.

(Pub. L. 107–210, div. B, title XXI, § 2112, Aug. 6, 2002, 116 Stat. 1021.)

§ 3813. Definitions

In this chapter:

(1) Agreement on Agriculture

The term ''Agreement on Agriculture'' means the agreement referred to in section 3511(d)(2) of this title.

(2) Agreement on Safeguards

The term ''Agreement on Safeguards[1] means the agreement referred to in section 3511(d)(13) of this title.

(3) Agreement on Subsidies and Countervailing Measures

The term ''Agreement on Subsidies and Countervailing Measures'' means the agreement referred to in section 3511(d)(12) of this title.

(4) Antidumping Agreement

The term ''Antidumping Agreement''[2] means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 3511(d)(7) of this title.

(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 3511(d)(16) of this title.

(8) GATT 1994

The term ''GATT 1994'' has the meaning given that term in section 3501 of this title.

(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 August 6, 2002.

(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.

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[1] So in original. Probably should be followed by closing quotation marks.

[2] So in original. Probably should be closing quotation marks.

(12) Uruguay Round Agreements

The term ''Uruguay Round Agreements'' has the meaning given that term in section 3501(7) of this title.

(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 3501(10) of this title.

(Pub. L. 107–210, div. B, title XXI, § 2113, Aug. 6, 2002, 116 Stat. 1021; Pub. L. 108–429, title II, § 2004(a)(19), Dec. 3, 2004, 118 Stat. 2591.)

AMENDMENTS

2004—Pars. (2), (3). Pub. L. 108–429 redesignated second par. (2), relating to Agreement on Subsidies and Countervailing Measures, as (3), substituted ''3511(d)(12)'' for ''3511(d)(13)'', and in par. (2) relating to Agreement on Safeguards, substituted ''3511(d)(13)'' for ''3511(d)(12)''.

CHAPTER 25—CLEAN DIAMOND TRADE

§ 3901. Findings

Congress finds the following:

(1) Funds derived from the sale of rough diamonds are being used by rebels and state actors to finance military activities, overthrow legitimate governments, subvert international efforts to promote peace and stability, and commit horrifying atrocities against unarmed civilians. During the past decade, more than 6,500,000 people from Sierra Leone, Angola, and the Democratic Republic of the Congo have been driven from their homes by wars waged in large part for control of diamond mining areas. A million of these are refugees eking out a miserable existence in neighboring countries, and tens of thousands have fled to the United States. Approximately 3,700,000 people have died during these wars.

(2) The countries caught in this fighting are home to nearly 70,000,000 people whose societies have been torn apart not only by fighting but also by terrible human rights violations.

(3) Human rights and humanitarian advocates, the diamond trade as represented by the World Diamond Council, and the United States Government have been working to block the trade in conflict diamonds. Their efforts have helped to build a consensus that action is urgently needed to end the trade in conflict diamonds.

(4) The United Nations Security Council has acted at various times under chapter VII of the Charter of the United Nations to address threats to international peace and security posed by conflicts linked to diamonds. Through these actions, it has prohibited all states from exporting weapons to certain countries affected by such conflicts. It has further required all states to prohibit the direct and indirect import of rough diamonds from Sierra Leone unless the diamonds are controlled under specified certificate of origin regimes and to prohibit absolutely the direct and indirect import of rough diamonds from Liberia.

(5) In response, the United States implemented sanctions restricting the importation of rough diamonds from Sierra Leone to those diamonds accompanied by specified certificates of origin and fully prohibiting the importation of rough diamonds from Liberia. The United States is now taking further action against trade in conflict diamonds.

(6) Without effective action to eliminate trade in conflict diamonds, the trade in legitimate diamonds faces the threat of a consumer backlash that could damage the economies of countries not involved in the trade in conflict diamonds and penalize members of the legitimate trade and the people they employ. To prevent that, South Africa and more than 30 other countries are involved in working, through the ''Kimberley Process'', toward devising a solution to this problem. As the consumer of a majority of the world's supply of diamonds, the United States has an obligation to help sever the link between diamonds and conflict and press for implementation of an effective solution.

(7) Failure to curtail the trade in conflict diamonds or to differentiate between the trade in conflict diamonds and the trade in legitimate diamonds could have a severe negative impact on the legitimate diamond trade in countries such as Botswana, Namibia, South Africa, and Tanzania.

(8) Initiatives of the United States seek to resolve the regional conflicts in sub-Saharan Africa which facilitate the trade in conflict diamonds.

(9) The Interlaken Declaration on the Kimberley Process Certification Scheme for Rough Diamonds of November 5, 2002, states that Participants will ensure that measures taken to