Public Law 100-418
100th Congress

An Act

To enhance the competitiveness of American industry, and for other purposes.

Aug. 23, 1988
[H.R. 4848]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Trade and Competitiveness Act of 1988.
Exports.
Imports.
International agreements.
19 USC 2901 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Trade and Competitiveness Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE IV—AGRICULTURAL TRADE

SEC. 2. LEGISLATIVE HISTORY OF H.R. 3 APPLICABLE.

(a) IN GENERAL.—Except as provided in subsection (b), the legislative history of a title, subtitle, part, subpart, chapter, subchapter, section, or other provision of the conference report to accompany H.R. 3 of the 100th Congress (H. Rept. 100-576) shall be treated (along with any other legislative history developed by reason of this Act) as being the legislative history of the provision of this Act that has the same numerical or alphabetical designation as the provision of the conference report.

(b) EXCEPTIONS.—

(1) Subsection (a) does not apply to section 2424(a) of this Act.

(2) The legislative history for subtitle F of title VI of the conference report to accompany H.R. 3 shall be treated as the legislative history for subtitle E of title VI of this Act.

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

SEC. 1001. FINDINGS AND PURPOSES. 19 USC 2901 note.

(a) FINDINGS.—The Congress finds that—

(1) in the last 10 years there has arisen a new global economy in which trade, technological development, investment, and services form an integrated system; and in this system these activities affect each other and the health of the United States economy;

(2) the United States is confronted with a fundamental disequilibrium in its trade and current account balances and a rapid increase in its net external debt;

(3) such disequilibrium and increase are a result of numerous factors, including—

(A) disparities between the macroeconomic policies of the major trading nations,

(B) the large United States budget deficit,

(C) instabilities and structural defects in the world monetary system,

(D) the growth of debt throughout the developing world,

(E) structural defects in the world trading system and inadequate enforcement of trade agreement obligations,

(F) governmental distortions and barriers,

(G) serious shortcomings in United States trade policy, and

(H) inadequate growth in the productivity and competitiveness of United States firms and industries relative to their overseas competition;

(4) it is essential, and should be the highest priority of the United States Government, to pursue a broad array of domestic and international policies—

(A) to prevent future declines in the United States economy and standards of living,

(B) to ensure future stability in external trade of the United States, and

(C) to guarantee the continued vitality of the technological, industrial, and agricultural base of the United States;

(5) the President should be authorized and encouraged to negotiate trade agreements and related investment, financial, intellectual property, and services agreements that meet the standards set forth in this title; and

(6) while the United States is not in a position to dictate economic policy to the rest of the world, the United States is in a position to lead the world and it is in the national interest for the United States to do so.

(b) PURPOSES.—The purposes of this title are to—

(1) authorize the negotiation of reciprocal trade agreements;

(2) strengthen United States trade laws;

(3) improve the development and management of United States trade strategy; and

(4) through these actions, improve standards of living in the world.

Subtitle A—United States Trade Agreements

PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

SEC. 1101. OVERALL AND PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF THE UNITED STATES. 19 USC 2901.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States are to obtain—

(1) more open, equitable, and reciprocal market access;

(2) the reduction or elimination of barriers and other trade-distorting policies and practices; and

(3) a more effective system of international trading disciplines and procedures.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are—

(A) to provide for more effective and expeditious dispute settlement mechanisms and procedures; and

(B) to ensure that such mechanisms within the GATT and GATT agreements provide for more effective and expeditious resolution of disputes and enable better enforcement of United States rights.

(2) IMPROVEMENT OF THE GATT AND MULTILATERAL TRADE NEGOTIATION AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of GATT and multilateral trade negotiation agreements are—

(A) to enhance the status of the GATT;

(B) to improve the operation and extend the coverage of the GATT and such agreements and arrangements to products, sectors, and conditions of trade not adequately covered; and

(C) to expand country participation in particular agreements or arrangements, where appropriate.

(3) TRANSPARENCY.—The principal negotiating objective of the United States regarding transparency is to obtain broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions through the observance of open and equitable procedures in trade matters by Contracting Parties to the GATT.

(4) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States regarding developing countries are—

(A) to ensure that developing countries promote economic development by assuming the fullest possible measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices; and

(B) to establish procedures for reducing nonreciprocal trade benefits for the more advanced developing countries.

(5) CURRENT ACCOUNT SURPLUSES.—The principal negotiating objective of the United States regarding current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances which threaten the stability of the international trading system,

by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate.

(6) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States regarding trade and monetary coordination is to develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions.

(7) AGRICULTURE.—The principal negotiating objectives of the United States with respect to agriculture are to achieve, on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by—

(A) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices;

(B) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers) and reducing or eliminating the subsidization of agricultural production consistent with the United States policy of agricultural stabilization in cyclical and unpredictable markets;

(C) creating a free and more open world agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing and market access and eliminating and reducing substantially other specific constraints to fair trade and more open market access, such as tariffs, quotas, and other nontariff practices, including unjustified phytosanitary and sanitary restrictions; and

(D) seeking agreements by which the major agricultural exporting nations agree to pursue policies to reduce excessive production of agricultural commodities during periods of oversupply, with due regard for the fact that the United States already undertakes such policies, and without recourse to arbitrary schemes to divide market shares among major exporting countries.

(8) UNFAIR TRADE PRACTICES.—The principal negotiating objectives of the United States with respect to unfair trade practices are—

(A) to improve the provisions of the GATT and nontariff measure agreements in order to define, deter, discourage the persistent use of, and otherwise discipline unfair trade practices having adverse trade effects, including forms of subsidy and dumping and other practices not adequately covered such as resource input subsidies, diversionary dumping, dumped or subsidized inputs, and export targeting practices;

(B) to obtain the application of similar rules to the treatment of primary and nonprimary products in the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the GATT (relating to subsidies and countervailing measures); and

(C) to obtain the enforcement of GATT rules against—

(i) state trading enterprises, and

(ii) the acts, practices, or policies of any foreign government which, as a practical matter, unreasonably require that—

(I) substantial direct investment in the foreign country be made,

(II) intellectual property be licensed to the foreign country or to any firm of the foreign country, or

Copyrights. Patents and trademarks.

(III) other collateral concessions be made,

as a condition for the importation of any product or service of the United States into the foreign country or as a condition for carrying on business in the foreign country.

(9) TRADE IN SERVICES.—

(A) The principal negotiating objectives of the United States regarding trade in services are—

(i) to reduce or to eliminate barriers to, or other distortions of, international trade in services, including barriers that deny national treatment and restrictions on establishment and operation in such markets; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) are consistent with the commercial policies of the United States, and

(II) will reduce or eliminate such barriers or distortions, and help ensure fair, equitable opportunities for foreign markets.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(10) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding intellectual property are—

Copyrights. Patents and trademarks.

(A) to seek the enactment and effective enforcement by foreign countries of laws which—

(i) recognize and adequately protect intellectual property, including copyrights, patents, trademarks, semiconductor chip layout designs, and trade secrets, and

Computers.

(ii) provide protection against unfair competition,

(B) to establish in the GATT obligations—

(i) to implement adequate substantive standards based on—

(I) the standards in existing international agreements that provide adequate protection, and

(II) the standards in national laws if international agreement standards are inadequate or do not exist,

(ii) to establish effective procedures to enforce, both internally and at the border, the standards implemented under clause (i), and

(iii) to implement effective dispute settlement procedures that improve on existing GATT procedures;

(C) to recognize that the inclusion in the GATT of—

(i) adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights, and

(ii) dispute settlement provisions and enforcement procedures,

is without prejudice to other complementary initiatives undertaken in other international organizations; and

(D) to supplement and strengthen standards for protection and enforcement in existing international intellectual property conventions administered by other international organizations, including their expansion to cover new and emerging technologies and elimination of discrimination or unreasonable exceptions or preconditions to protection.

(11) FOREIGN DIRECT INVESTMENT.—

(A) The principal negotiating objectives of the United States regarding foreign direct investment are—

(i) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) will help ensure a free flow of foreign direct investment, and

(II) will reduce or eliminate the trade distortive effects of certain trade-related investment measures.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(12) SAFEGUARDS.—The principal negotiating objectives of the United States regarding safeguards are—

(A) to improve and expand rules and procedures covering safeguard measures;

(B) to ensure that safeguard measures are—

(i) transparent,

(ii) temporary,

(iii) degressive, and

(iv) subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment; and

(C) to require notification of, and to monitor the use by, GATT Contracting Parties of import relief actions for their domestic industries.

(13) SPECIFIC BARRIERS.—The principal negotiating objective of the United States regarding specific barriers is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports to United States markets, including the reduction or elimination of specific tariff and nontariff trade barriers, particularly—

(A) measures identified in the annual report prepared under section 181 of the Trade Act of 1974 (19 U.S.C. 2241); and

(B) foreign tariffs and nontariff barriers on competitive United States exports when like or similar products enter the United States at low rates of duty or are duty-free, and other tariff disparities that impede access to particular export markets.

(14) WORKER RIGHTS.—The principal negotiating objectives of the United States regarding worker rights are—

(A) to promote respect for worker rights;

(B) to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

(C) to adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

(15) ACCESS TO HIGH TECHNOLOGY.—

(A) The principal negotiating objective of the United States regarding access to high technology is to obtain the elimination or reduction of foreign barriers to, and acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(i) restricting the participation of United States persons in government-supported research and development projects; Research and development.

(ii) denying equitable access by United States persons to government-held patents; Patents and trademarks.

(iii) requiring the approval or agreement of government entities, or imposing other forms of government interventions, as a condition for the granting of licenses to United States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology); and

(iv) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(B) In pursuing the negotiating objective described in subparagraph (A), the United States negotiators shall take into account United States Government policies in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(16) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the GATT with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily for revenue on direct taxes rather than indirect taxes.

19 USC 2902.

SEC. 1102. TRADE AGREEMENT NEGOTIATING AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) 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, and objectives of this title will be promoted thereby, the President—

(A) before June 1, 1993, may enter into trade agreements with foreign countries; and

(B) may, subject to paragraphs (2) through (5), 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 he determines to be required or appropriate to carry out any such trade agreement.

(2) No proclamation may be made under subsection (a) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applies on such date of enactment.

(3)(A) 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 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 in paragraph (1) to carry out such agreement with respect to such article.

(B) No staging under subparagraph (A) is required with respect to a rate 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) If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by 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) No reduction in a rate of duty under a trade agreement entered into under subsection (a) on any article may take effect more than 10 years after the effective date of the first reduction under paragraph (1) that is proclaimed to carry out the trade agreement with respect to such article.

(6) A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included

within an implementing bill provided for under section 1103 and that bill is enacted into law.

(b) AGREEMENTS REGARDING NONTARIFF BARRIERS.—

(1) Whenever the President determines that any barrier to, or other distortion of, international trade—

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, and objectives of this title will be promoted thereby, the President may, before June 1, 1993, enter into a trade agreement with foreign countries providing for—

(i) the reduction or elimination of such barrier or other distortion; or

(ii) the prohibition of, or limitations on the imposition of, such barrier or other distortion.

(2) A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 1101.

(c) BILATERAL AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) Before June 1, 1993, the President may enter into bilateral trade agreements with foreign countries that provide for the elimination or reduction of any duty imposed by the United States. A trade agreement entered into under this paragraph may also provide for the reduction or elimination of barriers to, or other distortions of, the international trade of the foreign country or the United States.

(2) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(3) A trade agreement may be entered into under paragraph (1) with any foreign country only if—

(A) the agreement makes progress in meeting the applicable objectives described in section 1101;

(B) such foreign country requests the negotiation of such an agreement; and

(C) the President, at least 60 days before the date notice is provided under section 1103(a)(1)(A)—

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

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

(4) The 60-day period of time described in paragraph (3)(B) shall be computed in accordance with section 1103(f).

(5) In any case in which there is an inconsistency between any provision of this Act and any bilateral free trade area agreement that entered into force and effect with respect to the United States before January 1, 1987, the provision shall not apply with respect to the foreign country that is party to that agreement.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

President of U.S.

(1) Before the President enters into any trade agreement under subsection (b) or (c), 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; and

(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.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) all matters relating to the implementation of the agreement under section 1103.

(3) If it is proposed to implement two or more trade agreements in a single implementing bill under section 1103, the consultation under paragraph (1) shall include the desirability and feasibility of such proposed implementation.

19 USC 2903.

SEC. 1103. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

President of U.S.

(1) Any agreement entered into under section 1102 (b) or (c) shall enter into force with respect to the United States if (and only if)—

Federal Register, publication.

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

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

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(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, and objectives of this title,

(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), and

why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

(I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement, and

(II) the agreement applies to or affects purchases and sales by such enterprises.

President of U.S.

(3) To ensure that a foreign country which receives benefits under a trade agreement entered into under section 1102 (b) or (c) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILLS.—

(1) Except as provided in subsection (c)—

(A) the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) (hereinafter in this section referred to as "fast track procedures") apply to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) before June 1, 1991; and

(B) such fast track procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) after May 31, 1991, and before June 1, 1993, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 1991.

President of U.S. Reports.

(2) If the President is of the opinion that the fast track procedures should be extended to implementing bills described in paragraph (1)(B), the President must submit to the Congress, no later than March 1, 1991, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under section 1102 (b) or (c) and the anticipated

schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

President of U.S. Reports.

(3) The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of his decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but no later than March 1, 1991, a written report that contains—

(A) its views regarding the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

Reports.

(4) The reports submitted to the Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5)(A) For purposes of this subsection, 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 1103(b)(1)(B)(i) of the Omnibus Trade and Competitiveness Act of 1988, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act after May 31, 1991, because sufficient tangible progress has not been made in trade negotiations.", 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 jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution that is reported to such House after May 15, 1991.

(c) LIMITATIONS ON USE OF "FAST TRACK" PROCEDURES.—

(1)(A) The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 1102 (b) or (c) if both Houses of the Congress separately agree to procedural disapproval resolutions within any 60-day period.

(B) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules,

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules, and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(D) 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 the Committee on Rules.

(E) For purposes of this subsection, the term "procedural 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 President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Omnibus Trade and Competitiveness Act of 1988, and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act of 1988, if, during the 60-day period beginning on the date on which this resolution is agreed to by the , the agrees to a procedural disapproval resolution (within the meaning of section 1103(c)(1)(E) of such Act of 1988).", with the first blank space being filled with the name of the resolving House of the Congress and the second blank space being filled with the name of the other House of the Congress.

(2) The fast track procedures shall not apply to any implementing bill that contains a provision approving of any trade agreement which is entered into under section 1102(c) with any foreign country if either—

(A) the requirements of section 1102(c)(3) are not met with respect to the negotiation of such agreement; or

(B) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproves of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under section 1102(c)(3)(C)(i) with respect to the negotiation of such agreement.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsections (b) and (c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is

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.

(e) COMPUTATION OF CERTAIN PERIODS OF TIME.—Each period of time described in subsection (c)(1) (A) and (E) and (2) of this section shall be computed without regard to—

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

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

SEC. 1104. COMPENSATION AUTHORITY.

Section 123 of the Trade Act of 1974 (19 U.S.C. 2133) is amended—

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

"(a) Whenever—

"(1) any action taken under chapter 1 of title II or chapter 1 of title III; or

"(2) any judicial or administrative tariff reclassification that becomes final after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988;

increases or imposes any duty or other import restriction, the President—

"(A) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

"(B) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.";

(2) by amending subsection (b)(2) by—

(A) striking out "section 109" and inserting "section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988", and

(B) striking out "section 101" each place it appears and inserting "such section 1102(a)";

(3) by striking out "section 101" in subsection (d) and inserting "section 1102 of the Omnibus Trade and Competitiveness Act of 1988"; and

(4) by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall apply by reason of action taken under chapter 1 of title III only if the President determines that action authorized under this section is necessary or appropriate to meet the international obligations of the United States.".

19 USC 2904.

SEC. 1105. TERMINATION AND RESERVATION AUTHORITY; RECIPROCAL NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—For purposes of applying sections 125, 126(a), and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 1102 shall be treated as an agreement entered into under section 101 or

102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 1102 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

(b) RECIPROCAL NONDISCRIMINATORY TREATMENT.— President of U.S.

(1) The President shall determine, before June 1, 1993, whether any major industrial country has failed to make concessions under trade agreements entered into under section 1102 (a) and (b) which provide competitive opportunities for the commerce of the United States in such country substantially equivalent to the competitive opportunities, provided by concessions made by the United States under trade agreements entered into under section 1102 (a) and (b), for the commerce of such country in the United States.

(2) If the President determines under paragraph (1) that a major industrial country has not made concessions under trade agreements entered into under section 1102 (a) and (b) which provide substantially equivalent competitive opportunities for the commerce of the United States, the President shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities, recommend to the Congress—

(A) legislation providing for the termination or denial of the benefits of concessions of trade agreements entered into under section 1102 (a) and (b) that have been made with respect to rates of duty or other import restrictions imposed by the United States, and

(B) legislation providing that any law necessary to carry out any trade agreement under section 1102 (a) or (b) not apply to such country.

(3) For purposes of this subsection, the term "major industrial country" means Canada, the European Communities, the individual member countries of the European Communities, Japan, and any other foreign country designated by the President for purposes of this subsection.

SEC. 1106. ACCESSION OF STATE TRADING REGIMES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE. 19 USC 2905.

(a) IN GENERAL.—Before any major foreign country accedes, after the date of enactment of this Act, to the GATT the President shall determine— President of U.S.

(1) whether state trading enterprises account for a significant share of—

(A) the exports of such major foreign country, or

(B) the goods of such major foreign country that are subject to competition from goods imported into such foreign country; and

(2) whether such state trading enterprises—

(A) unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or

(B) are likely to result in such a burden, restriction, or effect.

(b) EFFECTS OF AFFIRMATIVE DETERMINATION.—If both of the determinations made under paragraphs (1) and (2) of subsection (a) with respect to a major foreign country are affirmative—

President of U.S.

(1) the President shall reserve the right of the United States to withhold extension of the application of the GATT, between the United States and such major foreign country, and

(2) the GATT shall not apply between the United States and such major foreign country until—

(A) such foreign country enters into an agreement with the United States providing that the state trading enterprises of such foreign country—

(i) will—

(I) make purchases which are not for the use of such foreign country, and

(II) make sales in international trade,

in accordance with commercial considerations (including price, quality, availability, marketability, and transportation), and

(ii) will afford United States business firms adequate opportunity, in accordance with customary practice, to compete for participation in such purchases or sales; or

(B) a bill submitted under subsection (c) which approves of the extension of the application of the GATT between the United States and such major foreign country is enacted into law.

(c) EXPEDITED CONSIDERATION OF BILL TO APPROVE EXTENSION.—

(1) The President may submit to the Congress any draft of a bill which approves of the extension of the application of the GATT between the United States and a major foreign country.

(2) Any draft of a bill described in paragraph (1) that is submitted by the President to the Congress shall—

(A) be introduced by the majority leader of each House of the Congress (by request) on the first day on which such House is in session after the date such draft is submitted to the Congress; and

(B) shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 151 of the Trade Act of 1974.

President of U.S.
Federal Register, publication.
19 USC 2906.

(d) PUBLICATION.—The President shall publish in the Federal Register each determination made under subsection (a).

SEC. 1107. DEFINITIONS AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—For purposes of this part:

(1) The term "distortion" includes, but is not limited to, a subsidy.

(2) The term "foreign country" includes any foreign instrumentality. Any territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

(3) The term "GATT" means the General Agreement on Tariffs and Trade.

(4) The term "implementing bill" has the meaning given such term in section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)).

(5) The term "international trade" includes, but is not limited to—

(A) trade in both goods and services, and

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

(6) The term "state trading enterprise" means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade; or

(B) any business firm which—

(i) is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit thereof,

(ii) is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods or services in international trade.

(b) CONFORMING AMENDMENTS.—

(1) Section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended by striking out "section 102" and inserting "section 102 of this Act or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988".

(2) Section 121 of the Trade Act of 1974 (19 U.S.C. 2131) is amended by striking out subsections (a), (b), and (c).

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 1111. HEARINGS AND ADVICE.

(a) ADVICE FROM ITC AND OTHER FEDERAL AGENCIES CONCERNING TRADE POLICY AND NEGOTIATIONS.—Sections 131 through 134, inclusive, of the Trade Act of 1974 (19 U.S.C. 2151-2154) are amended to read as follows:

"SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION. 19 USC 2151.

"(a) LISTS OF ARTICLES WHICH MAY BE CONSIDERED FOR ACTION.—

"(1) In connection with any proposed trade agreement under section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the 'Commission') with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given. President of U.S.

"(2) In connection with any proposed trade agreement under section 1102 (b) or (c) of the Omnibus Trade and Competitive-

ness Act of 1988, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

Copyrights. Patents and trademarks. Securities. Consumer protection.

"(b) ADVICE TO PRESIDENT BY COMMISSION.—Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 1102(a)(3)(A).

"(c) ADDITIONAL INVESTIGATIONS AND REPORTS REQUESTED BY THE PRESIDENT OR THE TRADE REPRESENTATIVE.—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representative on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

"(d) COMMISSION STEPS IN PREPARING ITS ADVICE TO THE PRESIDENT.—In preparing its advice to the President under this section, the Commission shall to the extent practicable—

"(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

Employment and unemployment.

"(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

Employment and unemployment.

"(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

Wages. Consumer protection. Copyrights. Patents and trademarks. Securities.

"(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor,

consumers, services, intellectual property and investment, using to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

"(e) PUBLIC HEARING.—In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

"SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

President of U.S.
19 USC 2152.

"Before any trade agreement is entered into under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

"SEC. 133. PUBLIC HEARINGS.

19 USC 2153.

"(a) OPPORTUNITY FOR PRESENTATION OF VIEWS.—In connection with any proposed trade agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

President of U.S.

Regulations.

"(b) SUMMARY OF HEARINGS.—The organization holding such hearing shall furnish the President with a summary thereof.

"SEC. 134. PREREQUISITES FOR OFFERS.

19 USC 2154.

"(a) In any negotiation seeking an agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day

Copyrights.
Patents and trademarks.

period provided for in that section, as appropriate, whichever first occurs.

President of U.S.

"(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

"(1) the Commission;

"(2) any advisory committee established under section 135; or

"(3) any organization that holds public hearings under section 133;

with respect to any article, or domestic industry, that is sensitive, or potentially sensitive, to imports.".

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

SEC. 1121. IMPLEMENTATION OF NAIROBI PROTOCOL.

(a) PURPOSE AND REFERENCE.—

(1) The purpose of this section is—

(A) to provide for the implementation by the United States of the Protocol (S. Treaty Doc. 97-2, 9; hereafter referred to in this section as the "Nairobi Protocol") to the Agreement on the Importation of Educational, Scientific, and Cultural Materials (17 UST (pt. 2) 1835; commonly known as the "Florence Agreement");

(B) to clarify or modify the duty-free treatment accorded under the Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 96 Stat. 2346-2349), the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-65, 80 Stat. 897 et seq.), and Public Law 89-634 (80 Stat. 879); and

(C) to continue the safeguard provisions concerning certain imported articles provided for in the Educational, Scientific, and Cultural Materials Importation Act of 1982.

(2) Whenever an amendment or repeal in this section is expressed in terms of an amendment to, or repeal of, an item, headnote, Appendix, or other provision, the reference shall be considered to be made to an item, headnote, Appendix, or other provision of the Tariff Schedules of the United States.

(b) REPEAL OF THE EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS IMPORTATION ACT OF 1982.—The Educational, Scientific, and Cultural Materials Importation Act of 1982 is hereby repealed.

(c) TREATMENT OF PRINTED MATTER AND CERTAIN OTHER ARTICLES.—

(1) Items 270.45 and 270.50 are redesignated as items 270.46 and 270.48, respectively.

(2) Part 5 of schedule 2 is amended—

(A) by inserting in numerical sequence the following new item:

"	270.90	Catalogs of films, recordings, or other visual and auditory material of an educational, scientific, or cultural character	Free		Free	",

and

(B) by striking out items 273.45, 273.50, and 273.55 and the superior heading thereto and inserting in lieu thereof the following new item having the same degree of indentation as item 273.35:

"	273.52	Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions	Free		Free	".

(3)(A) The superior heading to items 274.50, 274.60, 274.65, and 274.70 is amended by inserting "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiches and similar articles except those provided for in item 737.52)" after "Photographs".

(B) Part 5 of schedule 2 is amended by inserting in numerical sequence the following new items under the superior heading "Printed not over 20 years at time of importation:", and before, and with the same degree of indentation as, "Lithographs on paper":

"	274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books	Free		Free	
	274.56	Articles provided for in items 270.05, 270.10, 270.25, 270.55, 270.63, 270.70, and 273.60 in the form of microfilm, microfiches, and similar film media	Free		Free	".

(C) Subpart D of part 5 of schedule 7 is amended by striking out item 735.20 and inserting in lieu thereof the following new items with a superior heading having the same degree of indentation as item 735.18:

"		Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for:				
	735.21	Crossword puzzle books, whether or not in the form of microfilm, microfiches, or similar film media	Free		Free	
	735.24	Other	5.52% ad val.		40% ad val.	".

(D) Item 737.52 is amended by inserting "(whether or not in the form of microfilm, microfiches, or similar film media)" after "Toy books".

(E) Item 830.00 is amended by inserting "; official government publications in the form of microfilm, microfiches, or similar film media" after "not developed".

(F) Item 840.00 is amended by inserting ", whether or not in the form of microfilm, microfiches, or similar film media" after "documents".

(d) VISUAL AND AUDITORY MATERIAL.—

(1) Headnote 1 to part 7 of schedule 8 is amended to read as follows:

"1. (a) No article shall be exempted from duty under item 870.30 unless either—

"(i) a Federal agency (or agencies) designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character (17 UST (pt. 2) 1578; Beirut Agreement), or

"(ii) such article—

"(A) is imported by, or certified by the importer to be for the use of, any public or private institution or association approved as educational, scientific, or cultural by a Federal agency or agencies designated by the President for the purpose of duty-free admission pursuant to the Nairobi Protocol to the Florence Agreement, and

"(B) is certified by the importer to be visual or auditory material of an educational, scientific, or cultural character or to have been produced by the United Nations or any of its specialized agencies.

For purposes of subparagraph (i), whenever the President determines that there is, or may be, profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry under that item of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.

"(b) For purposes of items 870.32 through 870.35, inclusive, no article shall be exempted from duty unless it meets the criteria set forth in subparagraphs (a)(ii) (A) and (B) of this headnote.".

(2) Item 870.30 is amended—

(A) by inserting "(except toy models)" after "models", and

(B) by striking out "headnote 1" and inserting in lieu thereof "headnote 1(a)".

(3) Part 7 of schedule 8 is amended by inserting in numerical sequence the following new items with a superior heading at the same degree of indentation as item 870.30:

"		Articles determined to be visual or auditory materials in accordance with headnote 1 of this part:			

870.32	Holograms for laser projection; microfilm, microfiches, and similar articles	Free		Free	
870.33	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed	Free		Free	
870.34	Sound recordings, combination sound and visual recordings, and magnetic recordings; video discs, video tapes, and similar articles	Free		Free	
870.35	Patterns and wall charts; globes; mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programmed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing	Free		Free	".

(e) TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.—Part 4 of schedule 8 is amended by inserting in numerical sequence the following new item having the same degree of indentation as item 852.20:

"	851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of scientific instruments or apparatus admitted under item 851.60	Free		Free	".

(f) ARTICLES FOR THE BLIND AND FOR OTHER HANDICAPPED PERSONS.—

(1) Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10, and 826.20.

(2) The headnotes to part 7 of schedule 8 are amended—

(A) by adding at the end thereof the following new headnote:

"4. (a) For purposes of items 870.65, 870.66, and 870.67, the term 'blind or other physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"(b) Items 870.65, 870.66, and 870.67 do not cover—

"(i) articles for acute or transient disability;

"(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

"(iii) therapeutic and diagnostic articles; or

"(iv) medicine or drugs.".

(3) Part 7 of schedule 8 is amended by inserting in numerical sequence the following new items with a superior heading having the same degree of indentation as item 870.45:

"		Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:			
		Articles for the blind:			
	870.65	Books, music, and pamphlets, in raised print, used exclusively by or for them	Free	Free	
	870.66	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively	Free	Free	
	870.67	Other	Free	Free	"

(g) AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT.—

(1)(A) The President may proclaim changes in the Tariff Schedules of the United States to narrow the scope of, place conditions upon, or otherwise eliminate the duty-free treatment accorded by reason of the amendments made by subsection (e) or (f) with respect to any type of article the duty-free treatment of which has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, if the effect of such change is consistent with the provisions of the relevant annexes of the Florence Agreement or the Nairobi Protocol.

(B) If the President proclaims changes to the Tariff Schedules of the United States under subparagraph (A), the rate of duty thereafter applicable to any article which is—

(i) affected by such action, and

(ii) imported from any source,

shall be the rate determined and proclaimed by the President as the rate which would then be applicable to such article from such source if this section had not been enacted.

(2) If the President determines that any duty-free treatment which is no longer in effect because of action taken under paragraph (1) could be restored, in whole or in part, without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the Tariff Schedules of the United States to resume such duty-free treatment.

(3) Before taking any action under paragraph (1) or (2), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

(4) Any action in effect or any proceeding in progress under section 166 of the Educational, Scientific, and Cultural Materials Importation Act of 1982 on the day that Act is repealed shall be considered as an action or proceeding under this section and shall be continued or resumed under this section.

(h) AUTHORITY TO EXPAND CERTAIN DUTY-FREE TREATMENT ACCORDED BY REASON OF SUBSECTION (d).—

(1) If the President determines such action to be in the interest of the United States, the President may proclaim changes to the Tariff Schedules of the United States in order to remove or modify any condition or restriction imposed under headnote 1 to part 7 of schedule 8 (as amended by subsection (d) of this section) of such Schedules, on the importation of articles provided for in items 870.30 through 870.35, inclusive (except as to articles entered under the terms of headnote 1(a)(i) to part 7 of schedule 8) of such Schedules, in order to implement the provisions of annex C-1 of the Nairobi Protocol.

(2) Any change to the Tariff Schedules of the United States proclaimed under paragraph (1) shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date on which the President proclaims such change. Effective date.

(i) STATISTICAL INFORMATION.—In order to implement effectively the provisions of subsection (g), the Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which amendments made by subsection (c) apply, in such detail and for such period as the Secretaries consider necessary.

(j) EFFECTIVE DATE.—

(1) The provisions of this section, and the repeal and amendments made by this section, shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the later of—

(A) October 1, 1988, or

(B) the date that is 15 days after the deposit of the United States ratification of the Nairobi Protocol.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer on or before the date that is 180 days after the later of the dates described in subparagraphs (A) and (B) of paragraph (1), any entry, or withdrawal from warehouse, of any article—

(A) which was made on or after August 12, 1985, and before such later date, and

(B) with respect to which there would have been no duty if the provisions of this section, or any amendments made by this section, applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such entry or withdrawal had been made on or after such later date.

SEC. 1122. IMPLEMENTATION OF UNITED STATES-EC AGREEMENT ON CITRUS AND PASTA.

(a) PURPOSE.—The purpose of this section is to provide for the implementation of tariff reductions agreed to by the United States in the Agreement between the European Communities and the

United States, concluded February 24, 1987, with respect to citrus and pasta.

(b) PROCLAMATION AUTHORITY.—

(1) The amendments made by subsection (c) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after a date occurring after September 30, 1988, that is proclaimed by the President as being appropriate to carry out the Agreement referred to in subsection (a).

President of U.S.

(2) The President is authorized at any time to modify or terminate by proclamation any provision of law enacted by the amendments made by subsection (c).

(3) The rates of duty in column numbered 1 of the Tariff Schedules of the United States that are enacted by the amendments made by subsection (c) shall be treated—

(A) as not having the status of statutory provisions enacted by the Congress; but

(B) as having been proclaimed by the President as being required to carry out a foreign trade agreement to which the United States is a party.

(c) AMENDMENTS TO TARIFF SCHEDULES.—

(1) Whenever in this subsection an amendment is expressed in terms of an amendment to a schedule, headnote, item, the Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

(2) Subpart C of part 3 of schedule 1 is amended by striking out item 112.40 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 112.42:

"		Anchovies:			
	112.40	If entered in any calendar year before 3,000 metric tons of anchovies have been entered under this item in such calendar year..	3% ad val.	Free (A,E,I)	30% ad val.
	112.41	Other	6% ad val.	Free (A,E,I)	30% ad val. ".

(3)(A) Item 117.65 is amended by striking out "9% ad val." and inserting in lieu thereof "Free".

(B) Item 117.67 is amended by striking out "12% ad val." and inserting in lieu thereof "Free".

(4) Subpart B of part 9 of Schedule 1 is amended by striking out item 147.29 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 147.30:

"		Mandarin, packed in airtight containers:			
	147.28	Satsuma, if entered in any calendar year before 40,000 metric tons of Satsuma oranges have been entered under this item in such calendar year..	Free	Free (A,E,I)	1¢ per lb.
	147.29	Other	0.2¢ per lb.	Free (A,E,I)	1¢ per lb. ".

(5) Subpart B of part 9 of Schedule 1 is amended—

(A) by striking out item 148.44 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 148.42:

"

	Other:				
148.43	In containers each holding not more than 0.3 gallon	20¢ per gal.	Free (E)	20¢ per gal.	
	In containers each holding more than 0.3 gallon:				
148.44	If entered in any calendar year before 4,400 metric tons of olives have been entered under this item in such calendar year	10¢ per gal.	Free (E)	20¢ per gal.	
148.45	Other	20¢ per gal.	Free (E)	20¢ per gal.	";

(B) by striking out item 148.48 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 148.46:

"

	Other:				
148.47	If entered in any calendar year before 730 metric tons of olives have been entered under this item in such calendar year	15¢ per gal.	Free (E)	30¢ per gal.	
148.48	Other	30¢ per gal.	Free (E)	30¢ per gal.	";

(C) by striking out "or stuffed" in item 148.50;

(D) by redesignating items 148.52, 148.54, and 148.56 as items 148.55, 148.56, and 148.57, respectively;

(E) by inserting after item 148.50 the following new items with a superior heading having the same degree of indentation as the article description in item 148.50:

"

	Stuffed:			
	In containers each holding not more than 0.3 gallon:			
	Place Packed:			
148.51	If entered in any calendar year before 2,700 metric tons of olives have been entered under this item in such calendar year	15¢ per gal.	Free (E)	30¢ per gal.
148.52	Other	30¢ per gal.	Free (E)	30¢ per gal.
148.53	Other	30¢ per gal.	Free (E)	30¢ per gal.

148.54	In containers each holding more than 0.3 gallon	30¢ per gal.	Free (E)	30¢ per gal.	";

(F) by striking out "5¢ per lb." in item 148.55, as redesignated by paragraph (4), and inserting in lieu thereof "2.5¢ per lb."; and

(G) by striking out item 148.57, as redesignated by paragraph (4), and inserting in lieu thereof the following new items with the superior heading having the same degree of indentation as the article description in item 148.40:

"	Otherwise prepared or preserved:				
148.57	If entered in any calendar year before 550 metric tons of olives have been entered under this item in such calendar year	2.5¢ per lb.	Free (E)	5¢ per lb.	
148.58	Other	5¢ per lb.	Free (E)	5¢ per lb.	".

(6) Items 161.06 and 161.08 are each amended by striking out "16% ad val." and inserting in lieu thereof "8% ad val.".

(7) Item 161.71 is amended by striking out "2¢ per lb." and inserting in lieu thereof "1.35¢ per lb.".

(8) Item 167.15 is amended by striking out "3¢ per gal." and inserting in lieu thereof "1.5¢ per gal.".

(9)(A) Item 176.29 is amended by striking out "3.8¢ per lb. on contents and container" and inserting in lieu thereof "2.28¢ per lb. on contents and container.".

(B) Item 176.30 is amended by striking out "2.6¢ per lb." and inserting in lieu thereof "1.56¢ per lb.".

(d) REPORT.—The Trade Representative shall include in the semi-annual report submitted under section 309(3) of the Trade Act of 1974 an assessment of whether the European Communities are in compliance with the agreement referred to in subsection (a).

SEC. 1123. EXTENSION OF INTERNATIONAL COFFEE AGREEMENT ACT OF 1980.

(a) EXTENSION.—Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1986" and inserting "October 1, 1989".

19 USC 1356k note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect January 1, 1987.

22 USC 5304 note.

SEC. 1124. NEGOTIATIONS ON CURRENCY EXCHANGE RATES.

(a) FINDINGS.—The Congress finds that—

(1) the benefit of trade concessions can be adversely affected by misalignments in currency, and

(2) misalignments in currency caused by government policies intended to maintain an unfair trade advantage tend to nullify and impair trade concessions.

(b) NEGOTIATIONS.—Whenever, in the course of negotiating a trade agreement under this subtitle, the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations satisfies the criteria for initiating bilateral currency negotiations listed in section 3004(b) of this Act, the Secretary

of the Treasury shall take action to initiate bilateral currency negotiations on an expedited basis with such foreign country.

SEC. 1125. REPORTS ON NEGOTIATIONS TO ELIMINATE WINE TRADE BARRIERS.

President of U.S. 19 USC 2804 note.

Before the close of the 13-month period beginning on the date of the enactment of this Act, the President shall update each report that the President submitted to the Committee on Ways and Means and the Committee on Finance under section 905(b) of the Wine Equity and Export Expansion Act of 1984 (19 U.S.C. 2804) and submit the updated report to both of such committees. Each updated report shall contain, with respect to the major wine trading country concerned—

(1) a description of each tariff or nontariff barrier to (or other distortion of) trade in United States wine of that country with respect to which the United States Trade Representative has carried out consultations since the report required under such section 905(b) was submitted;

(2) the status of the consultations described under paragraph (1); and

(3) information, explanations, and recommendations of the kind referred to in paragraph (1) (C), (D), and (E) of such section 905(b) that are based on developments (including the taking of relevant actions, if any, of a kind not contemplated at the time of the enactment of such 1984 Act) since the submission of the report required under such section.

Subtitle B—Implementation of the Harmonized Tariff Schedule

SEC. 1201. PURPOSES.

19 USC 3001.

The purposes of this subtitle are—

(1) to approve the International Convention on the Harmonized Commodity Description and Coding System;

(2) to implement in United States law the nomenclature established internationally by the Convention; and

(3) to provide that the Convention shall be treated as a trade agreement obligation of the United States.

SEC. 1202. DEFINITIONS.

19 USC 3002.

As used in this subtitle:

(1) The term "Commission" means the United States International Trade Commission.

(2) The term "Convention" means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987.

(3) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term "Federal agency" means any establishment in the executive branch of the United States Government.

(5) The term "old Schedules" means title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a).

(6) The term "technical rectifications" means rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as—

(A) errors in spelling, numbering, or punctuation;

(B) errors in indentation;

(C) errors (including inadvertent omissions) in cross-references to headings or subheadings or notes; and

(D) other clerical or typographical errors.

19 USC 3003.

SEC. 1203. CONGRESSIONAL APPROVAL OF UNITED STATES ACCESSION TO THE CONVENTION.

(a) CONGRESSIONAL APPROVAL.—The Congress approves the accession by the United States of America to the Convention.

(b) ACCEPTANCE OF THE FINAL LEGAL TEXT OF THE CONVENTION BY THE PRESIDENT.—The President may accept for the United States the final legal instruments embodying the Convention. The President shall submit a copy of each final instrument to the Congress on the date it becomes available.

(c) UNSPECIFIED PRIVATE REMEDIES NOT CREATED.—Neither the entry into force with respect to the United States of the Convention nor the enactment of this subtitle may be construed as creating any private right of action or remedy for which provision is not explicitly made under this subtitle or under other laws of the United States.

(d) TERMINATION.—The provisions of section 125(a) of the Trade Act of 1974 (19 U.S.C. 2135(a)) do not apply to the Convention.

19 USC 3004.

SEC. 1204. ENACTMENT OF THE HARMONIZED TARIFF SCHEDULE.

19 USC prec. 1202 note.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by striking out title I and inserting a new title I entitled "Title I—Harmonized Tariff Schedule of the United States" (hereinafter in this subtitle referred to as the "Harmonized Tariff Schedule") which—

(1) consists of—

(A) the General Notes;

(B) the General Rules of Interpretation;

(C) the Additional U.S. Rules of Interpretation;

(D) sections I to XXII, inclusive (encompassing chapters 1 to 99, and including all section and chapter notes, article provisions, and tariff and other treatment accorded thereto); and

(E) the Chemical Appendix to the Harmonized Tariff Schedule;

all conforming to the nomenclature of the Convention and as set forth in Publication No. 2030 of the Commission entitled "Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes" and Supplement No. 1 thereto; but

(2) does not include the statistical annotations, notes, annexes, suffixes, check digits, units of quantity, and other matters formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), nor the table of contents, footnotes, index, and other matters inserted for ease of reference, that are included in such Publication No. 2030 or Supplement No. 1. thereto.

(b) MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE.—At the earliest practicable date after the date of the enactment of the Onmibus Trade and Competitiveness Act of 1988, the President shall— President of U.S.

(1) proclaim such modifications to the Harmonized Tariff Schedule as are consistent with the standards applied in converting the old Schedules into the format of the Convention, as reflected in such Publication No. 2030 and Supplement No. 1. thereto, and as are necessary or appropriate to implement—

(A) the future outstanding staged rate reductions authorized by the Congress in—

(i) the Trade Act of 1974 (19 U.S.C. 2101 et seq.) and the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) to reflect the tariff reductions that resulted from the Tokyo Round of multilateral trade negotiations, and

(ii) the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 1202 note) to reflect the tariff reduction resulting from the United States-Israel Free Trade Area Agreement,

(B) the applicable provisions of—

(i) statutes enacted,

(ii) executive actions taken, and

(iii) final judicial decisions rendered,

after January 1, 1988, and before the effective date of the Harmonized Tariff Schedule, and

(C) such technical rectifications as the President considers necessary; and

(2) take such action as the President considers necessary to bring trade agreements to which the United States is a party into conformity with the Harmonized Tariff Schedule.

(c) STATUS OF THE HARMONIZED TARIFF SCHEDULE.—

(1) The following shall be considered to be statutory provisions of law for all purposes:

(A) The provisions of the Harmonized Tariff Schedule as enacted by this subtitle.

(B) Each statutory amendment to the Harmonized Tariff Schedule.

(C) Each modification or change made to the Harmonized Tariff Schedule by the President under authority of law (including section 604 of the Trade Act of 1974).

(2) Neither the enactment of this subtitle nor the subsequent enactment of any amendment to the Harmonized Tariff Schedule, unless such subsequent enactment otherwise provides, may be construed as limiting the authority of the President—

(A) to effect the import treatment necessary or appropriate to carry out, modify, withdraw, suspend, or terminate, in whole or in part, trade agreements; or

(B) to take such other actions through the modification, continuance, or imposition of any rate of duty or other import restriction as may be necessary or appropriate under the authority of the President.

(3) If a rate of duty established in column 1 by the President by proclamation or Executive order is higher than the existing rate of duty in column 2, the President may by proclamation or Executive order increase such existing rate to the higher rate.

(4) If a rate of duty is suspended or terminated by the President by proclamation or Executive order and the proclamation or Executive order does not specify the rate that is to apply in lieu of the suspended or terminated rate, the last rate of duty that applied prior to the suspended or terminated rate shall be the efffective rate of duty.

(d) INTERIM INFORMATIONAL USE OF HARMONIZED TARIFF SCHEDULE CLASSIFICATIONS.—Each—

(1) proclamation issued by the President;

(2) public notice issued by the Commission or other Federal agency; and

(3) finding, determination, order, recommendation, or other decision made by the Commission or other Federal agency;

during the period between the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988 and the effective date of the Harmonized Tariff Schedule shall, if the proclamation, notice, or decision contains a reference to the tariff classification of any article, include, for informational purposes, a reference to the classification of that article under the Harmonized Tariff Schedule.

19 USC 3005.

SEC. 1205. COMMISSION REVIEW OF, AND RECOMMENDATIONS REGARDING, THE HARMONIZED TARIFF SCHEDULE.

(a) IN GENERAL.—The Commission shall keep the Harmonized Tariff Schedule under continuous review and periodically, at such time as amendments to the Convention are recommended by the Customs Cooperation Council for adoption, and as other circumstances warrant, shall recommend to the President such modifications in the Harmonized Tariff Schedule as the Commission considers necessary or appropriate—

(1) to conform the Harmonized Tariff Schedule with amendments made to the Convention;

(2) to promote the uniform application of the Convention and particularly the Annex thereto;

(3) to ensure that the Harmonized Tariff Schedule is kept up-to-date in light of changes in technology or in patterns of international trade;

(4) to alleviate unnecessary administrative burdens; and

(5) to make technical rectifications.

(b) AGENCY AND PUBLIC VIEWS REGARDING RECOMMENDATIONS.—In formulating recommendations under subsection (a), the Commission shall solicit, and give consideration to, the views of interested Federal agencies and the public. For purposes of obtaining public views, the Commission—

(1) shall give notice of the proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing; and

(2) may provide for a public hearing.

Reports.

(c) SUBMISSION OF RECOMMENDATIONS.—The Commission shall submit recommendations under this section to the President in the form of a report that shall include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also shall include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties.

(d) REQUIREMENTS REGARDING RECOMMENDATIONS.—The Commission may not recommend any modification to the Harmonized Tariff Schedule unless the modification meets the following requirements:

(1) The modification must—

(A) be consistent with the Convention or any amendment thereto recommended for adoption;

(B) be consistent with sound nomenclature principles; and

(C) ensure substantial rate neutrality.

(2) Any change to a rate of duty must be consequent to, or necessitated by, nomenclature modifications that are recommended under this section.

(3) The modification must not alter existing conditions of competition for the affected United States industry, labor, or trade.

SEC. 1206. PRESIDENTIAL ACTION ON COMMISSION RECOMMENDATIONS. 19 USC 3006.

(a) IN GENERAL.—The President may proclaim modifications, based on the recommendations by the Commission under section 1205, to the Harmonized Tariff Schedule if the President determines that the modifications—

(1) are in conformity with United States obligations under the Convention; and

(2) do not run counter to the national economic interest of the United States.

(b) LAY-OVER PERIOD.—

(1) The President may proclaim a modification under subsection (a) only after the expiration of the 60-day period beginning on the date on which the President submits a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the proposed modification and the reasons therefor. President of U.S. Reports.

(2) The 60-day period referred to in paragraph (1) shall be computed by excluding—

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

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(c) EFFECTIVE DATE OF MODIFICATIONS.—Modifications proclaimed by the President 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. 1207. PUBLICATION OF THE HARMONIZED TARIFF SCHEDULE. 19 USC 3007.

(a) IN GENERAL.—The Commission shall compile and publish, at appropriate intervals, and keep up to date the Harmonized Tariff Schedule and related information in the form of printed copy; and, if, in its judgment, such format would serve the public interest and convenience—

(1) in the form of microfilm images; or

(2) in the form of electronic media.

(b) CONTENT.—Publications under subsection (a), in whatever format, shall contain—

(1) the then current Harmonized Tariff Schedule;

(2) statistical annotations and related statistical information formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)); and

(3) such other matters as the Commission considers to be necessary or appropriate to carry out the purposes enumerated in the Preamble to the Convention.

Public information.
19 USC 3008.

SEC. 1208. IMPORT AND EXPORT STATISTICS.

The Secretary of Commerce shall compile, and make publicly available, the import and export trade statistics of the United States. Such statistics shall be conformed to the nomenclature of the Convention.

19 USC 3009.

SEC. 1209. COORDINATION OF TRADE POLICY AND THE CONVENTION.

The United States Trade Representative is responsible for coordination of United States trade policy in relation to the Convention. Before formulating any United States position with respect to the Convention, including any proposed amendments thereto, the United States Trade Representative shall seek, and consider, information and advice from interested parties in the private sector (including a functional advisory committee) and from interested Federal agencies.

19 USC 3010.

SEC. 1210. UNITED STATES PARTICIPATION ON THE CUSTOMS COOPERATION COUNCIL REGARDING THE CONVENTION.

(a) PRINCIPAL UNITED STATES AGENCIES.—

(1) Subject to the policy direction of the Office of the United States Trade Representative under section 1209, the Department of the Treasury, the Department of Commerce, and the Commission shall, with respect to the activities of the Customs Cooperation Council relating to the Convention—

(A) be primarily responsible for formulating United States Government positions on technical and procedural issues; and

(B) represent the United States Government.

(2) The Department of Agriculture and other interested Federal agencies shall provide to the Department of the Treasury, the Department of Commerce, and the Commission technical advice and assistance relating to the functions referred to in paragraph (1).

(b) DEVELOPMENT OF TECHNICAL PROPOSALS.—

(1) In connection with responsibilities arising from the implementation of the Convention and under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) regarding United States programs for the development of adequate and comparable statistical information on merchandise trade, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall prepare technical proposals that are appropriate or required to assure that the United States contribution to the development of the Convention recognizes the needs of the United States business community for a Convention which reflects sound principles of commodity identification, modern producing methods, and current trading patterns and practices.

(2) In carrying out this subsection, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall—

(A) solicit and consider the views of interested parties in the private sector (including a functional advisory committee) and of interested Federal agencies;

(B) establish procedures for reviewing, and developing appropriate responses to, inquiries and complaints from

interested parties concerning articles produced in and exported from the United States; and

(C) where appropriate, establish procedures for—

(i) ensuring that the dispute settlement provisions and other relevant procedures available under the Convention are utilized to promote United States export interests, and

(ii) submitting classification questions to the Harmonized System Committee of the Customs Cooperation Council.

(c) AVAILABILITY OF CUSTOMS COOPERATION COUNCIL PUBLICATIONS.—As soon as practicable after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, and periodically thereafter as appropriate, the Commission shall see to the publication of—

(1) summary records of the Harmonized System Committee of the Customs Cooperation Council; and Records.

(2) subject to applicable copyright laws, the Explanatory Notes, Classification Opinions, and other instruments of the Customs Cooperation Council relating to the Convention.

SEC. 1211. TRANSITION TO THE HARMONIZED TARIFF SCHEDULE. 19 USC 3011.

(a) EXISTING EXECUTIVE ACTIONS.—

(1) The appropriate officers of the United States Government shall take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule all proclamations, regulations, rulings, notices, findings, determinations, orders, recommendations, and other written actions that—

(A) are in effect on the day before the effective date of the Harmonized Tariff Schedule; and

(B) contain references to the tariff classification of articles under the old Schedules.

(2) Neither the repeal of the old Schedules, nor the failure of any officer of the United States Government to make the conforming changes required under paragraph (1), shall affect to any extent the validity or effect of the proclamation, regulation, ruling, notice, finding, determination, order, recommendation, or other action referred to in paragraph (1).

(b) GENERALIZED SYSTEM OF PREFERENCES CONVERSION.—

(1) The review of the proposed conversion of the Generalized System of Preferences program to the Convention tariff nomenclature, initiated by the Office of the United States Trade Representative by notice published in the Federal Register on December 8, 1986 (at page 44,163 of volume 51 thereof), shall be treated as satisfying the requirements of sections 503(a) and 504(c)(3) of the Trade Act of 1974 (19 U.S.C. 2463(a), 2464(c)(3)).

(2) In applying section 504(c)(1) of the Trade Act of 1974 (19 U.S.C. 2464(c)(1)) for calendar year 1989, the reference in such section to July 1 shall be treated as a reference to September 1.

(c) IMPORT RESTRICTIONS UNDER THE AGRICULTURAL ADJUSTMENT ACT.—

(1) Whenever the President determines that the conversion of an import restriction proclaimed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) from part 3 of the Appendix to the old Schedules to subchapter IV of chapter 99 of the Harmonized Tariff Schedule results in—

(A) an article that was previously subject to the restriction being excluded from the restriction; or

(B) an article not previously subject to the restriction being included within the restriction;

the President may proclaim changes in subchapter IV of chapter 99 of the Harmonized Tariff Schedule to conform that subchapter to the fullest extent possible to part 3 of the Appendix to the old Schedules.

(2) Whenever the President determines that the conversion from headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules to Additional U.S. Note 2, chapter 17, of the Harmonized Tariff Schedule results in—

(A) an article that was previously covered by such headnote being excluded from coverage; or

(B) an article not previously covered by such headnote being included in coverage;

the President may proclaim changes in Additional U.S. Note 2, chapter 17 of the Harmonized Tariff Schedule to conform that note to the fullest extent possible to headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules.

(3) No change to the Harmonized Tariff Schedule may be proclaimed under paragraph (1) or (2) after June 30, 1990.

Courts, U.S.

(d) CERTAIN PROTESTS AND PETITIONS UNDER THE CUSTOMS LAW.—

(1)(A) This subtitle may not be considered to divest the courts of jurisdiction over—

(i) any protest filed under section 514 of the Tariff Act of 1930 (19 U.S.C. 1514); or

(ii) any petition by an American manufacturer, producer, or wholesaler under section 516 of such Act (19 U.S.C. 1516);

covering articles entered before the effective date of the Harmonized Tariff Schedule.

(B) Nothing in this subtitle shall affect the jurisdiction of the courts with respect to articles entered after the effective date of the Harmonized Tariff Schedule.

(2)(A) If any protest or petition referred to in paragraph (1)(A) is sustained in whole or in part by a final judicial decision, the entries subject to that protest or petition and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with such final judicial decision under the old Schedules.

(B) At the earliest practicable date after the effective date of the Harmonized Tariff Schedule, the Commission shall initiate an investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) of those final judicial decisions referred to in subparagraph (A) that—

(i) are published during the 2-year period beginning on February 1, 1988; and

(ii) would have affected tariff treatment if they had been published during the period of the conversion of the old Schedules into the format of the Convention.

Reports.

No later than September 1, 1990, the Commission shall report the results of the investigation to the President, the Committee on Ways and Means, and the Committee on Finance, and shall recommend those changes to the Harmonized Tariff Schedule that the Commission would have recommended if the final decisions concerned had been made before the conversion into the format of the Convention occurred.

(3) The President shall review all changes recommended by the Commission under paragraph (2)(B) and shall, as soon as practicable, proclaim such of those changes, if any, which he decides are necessary or appropriate to conform such Schedule to the final judicial decisions. Any such change shall be effective with respect to— President of U.S.

(A) entries made on or after the date of such proclamation; and

(B) entries made on or after the effective date of the Harmonized Tariff Schedule if, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), application for liquidation or reliquidation thereof is made by the importer to the customs officer concerned within 180 days after the effective date of such proclamation.

(4) If any protest or petition referred to in paragraph (1)(A) is not sustained in whole or in part by a final judicial decision, the entries subject to that petition or protest and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with the final judicial decision under the old Schedules.

SEC. 1212. REFERENCE TO THE HARMONIZED TARIFF SCHEDULE. 19 USC 3012.

Any reference in any law to the "Tariff Schedules of the United States", "the Tariff Schedules", "such Schedules", and any other general reference that clearly refers to the old Schedules shall be treated as a reference to the Harmonized Tariff Schedule.

SEC. 1213. TECHNICAL AMENDMENTS.

(a) TRADE ACT OF 1974.—Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) is amended by striking out "including modification," and inserting "including removal, modification,".

(b) TARIFF CLASSIFICATION ACT OF 1962.—Section 201 of the Tariff Classification Act of 1962 (76 Stat. 72, 74) is repealed. 19 USC prec. 1202 note.

(c) TARIFF ACT OF 1930.—Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by adding at the end thereof the following: "This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.".

SEC. 1214. CONFORMING AMENDMENTS.

(a) CODIFIED TITLES.—

(1) Section 374(a)(3) of title 10 of the United States Code is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(2) Section 301 of title 13 of the United States Code is amended—

(A) by striking out "Tariff Schedules of the United States Annotated and general statistical headnote 1 thereof," in subsection (b) and inserting "Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes and general statistical note 1 thereof,";

(B) by striking out "item in the Tariff Schedules of the United States Annotated" in subsection (e) and inserting "heading or subheading in the Harmonized Tariff Schedule

of the United States Annotated for Statistical Reporting Purposes"; and

(C) by amending subsection (f)—

(i) by striking out "item of the Tariff Schedules of the United States Annotated" and inserting "heading or subheading in the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes", and

(ii) by striking out "under that item" each place it appears and inserting "under that heading or subheading".

(3) Section 1295(a)(7) of title 28 of the United States Code is amended by striking out "headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States" and inserting "U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(b) TOBACCO ADJUSTMENT ACT OF 1983.—Section 213(a)(2) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r(a)(2)) is amended by striking out "Schedule 1, Part 13, Tariff Schedules of the United States" and inserting "chapter 24 of the Harmonized Tariff Schedule of the United States".

(c) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (b) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States"; and

(2) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (c)(2) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(d) CONSUMER PRODUCT SAFETY ACT.—Section 15(d) and section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2064(d) and 2066(a)) are each amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(e) TOXIC SUBSTANCES CONTROL ACT.—

(1) Section 3(7) of the Toxic Substances Control Act (15 U.S.C. 2602(7)) is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(2) Section 13(a)(1) of such Act (15 U.S.C. 2612(a)(1)) is amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(f) EMERGENCY WETLANDS RESOURCES ACT OF 1986.—Section 203 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3912) is amended by striking out "subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "chapter 93 of the Harmonized Tariff Schedule of the United States".

(g) COBRA OF 1985.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) by striking out "schedule 8 of the Tariff Schedules of the United States" in subsection (a)(9)(A) and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States";

(2) by striking out "General Headnote 3(e)(vi) or (vii)" in subsection (a)(9)(C) and inserting "general note 3(c)(v)"; and

(3) by striking out "headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States" in subsection (c)(3) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(h) TARIFF ACT OF 1930.—The Tariff Act of 1930 is amended as follows:

(1) Section 312(f) (19 U.S.C. 1312(f)) is amended—

(A) by amending paragraph (1)—

(i) by striking out "schedule 6, part 1, of the Tariff Schedules of the United States," and inserting "chapter 26 of the Harmonized Tariff Schedule of the United States,";

(ii) by striking out "schedule 6, part 2, of such schedules," and inserting "chapters 71 through 83 of the Harmonized Tariff Schedule of the United States,"; and

(iii) by striking out the quotation marks surrounding "metal waste and scrap" and "unwrought metal";

(B) by amending paragraph (2)(A)—

(i) by striking out "part 2 of schedule 6" and inserting "chapters 71 through 83 of the Harmonized Tariff Schedule of the United States";

(ii) by striking out "part 1 of schedule 6" and inserting "chapter 26 of the Harmonized Tariff Schedule of the United States"; and

(iii) by striking out the quotation marks surrounding "unwrought metal"; and

(C) by amending paragraph (3) by striking out "as defined in part 1 of schedule 6" and inserting "of chapter 26 of the Harmonized Tariff Schedule of the United States".

(2) Section 321(a)(2)(B) (19 U.S.C. 1321(a)(2)(B)) is amended by striking out "item 812.25 or 813.31" and inserting "subheading 9804.00.30 or 9804.00.70".

(3) Section 337(j) (19 U.S.C. 1337(j)) is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(4) Section 466(f) (19 U.S.C. 1466(f)) is amended by striking out "headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States" and inserting "general note 3(c)(iv) of the Harmonized Tariff Schedule of the United States".

(5) Section 498(a)(1) (19 U.S.C. 1498(a)(1)) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting the following:

"(A) chapters 50 through 63;

"(B) chapters 39 through 43, 61 through 65, 67 and 95; and

"(C) subchapters III and IV of chapter 99;"; and

(B) by striking out "of the Tariff Schedules of the United States," and inserting "of the Harmonized Tariff Schedule of the United States,".

(i) AUTOMOTIVE PRODUCTS TRADE ACT OF 1965.—Section 201 (a) and (b) of the Automotive Products Trade Act of 1965 (19 U.S.C. 2011 (a) and (b)) are each amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(j) TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(1) Section 128(b) (19 U.S.C. 2138(b)) is amended to read as follows:

President of U.S.

"(b) The President shall exercise his authority under subsection (a) of this section only with respect to the following subheadings listed in the Harmonized Tariff Schedule of the United States—

"(1) transistors (provided for in subheadings 8541.21.00, 8541.29.00, and 8541.40.70);

"(2) diodes and rectifiers (provided for in subheadings 8541.10.00, 8541.30.00, and 8541.40.60);

"(3) monolithic integrated circuits (provided for in subheadings 8542.11.00 and 8542.19.00);

"(4) other integrated circuits (provided for in subheading 8542.20.00);

"(5) other components (provided for in subheading 8541.50.00);

"(6) parts of semiconductors (provided for in subheadings 8541.90.00 and 8542.90.00); and

"(7) units of automatic data processing machines (provided for in subheadings 8471.92.20, 8471.92.30, 8471.92.70, 8471.92.80, 8471.93.10, 8471.93.15, 8471.93.30, 8471.93.50, 8471.99.15, and 8471.99.60) and parts (provided for in subheading 8473.30.40), all the foregoing not incorporating a cathode ray tube.".

(2) Section 203(f) (19 U.S.C. 2253(f)) is amended—

(A) by striking out "item 806.30 or 807.00 of the Tariff Schedules of the United States" in paragraph (1) and inserting "subheadings 9802.00.60 or 9802.00.80 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item 806.30 or item 807.00" in paragraph (3) and inserting "subheading 9802.00.60 or subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States".

(3) Section 404(c) (19 U.S.C. 2434(c)) is amended by striking out "Tariff Schedules for the United States" and inserting "Harmonized Tariff Schedule of the United States".

(4) Section 407(c)(3) and section 604 (19 U.S.C. 2437(c)(3) and 2483) are each amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(5) Section 601(7) (19 U.S.C. 2481(7)) is amended by striking out "schedules 1 through 7 of the Tariff Schedules of the United States" and inserting "chapters 1 through 97 of the Harmonized Tariff Schedule of the United States".

(k) TRADE AGREEMENTS ACT OF 1979.—Section 1102(b)(3) of the Trade Agreements Act of 1979 (19 U.S.C. 2581(b)(3)) is amended by striking out "headnotes of the Tariff Schedules of the United States" and inserting "notes of the Harmonized Tariff Schedule of the United States".

(l) ACT OF MARCH 2, 1897.—Section 1 of the Act of March 2, 1897 (29 Stat. 604) (21 U.S.C. 41) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(m) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1001(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 951(a)(2)) is amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(n) COMPREHENSIVE ANTI-APARTHEID ACT OF 1986.—Section 309(b) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5059(b))

is amended by striking out "item 812.10 or 813.10 of the Tariff Schedules of the United States" and inserting "subheading 9804.00.20 or 9804.00.45 of the Harmonized Tariff Schedule of the United States".

(o) STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT.—Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-4) is amended by striking out "general headnote 3(d) of the Tariff Schedules of the United States" and inserting "general note 3(b) of the Harmonized Tariff Schedule of the United States".

(p) INTERNAL REVENUE CODE OF 1986.—

(1) Section 7652(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 7652(e)(3)) is amended by striking out "item 169.13 or 169.14 of the Tariff Schedules of the United States" and inserting "subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States".

(2) Section 9504(b)(1)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)(1)(B)) is amended—

(A) by striking out "subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "heading 9507 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "subpart D of part 6 of schedule 6 of such Schedules" and inserting "chapter 89 of the Harmonized Tariff Schedule of the United States".

(q) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—The Caribbean Basin Economic Recovery Act is amended as follows:

(1) Section 212(a)(1)(C) (19 U.S.C. 2702(a)(1)(C)) is amended by striking out " 'TSUS' means Tariff Schedules of the United States" and inserting " 'HTS' means Harmonized Tariff Schedule of the United States".

(2) Section 213 (19 U.S.C. 2703) is amended as follows:

(A) Subsection (b) is amended—

(i) by striking out "part 10 of schedule 4 of the TSUS" in paragraph (4) and inserting "headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "TSUS" in paragraph (5) and inserting "HTS".

(B) Subsection (c) is amended—

(i) by striking out "items 155.20 and 155.30 of the TSUS" in paragraph (1)(A)(i) and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "subpart B of part 2 of schedule 1 of the TSUS" in paragraph (1)(A)(ii) and inserting "chapters 2 and 16 of the Harmonized Tariff Schedule of the United States".

(C) Subsection (d) is amended by striking out "items 155.20 and 155.30 of the TSUS" and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States".

(D) Subsection (f)(5) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;";

(ii) by striking out "items 135.10 through 138.46 of the TSUS" in subparagraph (B) and inserting "headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS";

(iii) by striking out subparagraph (C);

(iv) by redesignating subparagraph (D) as subparagraph (C) and by striking out "items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS" in such redesignated subparagraph and inserting "subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS";

(v) by striking out subparagraph (E); and

(vi) by redesignating subparagraph (F) as subparagraph (E) and by striking out "items 165.25 and 165.35 of the TSUS" in such redesignated subparagraph and inserting "subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS".

(r) ACT RELATING TO REFORESTATION TRUST FUND.—Section 303(b)(1) of the Act of October 14, 1980 (16 U.S.C. 1606a(b)(1)) is amended to read as follows:

"(b)(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after January 1, 1989, under headings 4401 through 4412 and subheadings 4418.50.00, 4418.90.20, 4420.10.00, 4420.90.80, 4421.90.10 through 4421.90.20, and 4421.90.70 of chapter 44, subheadings 6808.00.00 and 6809.11.00 of chapter 68 and subheading 9614.10.00 of chapter 96 of the Harmonized Tariff Schedule of the United States.".

(s) TRADE AND TARIFF ACT OF 1984.—The Trade and Tariff Act of 1984 (Public Law 98-573) is amended as follows:

98 Stat. 2990. (1) Section 231(a)(1) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

98 Stat. 2994. (2) Section 239 is amended by striking out "headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States" and inserting "U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

98 Stat. 2994. (3) Section 240 is amended—

(A) by striking out "headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States" in subsection (a)(1)(A) and inserting "U.S. note 6(a) to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "headnote 1 of part 4 of schedule 8" in subsection (e) and inserting "U.S. note 1 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

19 USC 2112 note. (4) Section 404(e) is amended—

(A) by amending paragraphs (1) and (2) to read as follows:

"(1) live plants and fresh cut flowers provided for in chapter 6 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202, hereinafter referred to as the 'HTS');

"(2) vegetables, edible nuts or fruit provided for in chapters 7 and 8, heading 1105, subheadings 1106.10.00 and 1106.30, heading 1202, subheadings 1214.90.00 and 1704.90.60, headings 2001 through 2008 (excluding subheadings 2001.90.20 and 2004.90.10) and subheading 2103.20.40 of the HTS;";

(B) by striking out paragraphs (3), (4), and (5); and

(C) by striking out paragraph (6) and inserting the following:

"(3) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.".

(t) TRADE AGREEMENTS ACT OF 1979.—The Trade Agreements Act of 1979 (Public Law 96-39) is amended as follows:

(1) Section 701(c)(1) is amended to read as follows:

19 USC 1202 note.

"(1) QUOTA CHEESE.—The term 'quota cheese' means the articles provided for in the following subheadings of the Harmonized Tariff Schedule of the United States:

"(A) 0406.10.00 (except whey cheese, curd, and cheese, cheese substitutes for cheese mixtures containing: Roquefort, Stilton produced in the United Kingdom, Bryndza, Gjetost, Goya in original loaves, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(B) 0406.20.20 (except Stilton produced in the United Kingdom);

"(C) 0406.20.30;

"(D) 0406.20.35;

"(E) 0406.20.40;

"(F) 0406.20.50;

"(G) 0406.20.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(H) 0406.30.10 (except Stilton produced in the United Kingdom);

"(I) 0406.30.20;

"(J) 0406.30.30;

"(K) 0406.30.40;

"(L) 0406.30.50;

"(M) 0406.30.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(N) 0406.40.60 (except Stilton produced in the United Kingdom);

"(O) 0406.40.80 (except Stilton produced in the United Kingdom);

"(P) 0406.90.10;

"(Q) 0406.90.15;

"(R) 0406.90.30 (except Goya in original loaves);

"(S) 0406.90.35;

"(T) 0406.90.40;

"(U) 0406.90.45 (except Gammelost and Nokkelost);

"(V) 0406.90.65;

"(W) 0406.90.70; and

"(X) 0406.90.80 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses).".

19 USC 1202 note.

(2) Section 703 is amended—

(A) by striking out "item 950.15 of the Tariff Schedules of the United States" and inserting "subheading 9904.10.63 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item 950.16 of the Tariff Schedules of the United States" and inserting "subheading 9904.10.66 of the Harmonized Tariff Schedule of the United States".

19 USC 1202 note.

(3) Section 855 is amended—

(A) by striking out "item set forth in subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States" in subsection (a) and inserting "article provided for in subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item set forth in rate column numbered 1 of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States" in subsection (b) and inserting "article as set forth in rate of duty column numbered 1 of subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States".

(u) MEAT IMPORT ACT OF 1979.—The Meat Import Act of 1979 (19 U.S.C. 1202 note) is amended—

(1) by amending subsection (b)(2)—

(A) by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States",

(B) by striking out "item 106.10" in subparagraph (A) and inserting "subheadings 0201.10.00, 0201.20.60, 0201.30.60, 0202.10.00, 0202.20.60 and 0202.30.60",

(C) by striking out "cattle" in subparagraph (A) and inserting "bovine",

(D) by striking out "items 106.22 and 106.25" in subparagraph (B) and inserting "subheadings 0204.50.00, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, and 0204.43.40", and

(E) by amending subparagraph (C) to read as follows: "(C) subheadings 0201.20.40, 0201.30.40, 0202.20.40, and 0202.30.40 (relating to processed meat of beef or veal other than high quality beef cuts).";

(2) by striking out "items 100.40, 100.43, 100.45, 100.53, and 100.55 of such Schedules" in the sentence following subsection (c)(2) and inserting "subheadings 0102.90.20 and 0102.90.40 of the Harmonized Tariff Schedule of the United States"; and

(3) by striking out "item 107.61 of the Tariff Schedules of the United States" in subsection (f)(1) and inserting "subheadings 0201.20.20, 0201.30.20, 0202.20.20, and 0202.30.20 of the Harmonized Tariff Schedule of the United States".

(v) NATIONAL WOOL ACT OF 1954.—Sections 704 and 705 of the National Wool Act of 1954 (7 U.S.C. 1783 and 1784) are each amended by striking out "all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended" and inserting "wool or fine animal hair, and articles thereof, as provided for in the Harmonized Tariff Schedule of the United States".

(w) AGRICULTURAL ACT OF 1949.—Section 103(f)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444(f)(3)) is amended by striking out "items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States" and inserting "subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States".

SEC. 1215. NEGOTIATING AUTHORITY FOR CERTAIN ADP EQUIPMENT.

Section 128(b) of the Trade Act of 1974 (19 U.S.C. 2138(b)), as amended by section 1212(j)(1) of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out "tube." and inserting "tube; and" in paragraph (7); and

(3) by adding at the end thereof the following new paragraph:

"(8) Digital processing units for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine of subheading 8471.20 (provided for in subheading 8471.91).".

SEC. 1216. COMMISSION REPORT ON OPERATION OF SUBTITLE.

19 USC 3005 note.

The Commission, in consultation with other appropriate Federal agencies, shall prepare, and submit to the Congress and to the President, a report regarding the operation of this subtitle during the 12-month period commencing on the effective date of the Harmonized Tariff Schedule. The report shall be submitted to the Congress and to the President before the close of the 6-month period beginning on the day after the last day of such 12-month period.

SEC. 1217. EFFECTIVE DATES.

19 USC 3001 note.

(a) ACCESSION TO CONVENTION AND PROVISIONS OTHER THAN THE IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—Except as provided in subsection (b), the provisions of this subtitle take effect on the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988.

(b) IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—The effective date of the Harmonized Tariff Schedule is January 1, 1989. On such date—

(1) the amendments made by sections 1204(a), 1213, 1214, and 1215 take effect and apply with respect to articles entered on or after such date; and

(2) sections 1204(c), 1211, and 1212 take effect.

Subtitle C—Response to Unfair International Trade Practices

PART 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

SEC. 1301. REVISION OF CHAPTER 1 OF TITLE III OF THE TRADE ACT OF 1974.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended to read as follows:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

19 USC 2411.

"SEC. 301. ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) MANDATORY ACTION.—

"(1) If the United States Trade Representative determines under section 304(a)(1) that—

"(A) the rights of the United States under any trade agreement are being denied; or

"(B) an act, policy, or practice of a foreign country—

"(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable and burdens or restricts United States commerce;

the Trade Representative shall take action authorized in subsection (c), subject to the specific direction, if any, of the President regarding any such action, and shall take all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) The Trade Representative is not required to take action under paragraph (1) in any case in which—

"(A) the Contracting Parties to the General Agreement on Tariffs and Trade have determined, a panel of experts has reported to the Contracting Parties, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that—

"(i) the rights of the United States under a trade agreement are not being denied, or

"(ii) the act, policy, or practice—

"(I) is not a violation of, or inconsistent with, the rights of the United States, or

"(II) does not deny, nullify, or impair benefits to the United States under any trade agreement; or

"(B) the Trade Representative finds that—

"(i) the foreign country is taking satisfactory measures to grant the rights of the United States under a trade agreement,

"(ii) the foreign country has—

"(I) agreed to eliminate or phase out the act, policy, or practice, or

"(II) agreed to an imminent solution to the burden or restriction on United States commerce that is satisfactory to the Trade Representative,

"(iii) it is impossible for the foreign country to achieve the results described in clause (i) or (ii), as appropriate, but the foreign country agrees to provide to the United States compensatory trade benefits that are satisfactory to the Trade Representative,

"(iv) in extraordinary cases, where the taking of action under this subsection would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of the provisions of this chapter, or

"(v) the taking of action under this subsection would cause serious harm to the national security of the United States.

"(3) Any action taken under paragraph (1) to eliminate an act, policy, or practice shall be devised so as to affect goods or services of the foreign country in an amount that is equivalent in value to the burden or restriction being imposed by that country on United States commerce.

"(b) DISCRETIONARY ACTION.—If the Trade Representative determines under section 304(a)(1) that—

"(1) an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce, and

"(2) action by the United States is appropriate, the Trade Representative shall take all appropriate and feasible action authorized under subsection (c), subject to the specific direction, if any, of the President regarding any such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to obtain the elimination of that act, policy, or practice.

"(c) SCOPE OF AUTHORITY.—

"(1) For purposes of carrying out the provisions of subsection (a) or (b), the Trade Representative is authorized to—

"(A) suspend, withdraw, or prevent the application of, benefits of trade agreement concessions to carry out a trade agreement with the foreign country referred to in such subsection;

"(B) impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country for such time as the Trade Representative determines appropriate; or

"(C) enter into binding agreements with such foreign country that commit such foreign country to—

"(i) eliminate, or phase out, the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b),

"(ii) eliminate any burden or restriction on United States commerce resulting from such act, policy, or practice, or

"(iii) provide the United States with compensatory trade benefits that—

"(I) are satisfactory to the Trade Representative, and

"(II) meet the requirements of paragraph (4).

"(2)(A) Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in paragraph (1), the Trade Representative may, for purposes of carrying out the provisions of subsection (a) or (b)—

"(i) restrict, in the manner and to the extent the Trade Representative determines appropriate, the terms and conditions of any such authorization, or

"(ii) deny the issuance of any such authorization.

"(B) Actions described in subparagraph (A) may only be taken under this section with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

"(i) a petition is filed under section 302(a), or

"(ii) a determination to initiate an investigation is made by the Trade Representative under section 302(b).

"(C) Before the Trade Representative takes any action under this section involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.

"(3) The actions the Trade Representative is authorized to take under subsection (a) or (b) may be taken against any goods or economic sector—

Discrimination, prohibition.

"(A) on a nondiscriminatory basis or solely against the foreign country described in such subsection, and

"(B) without regard to whether or not such goods or economic sector were involved in the act, policy, or practice that is the subject of such action.

"(4) Any trade agreement described in paragraph (1)(C)(iii) shall provide compensatory trade benefits that benefit the economic sector which includes the domestic industry that would benefit from the elimination of the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b), or benefit the economic sector as closely related as possible to such economic sector, unless—

"(A) the provision of such trade benefits is not feasible, or

"(B) trade benefits that benefit any other economic sector would be more satisfactory than such trade benefits.

"(5) In taking actions under subsection (a) or (b), the Trade Representative shall—

"(A) give preference to the imposition of duties over the imposition of other import restrictions, and

"(B) if an import restriction other than a duty is imposed, consider substituting, on an incremental basis, an equivalent duty for such other import restriction.

"(6) Any action taken by the Trade Representative under this section with respect to export targeting shall, to the extent

possible, reflect the full benefit level of the export targeting to the beneficiary over the period during which the action taken has an effect.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this chapter—

"(1) The term "commerce" includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.

"(2) An act, policy, or practice of a foreign country that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States. Maritime affairs.

"(3)(A) An act, policy, or practice is unreasonable if the act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

"(B) Acts, policies, and practices that are unreasonable include, but are not limited to, any act, policy, or practice, or any combination of acts, policies, or practices, which—

"(i) denies fair and equitable—

"(I) opportunities for the establishment of an enterprise,

"(II) provision of adequate and effective protection of intellectual property rights, or Copyrights. Patents and trademarks.

"(III) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by private firms or among private firms in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods to purchasing by such firms,

"(ii) constitutes export targeting, or

"(iii) constitutes a persistent pattern of conduct that—

"(I) denies workers the right of association,

"(II) denies workers the right to organize and bargain collectively,

"(III) permits any form of forced or compulsory labor,

"(IV) fails to provide a minimum age for the employment of children, or Children and youth.

"(V) fails to provide standards for minimum wages, hours of work, and occupational safety and health of workers. Wages. Safety.

"(C)(i) Acts, policies, and practices of a foreign country described in subparagraph (B)(iii) shall not be treated as being unreasonable if the Trade Representative determines that—

"(I) the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing throughout the foreign country (including any designated zone within the foreign country) the rights and other standards described in the subclauses of subparagraph (B)(iii), or

"(II) such acts, policies, and practices are not inconsistent with the level of economic development of the foreign country.

Federal Register, publication.

"(ii) The Trade Representative shall publish in the Federal Register any determination made under clause (i), together with a description of the facts on which such determination is based.

"(D) For purposes of determining whether any act, policy, or practice is unreasonable, reciprocal opportunities in the United States for foreign nationals and firms shall be taken into account, to the extent appropriate.

"(E) The term 'export targeting' means any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind of merchandise.

"(4)(A) An act, policy, or practice is unjustifiable if the act, policy, or practice is in violation of, or inconsistent with, the international legal rights of the United States.

Copyrights. Patents and trademarks.

"(B) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment or the right of establishment or protection of intellectual property rights.

"(5) Acts, policies, and practices that are discriminatory include, when appropriate, any act, policy, and practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

"(6) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.

"(7) The term 'foreign country' includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

"(8) The term 'Trade Representative' means the United States Trade Representative.

"(9) The term 'interested persons', only for purposes of sections 302(a)(4)(B), 304(b)(1)(A), 306(c)(2), and 307(a)(2), includes, but is not limited to, domestic firms and workers, representatives of consumer interests, United States product exporters, and any industrial user of any goods or services that may be affected by actions taken under subsection (a) or (b).

19 USC 2412.

"SEC. 302. INITIATION OF INVESTIGATIONS.

"(a) PETITIONS.—

"(1) Any interested person may file a petition with the Trade Representative requesting that action be taken under section 301 and setting forth the allegations in support of the request.

"(2) The Trade Representative shall review the allegations in any petition filed under paragraph (1) and, not later than 45 days after the date on which the Trade Representative received the petition, shall determine whether to initiate an investigation.

"(3) If the Trade Representative determines not to initiate an investigation with respect to a petition, the Trade Representative shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register. Federal Register, publication.

"(4) If the Trade Representative makes an affirmative determination under paragraph (2) with respect to a petition, the Trade Representative shall initiate an investigation regarding the issues raised in the petition. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing— Federal Register, publication.

"(A) within the 30-day period beginning on the date of the affirmative determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition, or

"(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

"(b) INITIATION OF INVESTIGATION BY MEANS OTHER THAN PETITION.—

"(1)(A) If the Trade Representative determines that an investigation should be initiated under this chapter with respect to any matter in order to determine whether the matter is actionable under section 301, the Trade Representative shall publish such determination in the Federal Register and shall initiate such investigation. Federal Register, publication.

"(B) The Trade Representative shall, before making any determination under subparagraph (A), consult with appropriate committees established pursuant to section 135.

"(2)(A) By no later than the date that is 30 days after the date on which a country is identified under section 182(a)(2), the Trade Representative shall initiate an investigation under this chapter with respect to any act, policy, or practice of that country that—

"(i) was the basis for such identification, and

"(ii) is not at that time the subject of any other investigation or action under this chapter.

"(B) The Trade Representative is not required under subparagraph (A) to initiate an investigation under this chapter with respect to any act, policy, or practice of a foreign country if the Trade Representative determines that the initiation of the investigation would be detrimental to United States economic interests.

"(C) If the Trade Representative makes a determination under subparagraph (B) not to initiate an investigation, the Trade Representative shall submit to the Congress a written report setting forth, in detail—

"(i) the reasons for the determination, and

"(ii) the United States economic interests that would be adversely affected by the investigation.

"(D) The Trade Representative shall, from time to time, consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, and other appropriate officers of the Federal Government, during any investigation initiated under this chapter by reason of subparagraph (A).

"(c) DISCRETION.—In determining whether to initiate an investigation under subsection (a) or (b) of any act, policy, or practice that is enumerated in any provision of section 301(d), the Trade Representative shall have discretion to determine whether action under section 301 would be effective in addressing such act, policy, or practice.

19 USC 2413.

"SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

"(a) IN GENERAL.—

"(1) On the date on which an investigation is initiated under section 302, the Trade Representative, on behalf of the United States, shall request consultations with the foreign country concerned regarding the issues involved in such investigation.

"(2) If the investigation initiated under section 302 involves a trade agreement and a mutually acceptable resolution is not reached before the earlier of—

"(A) the close of the consultation period, if any, specified in the trade agreement, or

"(B) the 150th day after the day on which consultation was commenced,

the Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement.

"(3) The Trade Representative shall seek information and advice from the petitioner (if any) and the appropriate committees established pursuant to section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

"(b) DELAY OF REQUEST FOR CONSULTATIONS.—

"(1) Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may, after consulting with the petitioner (if any), delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) The Trade Representative shall—

Federal Register, publication. Reports.

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required under section 309(a)(3).

19 USC 2414.

"SEC. 304. DETERMINATIONS BY THE TRADE REPRESENTATIVE.

"(a) IN GENERAL.—

"(1) On the basis of the investigation initiated under section 302 and the consultations (and the proceedings, if applicable) under section 303, the Trade Representative shall—

"(A) determine whether—

"(i) the rights to which the United States is entitled under any trade agreement are being denied, or

"(ii) any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301 exists, and

"(B) if the determination made under subparagraph (A) is affirmative, determine what action, if any, the Trade Representative should take under subsection (a) or (b) of section 301.

"(2) The Trade Representative shall make the determinations required under paragraph (1) on or before—

"(A) in the case of an investigation involving a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the earlier of—

"(i) the date that is 30 days after the date on which the dispute settlement procedure is concluded, or

"(ii) the date that is 18 months after the date on which the investigation is initiated, or

"(B) in all cases not described in subparagraph (A) or paragraph (3), the date that is 12 months after the date on which the investigation is initiated.

"(3)(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and the Trade Representative does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 6 months after the date on which such investigation is initiated.

"(B) If the Trade Representative determines with respect to any investigation initiated by reason of section 302(b)(2) that—

"(i) complex or complicated issues are involved in the investigation that require additional time,

"(ii) the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that will provide adequate and effective protection of intellectual property rights, or

Copyrights. Patents and trademarks.

"(iii) such foreign country is undertaking enforcement measures to provide adequate and effective protection of intellectual property rights,

the Trade Representative shall publish in the Federal Register notice of such determination and shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 9 months after the date on which such investigation is initiated.

Federal Register, publication.

"(4) In any case in which a dispute is not resolved before the close of the minimum dispute settlement period provided for in a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the Trade Representative, within 15 days after the close of such dispute settlement period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum dispute settlement period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement at any stage.

Reports.

"(b) CONSULTATION BEFORE DETERMINATIONS.—

"(1) Before making the determinations required under subsection (a)(1), the Trade Representative, unless expeditious action is required—

"(A) shall provide an opportunity (after giving not less than 30 days notice thereof) for the presentation of views by interested persons, including a public hearing if requested by any interested person,

"(B) shall obtain advice from the appropriate committees established pursuant to section 135, and

"(C) may request the views of the United States International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to any goods or service.

"(2) If the Trade Representative does not comply with the requirements of subparagraphs (A) and (B) of paragraph (1) because expeditious action is required, the Trade Representative shall, after making the determinations under subsection (a)(1), comply with such subparagraphs.

Federal Register, publication.

"(c) PUBLICATION.—The Trade Representative shall publish in the Federal Register any determination made under subsection (a)(1), together with a description of the facts on which such determination is based.

19 USC 2415.

"SEC. 305. IMPLEMENTATION OF ACTIONS.

"(a) ACTIONS TO BE TAKEN UNDER SECTION 301.—

"(1) Except as provided in paragraph (2), the Trade Representative shall implement the action the Trade Representative determines under section 304(a)(1)(B) to take under section 301, subject to the specific direction, if any, of the President regarding any such action, by no later than the date that is 30 days after the date on which such determination is made.

"(2)(A) Except as otherwise provided in this paragraph, the Trade Representative may delay, by not more than 180 days, the implementation of any action that is to be taken under section 301—

"(i) if—

"(I) in the case of an investigation initiated under section 302(a), the petitioner requests a delay, or

"(II) in the case of an investigation initiated under section 302(b)(1) or to which section 304(a)(3)(B) applies, a delay is requested by a majority of the representatives of the domestic industry that would benefit from the action, or

"(ii) if the Trade Representative determines that substantial progress is being made, or that a delay is necessary or desirable, to obtain United States rights or a satisfactory solution with respect to the acts, policies, or practices that are the subject of the action.

"(B) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(A) applies.

"(C) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(B) applies by more than 90 days.

"(b) ALTERNATIVE ACTIONS IN CERTAIN CASES OF EXPORT TARGETING.—

"(1) If the Trade Representative makes an affirmative determination under section 304(a)(1)(A) involving export targeting

by a foreign country and determines to take no action under section 301 with respect to such affirmation determination, the Trade Representative—

"(A) shall establish an advisory panel to recommend measures which will promote the competitiveness of the domestic industry affected by the export targeting,

"(B) on the basis of the report of such panel submitted under paragraph (2)(B) and subject to the specific direction, if any, of the President, may take any administrative actions authorized under any other provision of law, and, if necessary, propose legislation to implement any other actions, that would restore or improve the international competitiveness of the domestic industry affected by the export targeting, and

"(C) shall, by no later than the date that is 30 days after the date on which the report of such panel is submitted under paragraph (2)(B), submit a report to the Congress on the administrative actions taken, and legislative proposals made, under subparagraph (B) with respect to the domestic industry affected by the export targeting. Reports.

"(2)(A) The advisory panels established under paragraph (1)(A) shall consist of individuals appointed by the Trade Representative who—

"(i) earn their livelihood in the private sector of the economy, including individuals who represent management and labor in the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A), and

"(ii) by education or experience, are qualified to serve on the advisory panel.

"(B) By no later than the date that is 6 months after the date on which an advisory panel is established under paragraph (1)(A), the advisory panel shall submit to the Trade Representative and to the Congress a report on measures that the advisory panel recommends be taken by the United States to promote the competitiveness of the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A). Reports.

"SEC. 306. MONITORING OF FOREIGN COMPLIANCE. 19 USC 2416.

"(a) IN GENERAL.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement of a kind described in clause (i), (ii), or (iii) of section 301(a)(2)(B) that is entered into under subsection (a) or (b) of section 301, by a foreign country—

"(1) to enforce the rights of the United States under any trade agreement, or

"(2) to eliminate any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301.

"(b) FURTHER ACTION.—If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 301(a). For purposes of section 301, any such determination shall be treated as a determination made under section 304(a)(1).

"(c) CONSULTATIONS.—Before making any determination under subsection (b), the Trade Representative shall—

"(1) consult with the petitioner, if any, involved in the initial investigation under this chapter and with representatives of the domestic industry concerned; and

"(2) provide an opportunity for the presentation of views by interested persons.

19 USC 2417.

"SEC. 307. MODIFICATION AND TERMINATION OF ACTIONS.

"(a) IN GENERAL.—

"(1) The Trade Representative may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 301 if—

"(A) any of the conditions described in section 301(a)(2) exist,

"(B) the burden or restriction on United States commerce of the denial rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased, or

"(C) such action is being taken under section 301(b) and is no longer appropriate.

"(2) Before taking any action under paragraph (1) to modify or terminate any action taken under section 301, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

Federal Register, publication.

"(b) NOTICE; REPORT TO CONGRESS.—The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 301 and the reasons therefor.

"(c) REVIEW OF NECESSITY.—

"(1) If—

"(A) a particular action has been taken under section 301 during any 4-year period, and

"(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

Mail.

"(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

"(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 301, the Trade Representative shall conduct a review of—

"(A) the effectiveness in achieving the objectives of section 301 of—

"(i) such action, and

"(ii) other actions that could be taken (including actions against other products or services), and

"(B) the effects of such actions on the United States economy, including consumers. Consumer protection.

"SEC. 308. REQUEST FOR INFORMATION. 19 USC 2418.

"(a) IN GENERAL.—Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

"(1) the nature and extent of a specific trade policy or practice of a foreign country with respect to particular goods, services, investment, or intellectual property rights, to the extent that such information is available to the Trade Representative or other Federal agencies; Securities. Copyrights. Patents and trademarks.

"(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

"(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

"(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by a person under subsection (a) is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

"(1) request the information from the foreign government; or

"(2) decline to request the information and inform the person in writing of the reasons for refusal.

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.— Classified information.

"(1) Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

"SEC. 309. ADMINISTRATION. 19 USC 2419.

"The Trade Representative shall—

Regulations.

"(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this subchapter,

"(2) keep the petitioner regularly informed of all determinations and developments regarding the investigation conducted with respect to the petition under this chapter, including the reasons for any undue delays, and

Reports.

"(3) submit a report to the House of Representatives and the Senate semiannually describing—

"(A) the petitions filed and the determinations made (and reasons therefor) under section 302,

"(B) developments in, and the current status of, each investigation or proceeding under this chapter,

"(C) the actions taken, or the reasons for no action, by the Trade Representative under section 301 with respect to investigations conducted under this chapter, and

"(D) the commercial effects of actions taken under section 301.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the items relating to chapter 1 of title III and inserting in lieu thereof the following:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO FOREIGN TRADE PRACTICES

"Sec. 301. Actions by United States Trade Representative.
"Sec. 302. Initiation of investigations.
"Sec. 303. Consultation upon initiation of investigation.
"Sec. 304. Determinations by the Trade Representative.
"Sec. 305. Implementation of actions.
"Sec. 306. Monitoring of foreign compliance.
"Sec. 307. Modification and termination of actions.
"Sec. 308. Request for information.
"Sec. 309. Administration.".

19 USC 2411 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) petitions filed, and investigations initiated, under section 302 of the Trade Act of 1974 on or after the date of the enactment of this Act; and

(2) petitions filed, and investigations initiated, before the date of enactment of this Act, if by that date no decision had been made under section 304 regarding the petition or investigation.

SEC. 1302. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974, as amended by section 1301, is further amended by adding at the end thereof the following new section:

19 USC 2420.

"SEC. 310. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

"(a) IDENTIFICATION.—

"(1) By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees, the Trade Representative shall identify United States trade liberalization priorities, including—

"(A) priority practices, including major barriers and trade distorting practices, the elimination of which are likely to have the most significant potential to increase

United States exports, either directly or through the establishment of a beneficial precedent;

"(B) priority foreign countries that, on the basis of such report, satisfy the criteria in paragraph (2);

"(C) estimate the total amount by which United States exports of goods and services to each foreign country identified under subparagraph (B) would have increased during the preceding calendar year if the priority practices of such country identified under subparagraph (A) did not exist; and

"(D) submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and publish in the Federal Register, a report which lists— Reports. Federal Register, publication.

"(i) the priority foreign countries identified under subparagraph (B),

"(ii) the priority practices identified under subparagraph (A) with respect to each of such priority foreign countries, and

"(iii) the amount estimated under subparagraph (C) with respect to each of such priority foreign countries.

"(2) In identifying priority foreign countries under paragraph (1)(B), the Trade Representative shall take into account—

"(A) the number and pervasiveness of the acts, policies, and practices described in section 181(a)(1)(A), and

"(B) the level of United States exports of goods and services that would be reasonably expected from full implementation of existing trade agreements to which that foreign country is a party, based on the international competitive position and export potential of such products and services.

"(3) In identifying priority practices under paragraph (1)(A), the Trade Representative shall take into account—

"(A) the international competitive position and export potential of United States products and services,

"(B) circumstances in which the sale of a small quantity of a product or service may be more significant than its value, and

"(C) the measurable medium-term and long-term implications of government procurement commitments to United States exporters.

"(b) INITIATION OF INVESTIGATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate Congressional committees under subsection (a)(1)(D), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of those priority practices identified in such report by reason of subsection (a)(1)(D) for each of the priority foreign countries. The Trade Representative may initiate investigations under section 302(b)(1) with respect to all other priority practices identified under subsection (a)(1)(A).

"(c) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—

"(1) In the consultations with a priority foreign country identified under subsection (a)(1) that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement which provides for—

"(A) the elimination of, or compensation for, the priority practices identified under subsection (a)(1)(A) by no later than the close of the 3-year period beginning on the date on which such investigation is initiated, and

"(B) the reduction of such practices over a 3-year period with the expectation that United States exports to the foreign country will, as a result, increase incrementally during each year within such 3-year period.

"(2) Any investigation initiated under this chapter by reason of subsection (b) shall be suspended if an agreement described in subparagraphs (A) and (B) of paragraph (1) is entered into with the foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented.

"(3) If an agreement described in paragraph (1) is entered into with a foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented and the Trade Representative determines that the foreign country is not in compliance with such agreement, the Trade Representative shall continue the investigation that was suspended by reason of such agreement as though such investigation had not been suspended.

"(d) ANNUAL REPORTS.—

"(1) On the date on which the report the Trade Representative is required to submit under subsection (a)(1)(D) in calendar year 1990, and on the anniversary of such date in the succeeding calendar years, the Trade Representative shall submit a report which includes—

"(A) revised estimates of the total amount determined under subsection (a)(1)(C) for each priority foreign country that has been identified under subsection (a)(1)(B),

"(B) evidence that demonstrates, in the form of increased United States exports to each of such priority foreign countries during the previous calendar year—

"(i) in the case of a priority foreign country that has entered into an agreement described in subsection (c)(1), substantial progress during each year within the 3-year period described in subsection (c)(1)(A) toward the goal of eliminating the priority practices identified under subsection (a)(1)(A) by the close of such 3-year period, and

"(ii) in the case of a country which has not entered into (or has not complied with) an agreement described in subsection (c)(1), the elimination of such practices, and

"(C) to the extent that the evidence described in subparagraph (B) cannot be provided, any actions that have been taken by the Trade Representative under section 301 with respect to such priority practices of each of such foreign countries.

"(2) The Trade Representative may exclude from the requirements of paragraph (1) in any calendar year beginning after 1993 any foreign country that has been identified under subsection (a)(1)(A) if the evidence submitted under paragraph (1)(B) in the 2 previous reports demonstrated that all the priority prac-

tices identified under subsection (a)(1)(A) with respect to such foreign country have been eliminated.".

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 309 the following new item:

"Sec. 310. Identification of trade liberalization priorities.".

SEC. 1303. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

Copyrights. Patents and trademarks.

(a) FINDINGS AND PURPOSE.— 19 USC 2242 note.

(1) The Congress finds that—

(A) international protection of intellectual property rights is vital to the international competitiveness of United States persons that rely on protection of intellectual property rights; and

(B) the absence of adequate and effective protection of United States intellectual property rights, and the denial of fair and equitable market access, seriously impede the ability of the United States persons that rely on protection of intellectual property rights to export and operate overseas, thereby harming the economic interests of the United States.

(2) The purpose of this section is to provide for the development of an overall strategy to ensure adequate and effective protection of intellectual property rights and fair and equitable market access for United States persons that rely on protection of intellectual property rights.

(b) IN GENERAL.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 182. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE PROTECTION, OR MARKET ACCESS, FOR INTELLECTUAL PROPERTY RIGHTS. 19 USC 2242.

"(a) IN GENERAL.—By no later than the date that is 30 days after the date on which the annual report is submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

"(1) those foreign countries that—

"(A) deny adequate and effective protection of intellectual property rights, or

"(B) deny fair and equitable market access to United States persons that rely upon intellectual property protection, and

"(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

"(b) SPECIAL RULES FOR IDENTIFICATIONS.—

"(1) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

"(A) that have the most onerous or egregious acts, policies, or practices that—

"(i) deny adequate and effective intellectual property rights, or

"(ii) deny fair and equitable market access to United States persons that rely upon intellectual property protection,

"(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

"(C) that are not—

"(i) entering into good faith negotiations, or

"(ii) making significant progress in bilateral or multilateral negotiations,

to provide adequate and effective protection of intellectual property rights.

"(2) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

"(A) consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, other appropriate officers of the Federal Government, and

"(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

"(3) The Trade Representative may identify a foreign country under subsection (a)(1)(B) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

"(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

"(1) The Trade Representative may at any time—

"(A) revoke the identification of any foreign country as a priority foreign country under this section, or

"(B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

"(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'persons that rely upon intellectual property protection' means persons involved in—

"(A) the creation, production or licensing of works of authorship (within the meaning of sections 102 and 103 of title 17, United States Code) that are copyrighted, or

"(B) the manufacture of products that are patented or for which there are process patents.

"(2) A foreign country denies adequate and effective protection of intellectual property rights if the foreign country denies adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such foreign country to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights and mask works.

"(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright, patent, or process patent through the use of laws, procedures, practices, or regulations which—

"(A) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

"(B) constitute discriminatory nontariff trade barriers.

"(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of action under subsection (c).". Federal Register, publication.

(c) CONFORMING AMENDMENTS.—

(1) The heading for chapter 8 of title I of the Trade Act of 1974 is amended to read as follows:

"CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE ACTIONS".

(2) The table of contents for the Trade Act of 1974 is amended—

(A) by striking out the item relating to chapter 8 of title I and inserting in lieu thereof the following:

"CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE PRACTICES",

and

(B) by inserting after the item relating to section 181 the following new item:

"Sec. 182. Identification of countries that deny adequate protection, or market access, for intellectual property rights.".

SEC. 1304. AMENDMENTS TO THE NATIONAL TRADE ESTIMATES.

(a) IN GENERAL.—Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) by striking out "Not later than the date on which the initial report is required under subsection (b)(1)," in subsection (a)(1) and inserting in lieu thereof "For calendar year 1988, and for each succeeding calendar year,",

(2) by inserting "of each foreign country" after "or practices" in subsection (a)(1)(A),

(3) by striking out "and" at the end of subsection (a)(1)(A)(ii),

(4) by striking out the period at the end of subsection (a)(1)(B) and inserting in lieu thereof "; and",

(5) by adding at the end of subsection (a)(1) the following new subparagraph:

"(C) make an estimate, if feasible, of—

"(i) the value of additional goods and services of the United States, and

"(ii) the value of additional foreign direct investment by United States persons,

that would have been exported to, or invested in, each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.",

(6) by striking out "and" at the end of subsection (a)(2)(C),

(7) by striking out the period at the end of subsection (a)(2)(D) and inserting in lieu thereof "; and",

(8) by adding at the end of subsection (a)(2) the following new subparagraph:

"(E) the actual increase in—

"(i) the value of goods and services of the United States exported to, and

"(ii) the value of foreign direct investment made in, the foreign country during the calendar year for which the estimate under paragraph (1)(C) is made.",

(9) by inserting "and with the assistance of the interagency advisory committee established under section 141(d)(2)," after "Trade Expansion Act of 1962," in subsection (a)(1), and

(10) by striking out "ACTIONS CONCERNING" in the section heading and inserting in lieu thereof "ESTIMATES OF".

(b) SUBMISSION OF REPORT.—Paragraph (1) of section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)) is amended to read as follows:

"(1) On or before April 30, 1989, and on or before March 31 of each succeeding calendar year, the Trade Representative shall submit a report on the analysis and estimates made under subsection (a) for the calendar year preceding such calendar year (which shall be known as the 'National Trade Estimate') to the President, the Committee on Finance of the Senate, and appropriate committees of the House of Representatives.".

SEC. 1305. INVESTIGATION OF BARRIERS IN JAPAN TO CERTAIN UNITED STATES SERVICES.

The United States Trade Representative shall, within 90 days after the date of enactment of this Act, initiate an investigation under section 302 of the Trade Act of 1974 regarding those acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance by United States persons of architectural, engineering, construction, and consulting services in Japan.

SEC. 1306. TRADE AND ECONOMIC RELATIONS WITH JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) the United States is at a critical juncture in bilateral relations with Japan;

(2) the balance of trade between the United States and Japan has deteriorated steadily from an already large United States deficit of $10,400,000,000 in 1980 to an unprecedented United States deficit of $57,700,000,000 in 1987, a magnitude that is simply untenable;

(3) approximately 90 percent of the increase in total trade between the United States and Japan since 1980 has been in Japanese exports to the United States;

(4) United States exports to Japan have not significantly benefited from appreciation of the yen;

(5) the United States deficit in the balance of trade in manufactured goods is growing: in 1987 Japan exported $82,500,000,000 of manufactured goods to the United States, while the United States exported $14,600,000,000 in manufactured goods;

(6) Japan accounts for 49 percent of the worldwide deficit of the United States in the balance of trade in manufactured goods, calculated on a customs basis;

(7) our trade and economic relations with Japan are complex and cannot be effectively resolved through narrow sector-by-sector negotiations;

(8) a major problem between the United States and Japan is the absence of a political will in Japan to import; and

(9) meaningful negotiations must take place at the highest level, at a special summit of political leaders from both countries.

(b) SENSE OF THE CONGRESS.—

(1) It is the sense of the Congress that the President should propose to the Japanese Prime Minister that a special summit be held between the leaders of the United States and Japan for the purpose of—

(A) addressing trade and economic issues, and

(B) establishing—

(i) an agreement that provides objectives for improvement in trade and economic relations, and

(ii) targets for achieving these objectives.

(2) The delegation of the United States to the summit meeting described in subsection (a) should include—

(A) Members of Congress from both political parties, and

(B) appropriate officers of the executive branch of the United States Government.

(3) The delegation of Japan to the summit meeting described in subsection (a) should include—

(A) representatives of all political parties in Japan, and

(B) appropriate officers of the Government of Japan.

SEC. 1307. SUPERCOMPUTER TRADE DISPUTE.

(a) FINDINGS.—The Congress finds that—

(1) United States manufacturers of supercomputers have encountered significant obstacles in selling supercomputers in Japan, particularly to government agencies and universities;

(2) Japanese government procurement policies and pricing practices have denied United States manufacturers access to the Japanese supercomputer market;

(3) it has been reported that officials of the Ministry of International Trade and Industry of Japan have told United States Government officials that Japanese government agencies and universities do not intend to purchase supercomputers from United States manufacturers, or take steps to improve access for United States manufacturers;

(4) the United States Government in August 1987 signed an agreement with the Government of Japan establishing procedures for the procurement of United States supercomputers by the Government of Japan;

(5) concern remains as to implementation of the procurement agreement by the Government of Japan;

(6) there have been allegations that Japanese manufacturers of supercomputers have been offering supercomputers at drastically discounted prices in the markets of the United States, Japan, and other countries;

(7) deep price discounting raises the concern that Japan's large-scale vertically integrated manufacturers of

supercomputers have targeted the supercomputer industry with the objective of eventual domination of the global computer market; and

(8) the supercomputer industry plays a central role in the technological competitiveness and national security of the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States Trade Representative and other appropriate officials of the United States Government should—

(1) give the highest priority to concluding and enforcing agreements with the Government of Japan which achieve improved market access for United States manufacturers of supercomputers and end any predatory pricing activities of Japanese companies in the United States, Japan, and other countries; and

(2) continue to monitor the efforts of United States manufacturers of supercomputers to gain access to the Japanese market, recognizing that the Government of Japan may continue to manipulate the government procurement process to maintain the market dominance of Japanese manufacturers.

PART 2—IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 1311. REFERENCE TO TITLE VII OF THE TARIFF ACT OF 1930.

Unless otherwise provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a subtitle, section, subsection, or other provision, the reference shall be considered to be made to a subtitle, section, subsection, or other provision of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

SEC. 1312. ACTIONABLE DOMESTIC SUBSIDIES.

Paragraph (5) of section 771 (19 U.S.C. 1677(5)) is amended to read as follows:

"(5) SUBSIDY.—

"(A) IN GENERAL.—The term 'subsidy' has the same meaning as the term 'bounty or grant' as that term is used in section 303, and includes, but is not limited to, the following:

"(i) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

"(ii) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

"(I) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

"(II) The provision of goods or services at preferential rates.

"(III) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

"(IV) The assumption of any costs or expenses of manufacture, production, or distribution.

"(B) SPECIAL RULE.—In applying subparagraph (A), the administering authority, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in fact is provided to a specific enterprise or industry, or group of enterprises or industries. Nominal general availability, under the terms of the law, regulation, program, or rule establishing a bounty, grant, or subsidy, of the benefits thereunder is not a basis for determining that the bounty, grant, or subsidy is not, or has not been, in fact provided to a specific enterprise or industry, or group thereof.".

SEC. 1313. CALCULATION OF SUBSIDIES ON CERTAIN PROCESSED AGRICULTURAL PRODUCTS.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 is amended by inserting after section 771A (19 U.S.C. 1677-1) the following new section:

"SEC. 771B. In the case of an agricultural product processed from a raw agricultural product in which (1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and (2) the processing operation adds only limited value to the raw commodity, subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.". 19 USC 1677-2.

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 771A the following:

"Sec. 771B. Calculation of subsidies on certain processed agricultural products.".

SEC. 1314. REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.

Section 701 (19 U.S.C. 1671) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.—The United States Trade Representative may revoke the status of a foreign country as a country under the Agreement for purposes of this subtitle if such foreign country—

"(1) announces that such foreign country does not intend, or is not able, to honor the obligations it has assumed with respect to the United States or the Agreement for purposes of this subtitle, or

"(2) does not in fact honor such obligations.".

SEC. 1315. TREATMENT OF INTERNATIONAL CONSORTIA.

Section 701 (19 U.S.C. 1671) (as amended by section 1314) is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) TREATMENT OF INTERNATIONAL CONSORTIA.—For purposes of this subtitle, if the members (or other participating entities) of an international consortium that is engaged in the production of a class or kind of merchandise subject to a countervailing duty investigation receive subsidies from their respective home countries to assist, permit, or otherwise enable their participation in that consortium through production or manufacturing operations in their respective home countries, then the administering authority shall cumulate all such subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise.".

SEC. 1316. DUMPING BY NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Subsection (c) of section 773 (19 U.S.C. 1677b) is amended to read as follows:

"(c) NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) the merchandise under investigation is exported from a nonmarket economy country, and

"(B) the administering authority finds that available information does not permit the foreign market value of the merchandise to be determined under subsection (a),

the administering authority shall determine the foreign market value of the merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses, as required by subsection (e). Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

"(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the foreign market value of merchandise under paragraph (1), the administering authority shall determine the foreign market value on the basis of the price at which merchandise that is—

"(A) comparable to the merchandise under investigation, and

"(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

"(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

"(A) hours of labor required,

"(B) quantities of raw materials employed,

"(C) amounts of energy and other utilities consumed, and

"(D) representative capital cost, including depreciation.

"(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

"(A) at a level of economic development comparable to that of the nonmarket economy country, and

"(B) significant producers of comparable merchandise.".

(b) NONMARKET ECONOMY COUNTRY DEFINED.—Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) NONMARKET ECONOMY COUNTRY.—

"(A) IN GENERAL.—The term 'nonmarket economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.

"(B) FACTORS TO BE CONSIDERED.—In making determinations under subparagraph (A) the administering authority shall take into account—

"(i) the extent to which the currency of the foreign country is convertible into the currency of other countries;

"(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

"(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

"(iv) the extent of government ownership or control of the means of production,

"(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

"(vi) such other factors as the administering authority considers appropriate.

"(C) DETERMINATION IN EFFECT.—

"(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

"(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

"(D) DETERMINATIONS NOT IN ISSUE.—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle B.

"(E) COLLECTION OF INFORMATION.—Upon request by the administering authority, the Commissioner of Customs shall provide the administering authority a copy of all public and proprietary information submitted to, or obtained by, the Commissioner of Customs that the administering authority considers relevant to proceedings involving merchandise from nonmarket economy countries. The administering authority shall protect proprietary information obtained under this section from public disclosure in accordance with section 777.". Classified information.

(c) SUSPENSION OF NONMARKET ECONOMY COUNTRY INVESTIGATIONS.—Section 734 (19 U.S.C. 1673c) is amended by adding at the end thereof the following new subsection:

"(l) SPECIAL RULE FOR NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a nonmarket economy country to restrict the volume of imports into the United States of the merchandise under investigation only if the administering authority determines that—

"(A) such agreement satisfies the requirements of subsection (d), and

"(B) will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.

"(2) FAILURE OF AGREEMENTS.—If the administering authority determines that an agreement accepted under this subsection no longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (i) shall apply.".

19 USC 1677k.

SEC. 1317. THIRD-COUNTRY DUMPING.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(2) The term "Agreement country" means a foreign country that has accepted the Agreement.

(3) The term "Trade Representative" means the United States Trade Representative.

(b) PETITION BY DOMESTIC INDUSTRY.—

(1) A domestic industry that produces a product that is like or directly competitive with merchandise produced by a foreign country (whether or not an Agreement country) may, if it has reason to believe that—

(A) such merchandise is being dumped in an Agreement country; and

(B) such domestic industry is being materially injured, or threatened with material injury, by reason of such dumping;

submit a petition to the Trade Representative that alleges the elements referred to in subparagraphs (A) and (B) and requests the Trade Representative to take action under subsection (c) on behalf of the domestic industry.

(2) A petition submitted under paragraph (1) shall contain such detailed information as the Trade Representative may require in support of the allegations in the petition.

(c) APPLICATION FOR ANTIDUMPING ACTION ON BEHALF OF THE DOMESTIC INDUSTRY.—

(1) If the Trade Representative, on the basis of the information contained in a petition submitted under paragraph (1), determines that there is a reasonable basis for the allegations in the petition, the Trade Representative shall submit to the appropriate authority of the Agreement country where the alleged dumping is occurring an application pursuant to Article 12 of the Agreement which requests that appropriate antidumping action under the law of that country be taken, on behalf of the United States, with respect to imports into that country of the merchandise concerned.

(2) At the request of the Trade Representative, the appropriate officers of the Department of Commerce and the United

States International Trade Commission shall assist the Trade Representative in preparing the application under paragraph (1).

(d) CONSULTATION AFTER SUBMISSION OF APPLICATION.—After submitting an application under subsection (c)(1), the Trade Representative shall seek consultations with the appropriate authority of the Agreement country regarding the request for antidumping action.

(e) ACTION UPON REFUSAL OF AGREEMENT COUNTRY TO ACT.—If the appropriate authority of an Agreement country refuses to undertake antidumping measures in response to a request made therefor by the Trade Representative under subsection (c), the Trade Representative shall promptly consult with the domestic industry on whether action under any other law of the United States is appropriate.

SEC. 1318. INPUT DUMPING BY RELATED PARTIES.

Subsection (e) of section 773 (19 U.S.C. 1677b(e)) is amended—

(1) by striking out "(3)" each place it appears in paragraph (2) and inserting "(4)",

(2) by redesignating paragraph (3) as paragraph (4),

(3) by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE.—If, regarding any transaction between persons specified in any one of the subparagraphs of paragraph (4) involving the production by one of such persons of a major input to the merchandise under consideration, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the costs of production of such input, then the administering authority may determine the value of the major input on the best evidence available regarding such costs of production, if such costs are greater than the amount that would be determined for such input under paragraph (2).", and

(4) by striking out "paragraph (2)" in paragraph (4) (as redesignated by paragraph (2)) and inserting "paragraphs (2) and (3)".

SEC. 1319. FICTITIOUS MARKETS.

Subsection (a) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(a)) is amended by adding at the end thereof the following new paragraph:

"(5) FICTITIOUS MARKETS.—The occurrence of different movements in the prices at which different forms of any merchandise subject to an antidumping duty order issued under this title are sold (or, in the absence of sales, offered for sale) after the issuance of such order in the principal markets of the foreign country from which the merchandise is exported may be considered by the administering authority as evidence of the establishment of a fictitious market for the merchandise if the movement in such prices appears to reduce the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise.".

SEC. 1320. DOWNSTREAM PRODUCT MONITORING.

(a) IN GENERAL.—Subtitle D (19 U.S.C. 1677 et seq.) is amended by adding at the end thereof the following:

19 USC 1677i.

"SEC. 780. DOWNSTREAM PRODUCT MONITORING.

"(a) PETITION REQUESTING MONITORING.—

"(1) IN GENERAL.—A domestic producer of an article that is like a component part or a downstream product may petition the administering authority to designate a downstream product for monitoring under subsection (b). The petition shall specify—

"(A) the downstream product,

"(B) the component product incorporated into such downstream product, and

"(C) the reasons for suspecting that the imposition of antidumping or countervailing duties has resulted in a diversion of exports of the component part into increased production and exportation to the United States of such downstream product.

"(2) DETERMINATION REGARDING PETITION.—Within 14 days after receiving a petition submitted under paragraph (1), the administering authority shall determine—

"(A) whether there is a reasonable likelihood that imports into the United States of the downstream product will increase as an indirect result of any diversion with respect to the component part, and

"(B) whether—

"(i) the component part is already subject to monitoring to aid in the enforcement of a bilateral arrangement (within the meaning of section 804 of the Trade and Tariff Act of 1984),

"(ii) merchandise related to the component part and manufactured in the same foreign country in which the component part is manufactured has been the subject of a significant number of investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303, or

"(iii) merchandise manufactured or exported by the manufacturer or exporter of the component part that is similar in description and use to the component part has been the subject of at least 2 investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303.

"(3) FACTORS TO TAKE INTO ACCOUNT.—In making a determination under paragraph (2)(A), the administering authority may, if appropriate, take into account such factors as—

"(A) the value of the component part in relation to the value of the downstream product,

"(B) the extent to which the component part has been substantially transformed as a result of its incorporation into the downstream product, and

"(C) the relationship between the producers of component parts and producers of downstream products.

Federal Register, publication.

"(4) PUBLICATION OF DETERMINATION.—The administering authority shall publish in the Federal Register notice of each determination made under paragraph (2) and, if the determination made under paragraph (2)(A) and a determination made under any subparagraph of paragraph (2)(B) are affirmative, shall transmit a copy of such determinations and the petition to the Commission.

"(5) DETERMINATIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any determination made by the administering authority under paragraph (2) shall not be subject to judicial review.

"(b) MONITORING BY THE COMMISSION.—

"(1) IN GENERAL.—If the determination made under subsection (a)(2)(A) and a determination made under any clause of subsection (a)(2)(B) with respect to a petition are affirmative, the Commission shall immediately commence monitoring of trade in the downstream product that is the subject of the determination made under subsection (a)(2)(A). If the Commission finds that imports of a downstream product being monitored increased during any calendar quarter by 5 percent or more over the preceding quarter, the Commission shall analyze that increase in the context of overall economic conditions in the product sector.

"(2) REPORTS.—The Commission shall make quarterly reports to the administering authority regarding the monitoring and analyses conducted under paragraph (1). The Commission shall make the reports available to the public. Public information.

"(c) ACTION ON BASIS OF MONITORING REPORTS.—The administering authority shall review the information in the reports submitted by the Commission under subsection (b)(2) and shall—

"(1) consider the information in determining whether to initiate an investigation under section 702(a), 732(a), or 303 regarding any downstream product, and

"(2) request the Commission to cease monitoring any downstream product if the information indicates that imports into the United States are not increasing and there is no reasonable likelihood of diversion with respect to component parts.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'component part' means any imported article that—

"(A) during the 5-year period ending on the date on which the petition is filed under subsection (a), has been subject to—

"(i) a countervailing or antidumping duty order issued under this title or section 303 that requires the deposit of estimated countervailing or antidumping duties imposed at a rate of at least 15 percent ad valorem, or

"(ii) an agreement entered into under section 704, 734, or 303 after a preliminary affirmative determination under section 703(b), 733(b)(1), or 303 was made by the administering authority which included a determination that the estimated net subsidy was at least 15 percent ad valorem or that the estimated average amount by which the foreign market value exceeded the United States price was at least 15 percent ad valorem, and

"(B) because of its inherent characteristics, is routinely used as a major part, component, assembly, subassembly, or material in a downstream product.

"(2) The term 'downstream product' means any manufactured article—

"(A) which is imported into the United States, and

"(B) into which is incorporated any component part.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 779 the following:

"Sec. 780. Downstream product monitoring.".

SEC. 1321. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Subtitle D (19 U.S.C. 1677 et seq.) (as amended by section 1320) is further amended by adding at the end thereof the following:

19 USC 1677j.

"SEC. 781. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies, and

"(C) the difference between the value of such merchandise sold in the United States and the value of the imported parts and components referred to in subparagraph (B) is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

"(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

"(i) is subject to such order or finding, or

"(ii) is produced in the foreign country with respect to which such order or finding applies,

"(C) the difference between the value of such imported merchandise and the value of the merchandise described in subparagraph (B) is small, and

"(D) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

"(2) FACTORS TO CONSIDER.—In determining whether to include merchandise assembled or completed in a foreign country in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is related to the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the issuance of such order or finding.

"(c) MINOR ALTERATIONS OF MERCHANDISE.—

"(1) IN GENERAL.—The class or kind of merchandise subject to—

"(A) an investigation under this title,

"(B) an antidumping duty order issued under section 736,

"(C) a finding issued under the Antidumping Act, 1921, or

"(D) a countervailing duty order issued under section 706 or section 303,

shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order, or finding.

"(d) LATER-DEVELOPED MERCHANDISE.—

"(1) IN GENERAL.—For purposes of determining whether merchandise developed after an investigation is initiated under this title or section 303 (hereafter in this paragraph referred to as the 'later-developed merchandise') is within the scope of an outstanding antidumping or countervailing duty order issued under this title or section 303 as a result of such investigation, the administering authority shall consider whether—

"(A) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the 'earlier product'),

"(B) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,

"(C) the ultimate use of the earlier product and the later-developed merchandise are the same,

"(D) the later-developed merchandise is sold through the same channels of trade as the earlier product, and

"(E) the later-developed merchandise is advertised and displayed in a manner similar to the earlier product.

The administering authority shall take into account any advice provided by the Commission under subsection (e) before making a determination under this subparagraph.

"(2) EXCLUSION FROM ORDERS.—The administering authority may not exclude a later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise—

"(A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or

"(B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

"(e) COMMISSION ADVICE.—

"(1) NOTIFICATION TO COMMISSION OF PROPOSED ACTION.—Before making a determination—

"(A) under subsection (a) with respect to merchandise completed or assembled in the United States (other than minor completion or assembly),

"(B) under subsection (b) with respect to merchandise completed or assembled in other foreign countries, or

"(C) under subsection (d) with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product,

with respect to an antidumping or countervailing duty order or finding as to which the Commission has made an affirmative injury determination, the administering authority shall notify the Commission of the proposed inclusion of such merchandise in such countervailing or antidumping order or finding. Notwithstanding any other provision of law, a decision by the administering authority regarding whether any merchandise is within a category for which notice is required under this paragraph is not subject to judicial review.

"(2) REQUEST FOR CONSULTATION.—After receiving notice under paragraph (1), the Commission may request consultations with the administering authority regarding the inclusion. Upon the request of the Commission, the administering authority shall consult with the Commission and any such consultation shall be completed within 15 days after the date of the request.

"(3) COMMISSION ADVICE.—If the Commission believes, after consultation under paragraph (2), that a significant injury issue is presented by the proposed inclusion, the Commission may provide written advice to the administering authority as to whether the inclusion would be inconsistent with the affirmative determination of the Commission on which the order or finding is based. If the Commission decides to provide such written advice, it shall promptly notify the administering authority of its intention to do so, and must provide such advice within 60 days after the date of notification under paragraph (1). For purposes of formulating its advice with respect to merchandise completed or assembled in the United States from parts or components produced in a foreign country, the Commission shall consider whether the inclusion of such parts or components taken as a whole would be inconsistent with its prior affirmative determination.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 780 the following:

"Sec. 781. Prevention of circumvention of antidumping and countervailing duty orders.".

SEC. 1322. STEEL IMPORTS.

Section 805 of the Trade and Tariff Act of 1984 (19 U.S.C. 2253, note) is amended by adding at the end thereof the following new subsection:

"(d)(1) Any steel product that is manufactured in a country that is not party to a bilateral arrangement from steel which was melted and poured in a country that is party to a bilateral arrangement (hereafter in this subsection referred to as an 'arrangement country') may be treated for purposes of the quantitative restrictions and related terms under that arrangement as if it were a product of the arrangement country.

"(2) The President may implement such procedures as may be necessary or appropriate to carry out the purpose of paragraph (1).

"(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called 'third country equity provision' of an arrangement entered into under the President's Steel Policy, take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.".

SEC. 1323. SHORT LIFE CYCLE PRODUCTS.

(a) ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE.—Subtitle B is amended by adding at the end thereof the following new section:

"SEC. 739. ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE. 19 USC 1673h.

"(a) ESTABLISHMENT OF PRODUCT CATEGORIES.—

"(1) PETITIONS.—

"(A) IN GENERAL.—An eligible domestic entity may file a petition with the Commission requesting that a product category be established with respect to short life cycle merchandise at any time after the merchandise becomes the subject of 2 or more affirmative dumping determinations.

"(B) CONTENTS.—A petition filed under subparagraph (A) shall—

"(i) identify the short life cycle merchandise that is the subject of the affirmative dumping determinations,

"(ii) specify the short life cycle merchandise that the petitioner seeks to have included in the same product category as the merchandise that is subject to the affirmative dumping determinations,

"(iii) specify any short life cycle merchandise the petitioner particularly seeks to have excluded from the product category,

"(iv) provide reasons for the inclusions and exclusions specified under clauses (ii) and (iii), and

"(v) identify such merchandise in terms of the designations used in the Tariff Schedules of the United States.

"(2) DETERMINATIONS ON SUFFICIENCY OF PETITION.—Upon receiving a petition under paragraph (1), the Commission shall—

"(A) request the administering authority to confirm promptly the affirmative determinations on which the petition is based, and

"(B) upon receipt of such confirmation, determine whether the merchandise covered by the confirmed affirmative determinations is short life cycle merchandise and whether the petitioner is an eligible domestic entity.

"(3) NOTICE; HEARINGS.—If the determinations under paragraph (2)(B) are affirmative, the Commission shall—

Federal Register, publication.

"(A) publish notice in the Federal Register that the petition has been received, and

"(B) provide opportunity for the presentation of views regarding the establishment of the requested product category, including a public hearing if requested by any interested person.

"(4) DETERMINATIONS.—

"(A) IN GENERAL.—By no later than the date that is 90 days after the date on which a petition is filed under paragraph (1), the Commission shall determine the scope of the product category into which the short life cycle merchandise that is the subject of the affirmative dumping determinations identified in such petition shall be classified for purposes of this section.

"(B) MODIFICATIONS NOT REQUESTED BY PETITION.—

"(i) IN GENERAL.—The Commission may, on its own initiative, make a determination modifying the scope of any product category established under subparagraph (A) at any time.

"(ii) NOTICE AND HEARING.—Determinations may be made under clause (i) only after the Commission has—

"(I) published in the Federal Register notice of the proposed modification, and

"(II) provided interested parties an opportunity for a hearing, and a period for the submission of written comments, on the classification of merchandise into the product categories to be affected by such determination.

"(C) BASIS OF DETERMINATIONS.—In making determinations under subparagraph (A) or (B), the Commission shall ensure that each product category consists of similar short life cycle merchandise which is produced by similar processes under similar circumstances and has similar uses.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE DOMESTIC ENTITY.—The term 'eligible domestic entity' means a manufacturer or producer in the United States, or a certified union or recognized union or group of workers which is representative of an industry in the United States, that manufactures or produces short life cycle merchandise that is—

"(A) like or directly competitive with other merchandise that is the subject of 2 or more affirmative dumping determinations, or

"(B) is similar enough to such other merchandise as to be considered for inclusion with such merchandise in a product monitoring category established under this section.

"(2) AFFIRMATIVE DUMPING DETERMINATION.—The term 'affirmative dumping determination' means—

"(A) any affirmative final determination made by the administering authority under section 735(a) during the 8-year period preceding the filing of the petition under this section that results in the issuance of an antidumping duty order under section 736 which requires the deposit of estimated antidumping duties at a rate of not less than 15 percent ad valorem, or

"(B) any affirmative preliminary determination that—

"(i) is made by the administering authority under section 733(b) during the 8-year period preceding the filing of the petition under this section in the course of an investigation for which no final determination is made under section 735 by reason of a suspension of the investigation under section 734, and

"(ii) includes a determination that the estimated average amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is not less than 15 percent ad valorem.

"(3) SUBJECT OF AFFIRMATIVE DUMPING DETERMINATION.—

"(A) IN GENERAL.—Short life cycle merchandise of a manufacturer shall be treated as being the subject of an affirmative dumping determination only if the administering authority—

"(i) makes a separate determination of the amount by which the foreign market value of such merchandise of the manufacturer exceeds the United States price of such merchandise of the manufacturer, and

"(ii) specifically identifies the manufacturer by name with such amount in the affirmative dumping determination or in an antidumping duty order issued as a result of the affirmative dumping determination.

"(B) EXCLUSION.—Short life cycle merchandise of a manufacturer shall not be treated as being the subject of an affirmative dumping determination if—

"(i) such merchandise of the manufacturer is part of a group of merchandise to which the administering authority assigns (in lieu of making separate determinations described in subparagraph (A)(i)(I)) an amount determined to be the amount by which the foreign market value of the merchandise in such group exceeds the United States price of the merchandise in such group, and

"(ii) the merchandise and the manufacturer are not specified by name in the affirmative dumping determination or in any antidumping duty order issued as a result of such affirmative dumping determination.

"(4) SHORT LIFE CYCLE MERCHANDISE.—The term 'short life cycle merchandise' means any product that the Commission determines is likely to become outmoded within 4 years, by reason of technological advances, after the product is commercially available. For purposes of this paragraph, the term 'outmoded' refers to a kind of style that is no longer state-of-the-art.

"(c) TRANSITIONAL RULES.—

"(1) For purposes of this section and section 733(b)(1) (B) and (C), all affirmative dumping determinations described in subsection (b)(2)(A) that were made after December 31, 1980, and before the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, and all affirmative dumping determinations described in subsection (b)(2)(B) that were made after December 31, 1984, and before the date of enactment of such Act, with respect to each category of short life cycle merchandise of the same manufacturer shall be treated as one affirmative dumping determination with respect to that category for that manufacturer which was made on the date on which the latest of such determinations was made.

"(2) No affirmative dumping determination that—

"(A) is described in subsection (b)(2)(A) and was made before January 1, 1981, or

"(B) is described in subsection (b)(2)(B) and was made before January 1, 1985,

may be taken into account under this section or section 733(b)(1) (B) and (C).".

(b) EXPEDITED DUMPING INVESTIGATIONS.—Section 733 (19 U.S.C. 1673) is amended as follows: 19 USC 1673b.

(1) Paragraph (1) of subsection (b)(1) is amended to read as follows:

"(1) PERIOD OF ANTIDUMPING DUTY INVESTIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at less than fair value. If the determination of the administering authority under

this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.

"(B) IF CERTAIN SHORT LIFE CYCLE MERCHANDISE INVOLVED.—If a petition filed under section 732(b), or an investigation commenced under section 732(a), concerns short life cycle merchandise that is included in a product category established under section 739(a), subparagraph (A) shall be applied—

"(i) by substituting '120 days' for '160 days' if manufacturers that are second offenders account for a significant proportion of the merchandise under investigation, and

"(ii) by substituting '100 days' for '160 days' if manufacturers that are multiple offenders account for a significant proportion of the merchandise under investigation.

"(C) DEFINITIONS OF OFFENDERS.—For purposes of subparagraph (B)—

"(i) The term 'second offender' means a manufacturer that is specified in 2 affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

"(I) specified in both such determinations, and

"(II) within the scope of the product category referred to in subparagraph (B).

"(ii) The term 'multiple offender' means a manufacturer that is specified in 3 or more affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

"(I) specified in each of such determinations, and

"(II) within the scope of the product category referred to in subparagraph (B).".

(2) Paragraph (1) of subsection (c) is amended by inserting at the end thereof the following sentence: "No extension of a determination date may be made under this paragraph for any investigation in which a determination date provided for in subsection (b)(1)(B) applies unless the petitioner submits written notice to the administering authority of its consent to the extension.".

(3) Subsection (e)(1) is amended by adding at the end thereof the following flush sentence:

"The administering authority shall be treated as having made an affirmative determination under subparagraph (A) in any investigation to which subsection (b)(1)(B) is applied.".

(c) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 739 the following:

"Sec. 739. Establishment of product categories for short life cycle merchandise.".

SEC. 1324. CRITICAL CIRCUMSTANCES.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—

(1) Section 702 (19 U.S.C. 1671a) is amended by adding at the end thereof the following new subsection:

"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle,

the administering authority finds a reasonable basis to suspect that the alleged subsidy is inconsistent with the Agreement, the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 705(a), the investigation is terminated, or the administering authority withdraws the request.".

Records.

(2) Paragraph (1) of section 703(e) (19 U.S.C. 1671b(e)(1)) is amended by inserting "(at any time after the initiation of the investigation under this subtitle)" after "promptly".

(3) Subparagraph (A) of section 705(b)(4) (19 U.S.C. 1671d(b)(4)(A)) is amended to read as follows:

"(A) RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of a countervailing duty on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time and will be difficult to repair.

"(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the countervailing duty order would be materially impaired if such imposition did not occur.

"(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

"(I) the condition of the domestic industry,

"(II) whether massive imports of the merchandise over a relatively short period of time can be accounted for by efforts to avoid the potential imposition of countervailing duties,

"(III) whether foreign economic conditions led to the massive imports of the merchandise, and

"(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the countervailing duty order under this subtitle.".

(b) ANTIDUMPING DUTY INVESTIGATIONS.—

(1) Section 732 (19 U.S.C. 1673a) is amended by adding at the end thereof the following new subsection:

Records.

"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that—

"(1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

"(2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value,

the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 735(a), the investigation is terminated, or the administering authority withdraws the request.".

(2) Paragraph (1) of section 733(e) (19 U.S.C. 1673b(e)(1)) is amended by inserting "(at any time after the initiation of the investigation under this subtitle)" after "promptly".

(3) Subparagraph (A) of section 735(b)(4) (19 U.S.C. 1673d(b)(4)(A)) is amended to read as follows:

"(A) RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time.

"(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if such imposition did not occur.

"(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

"(I) the condition of the domestic industry,

"(II) whether massive imports of the merchandise in a relatively short period of time can be accounted for by efforts to avoid the potential imposition of antidumping duties,

"(III) whether foreign economic conditions led to the massive imports of the merchandise, and

"(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the antidumping duty order under this subtitle.".

SEC. 1325. EXPEDITED REVIEW AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)(1)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of

the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the investigation has not been designated as extraordinarily complicated by reason of—

"(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

"(ii) the novelty of the issues presented, or

"(iii) the number of firms whose activities must be investigated,

"(B) the final determination in the investigation has not been postponed under section 735(a)(2)(A);

"(C) on the basis of information presented to the administering authority by any manufacturer, producer, or exporter in such form and within such time as the administering authority may require, the administering authority is satisfied that a determination will be made, within 90 days after the date of publication of an order under subsection (a), of the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(D) the party described in subparagraph (C) provides credible evidence that the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(E) the data concerning the foreign market value and the United States price apply to sales in the usual commercial quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.".

(b) BUSINESS PROPRIETARY INFORMATION.—Subsection (c) of section 736 (19 U.S.C. 1673e(c)) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF BUSINESS PROPRIETARY INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties, the administering authority shall—

"(A) make all business proprietary information supplied to the administering authority under paragraph (1) available under a protective order in accordance with section 777(c) to all interested parties described in subparagraph (C), (D), (E), (F), or (G) of section 771(9), and

"(B) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties should be permitted.".

SEC. 1326. PROCESSED AGRICULTURAL PRODUCTS.

(a) DEFINITION OF INDUSTRY PRODUCING PROCESSED AGRICULTURAL PRODUCTS.—Paragraph (4) of section 771 (19 U.S.C. 1677(4)) is amended by adding at the end thereof the following new subparagraph:

"(E) INDUSTRY PRODUCING PROCESSED AGRICULTURAL PRODUCTS.—

"(i) IN GENERAL.—Subject to clause (v), in an investigation involving a processed agricultural product produced from any raw agricultural product, the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if—

"(I) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and

"(II) there is a substantial coincidence of economic interest between the producers or growers of the raw agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may, in the discretion of the Commission, include price, added market value, or other economic interrelationships (regardless of whether such coincidence of economic interest is based upon any legal relationship).

"(ii) PROCESSING.—For purposes of this subparagraph, the processed agricultural product shall be considered to be processed from a raw agricultural product through a single continuous line of production if—

"(I) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

"(II) the processed agricultural product is produced substantially or completely from the raw product.

"(iii) RELEVANT ECONOMIC FACTORS.—For purposes of clause (i)(II), in addition to such other factors it considers relevant to the question of coincidence of economic interest, the Commission shall—

"(I) if price is taken into account, consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

"(II) if added market value is taken into account, consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

"(iv) RAW AGRICULTURAL PRODUCT.—For purposes of this subparagraph, the term 'raw agricultural product' means any farm or fishery product.

"(v) TERMINATION OF THIS SUBPARAGRAPH.—This subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of

this subparagraph is inconsistent with the international obligations of the United States.".

(b) THREAT OF MATERIAL INJURY.—Section 771(7)(F) (19 U.S.C. 1677(7)(F)) is amended—

(1) by striking out "and" at the end of subclause (VII);

(2) by striking out the period at the end of subclause (VIII) and inserting ", and"; and

(3) by adding at the end thereof the following:

"(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both).".

(c) INTERESTED PARTIES.—Section 771(9) (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) in any investigation under this title involving an industry engaged in producing a processed agricultural product, as defined in paragraph (4)(E), a coalition or trade association which is representative of either—

"(i) processors,

"(ii) processors and producers, or

"(iii) processors and growers,

but this subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.".

(d) CONFORMING AMENDMENTS.—

19 USC 1671 *et seq.*

(1) Title VII of the Tariff Act of 1930 is amended by striking out "subparagraph (C), (D), (E), or (F) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), (F), or (G) of section 771(9)".

(2) Title VII of the Tariff Act of 1930 is amended by striking out "subparagraph (C), (D), (E), and (F) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), (F), or (G) of section 771(9)".

(3) Subsection (a) of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended by adding at the end thereof the following new paragraph:

"(3) Any producer of a raw agricultural product who is considered under section 771(4)(E) to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.".

SEC. 1327. LEASES EQUIVALENT TO SALES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(19) EQUIVALENCY OF LEASES TO SALES.—In determining whether a lease is equivalent to a sale for purposes of this title, the administering authority shall consider—

"(A) the terms of the lease,

"(B) commercial practice within the industry,

"(C) the circumstances of the transaction,

"(D) whether the product subject to the lease is integrated into the operations of the lessee or importer,

"(E) whether in practice there is a likelihood that the lease will be continued or renewed for a significant period of time, and

"(F) other relevant factors, including whether the lease transaction would permit avoidance of antidumping or countervailing duties.".

SEC. 1328. MATERIAL INJURY.

Section 771(7) (19 U.S.C. 1677(7)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) VOLUME AND CONSEQUENT IMPACT.—In making determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission, in each case—

"(i) shall consider—

"(I) the volume of imports of the merchandise which is the subject of the investigation,

"(II) the effect of imports of that merchandise on prices in the United States for like products, and

"(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

"(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

In the notification required under section 705(d) or 735(d), as the case may be, the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination."; and

(2) by amending subparagraph (C)—

(A) by amending the heading to read as follows: "(C) EVALUATION OF RELEVANT FACTORS.—",

(B) by striking out "price undercutting" in clause (ii) and inserting "price underselling", and

(C) by amending clause (iii) to read as follows:

"(iii) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

"(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(II) factors affecting domestic prices,

Employment and unemployment. Wages.

"(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

"(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.".

SEC. 1329. THREAT OF MATERIAL INJURY.

Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1326) is further amended—

(1) by striking out "and" at the end of clause (i)(VIII),

(2) by striking out the period at the end of clause (i)(IX),

(3) by adding at the end of clause (i) the following new subclause:

"(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.", and

(4) by adding at the end thereof the following:

"(iii) EFFECT OF DUMPING IN THIRD-COUNTRY MARKETS.—

"(I) IN GENERAL.—In investigations under subtitle B, the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign manufacturer, exporter, or United States importer concerning this issue.

"(II) GATT MEMBER MARKET.—For purposes of this clause, the term 'GATT member market' means the market of any country which is a signatory to The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

"(III) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities shall be treated as a foreign country.".

SEC. 1330. CUMULATION.

(a) THREAT OF INJURY.—Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1329) is further amended by adding at the end thereof the following new clause:

"(iv) CUMULATION.—To the extent practicable and subject to subparagraph (C)(v), for purposes of clause (i) (III) and (IV) the Commission may cumulatively assess

the volume and price effects of imports from two or more countries if such imports—

"(I) compete with each other, and with like products of the domestic industry, in the United States market, and

"(II) are subject to any investigation under section 303, 701, or 731.".

(b) TREATMENT OF NEGLIGIBLE IMPORTS.—Subparagraph (C) of section 771(7) (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

"(v) TREATMENT OF NEGLIGIBLE IMPORTS.—The Commission is not required to apply clause (iv) or subparagraph (F)(iv) in any case in which the Commission determines that imports of the merchandise subject to investigation are negligible and have no discernable adverse impact on the domestic industry. For purposes of making such determination, the Commission shall evaluate all relevant economic factors regarding the imports, including, but not limited to, whether—

"(I) the volume and market share of the imports are negligible,

"(II) sales transactions involving the imports are isolated and sporadic, and

"(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

For purposes of this clause, the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.".

SEC. 1331. CERTIFICATION OF SUBMISSIONS.

Section 776 (19 U.S.C. 1677e) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively,

(2) by amending the heading to subsection (b) (as so redesignated) to read as follows: "(b) VERIFICATION.—", and

(3) by inserting before such subsection (b) the following:

"(a) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.".

SEC. 1332. ACCESS TO INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending subsection (b)(1)(B)(ii) to read as follows:

"(ii) a statement to the administering authority or the Commission that the business proprietary informa-

tion is of a type that should not be released under administrative protective order.";

(2) by amending subsection (c)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during a proceeding."; and

(B) by adding at the end thereof the following new subparagraphs:

"(C) TIME LIMITATION ON DETERMINATIONS.—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

"(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted, or

"(ii) if—

"(I) the person that submitted the information raises objection to its release, or

"(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted.

"(D) AVAILABILITY AFTER DETERMINATION.—If the determination under subparagraph (C) is affirmative, then—

"(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date; and

"(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

"(E) FAILURE TO DISCLOSE.—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.";

(3) by striking out "or the Commission denies a request for proprietary information submitted by the petitioner or an in-

terested party in support of the petitioner concerning the domestic price or cost of production of the like product," in subsection (c)(2); and

(4) by adding at the end thereof the following new subsections:

"(d) SERVICE.—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order; however, a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

"(e) TIMELY SUBMISSIONS.—Information shall be submitted to the administering authority or the Commission during the course of a proceeding on a timely basis and shall be subject to comment by other parties within such reasonable time as the administering authority or the Commission shall provide. If information is submitted without an adequate opportunity for other parties to comment thereon, the administering authority or the Commission may return the information to the party submitting it and not consider it.".

SEC. 1333. CORRECTION OF MINISTERIAL ERRORS.

(a) FINAL DETERMINATIONS.—Sections 705 and 735 (19 U.S.C. 1671d and 1673d) are each amended by adding at the end thereof the following new subsection:

"(e) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

(b) ADMINISTRATIVE REVIEW.—Section 751 (19 U.S.C. 1675) is amended by adding at the end thereof the following new subsection:

"(f) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

SEC. 1334. DRAWBACK TREATMENT.

(a) IN GENERAL.—Section 779 (19 U.S.C. 1677h) is amended by striking out "shall be treated as any other customs duties." and inserting "shall not be treated as being regular customs duties.".

(b) CONFORMING AMENDMENTS.—

(1) The section heading for such section 779 is amended by striking out "**DRAWBACKS**" and inserting "**DRAWBACK TREATMENT**".

(2) The table of contents for title VII of the Tariff Act of 1930 is amended by striking out "Drawbacks." in the entry for section 779 and inserting "Drawback treatment.".

SEC. 1335. GOVERNMENTAL IMPORTATIONS.

Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) (as amended by section 1316(b)) is amended by adding at the end thereof the following new paragraph:

"(19) APPLICATION TO GOVERNMENTAL IMPORTATIONS.—

"(A) IN GENERAL.—Except as otherwise provided by this paragraph, merchandise imported by, or for the use of, a department or agency of the United States Government (including merchandise provided for under schedule 8 of the Tariff Schedules of the United States) is subject to the imposition of countervailing duties or antidumping duties under this title or section 303.

"(B) EXCEPTIONS.—Merchandise imported by, or for the use of, the Department of Defense shall not be subject to the imposition of countervailing or antidumping duties under this title if—

"(i) the merchandise is acquired by, or for use of, such Department—

"(I) from a country with which such Department had a Memorandum of Understanding which was in effect on January 1, 1988, and has continued to have a comparable agreement (including renewals) or superceding agreements, and

"(II) in accordance with terms of the Memorandum of Understanding in effect at the time of importation, or

"(ii) the merchandise has no substantial nonmilitary use.".

SEC. 1336. STUDIES.

(a) STUDY OF MARKET ORIENTATION OF CHINA.—The Secretary of Commerce, in consultation with the heads of other appropriate Federal agencies, shall undertake a study regarding the new market orientation of the People's Republic of China. The study shall address, but not be limited to—

(1) the effect of the new orientation on Chinese market policies and price structure, and the relationship between domestic Chinese prices and world prices;

(2) the extent to which United States trade law practices can accommodate the increased market orientation of the Chinese economy; and

(3) the possible need for changes in United States antidumping laws as they apply to foreign countries, such as China, which are in transition to a more market-oriented economy.

Reports. The Secretary of Commerce shall submit to the Congress within 1 year after the date of the enactment of this Act a report on the study required under this subsection.

(b) SUBSIDIES CODE COMMITMENTS.—Within 90 days after the date of the enactment of this Act, the United States Trade Representa-

tive shall initiate a review of all bilateral subsidy commitments that have been entered into by foreign governments with the United States. The review shall include—

(1) an evaluation of the extent to which the commitments have been complied with;

(2) with respect to those commitments found under paragraph (1) not to have been complied with, an estimate regarding when compliance is likely; and

(3) recommendations regarding how compliance can be improved.

The United States Trade Representative shall complete the review required under this subsection and submit a report thereon to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 180 days after the date of the enactment of this Act. Reports.

SEC. 1337. EFFECTIVE DATES. 19 USC 1671 note.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) INVESTIGATIONS AND REVIEWS AFTER ENACTMENT.—The amendments made by sections 1312, 1315, 1316, 1318, 1325, 1326, 1327, 1328, 1329, 1331, and 1332 shall only apply with respect to—

(1) investigations initiated after the date of enactment of this Act, and

(2) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act.

(c) INVESTIGATIONS AFTER ENACTMENT.—The amendments made by sections 1324 and 1330 shall only apply with respect to investigations initiated after the date of enactment of this Act.

(d) PREVENTION OF CIRCUMVENTION OF DUTIES; DRAWBACK.—The provisions of section 781 of the Tariff Act of 1930, as added by section 1321(a), and the amendments made by section 1334 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

(e) GOVERNMENTAL IMPORTATIONS; STEEL.—The amendments made by sections 1321(b) and 1335 shall apply with respect to entries, and withdrawals from warehouse for consumption, that are liquidated on or after the date of enactment of this Act.

(f) FICTITIOUS MARKETS.—The amendment made by section 1319 shall only apply with respect to—

(1) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act, and

(2) reviews initiated under such sections—

(A) which are pending on the date of enactment of this Act, and

(B) in which a request for revocation is pending on the date of enactment of this Act.

PART 3—PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Copyrights. Patents and trademarks.

SEC. 1341. CONGRESSIONAL FINDINGS AND PURPOSES. 19 USC 1337 note.

(a) FINDINGS.—The Congress finds that—

(1) United States persons that rely on protection of intellectual property rights are among the most advanced and competitive in the world; and

(2) the existing protection under section 337 of the Tariff Act of 1930 against unfair trade practices is cumbersome and costly and has not provided United States owners of intellectual property rights with adequate protection against foreign companies violating such rights.

(b) PURPOSE.—The purpose of this part is to amend section 337 of the Tariff Act of 1930 to make it a more effective remedy for the protection of United States intellectual property rights.

SEC. 1342. PROTECTION UNDER THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

"(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), and (D)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

"(i) to destroy or substantially injure an industry in the United States;

"(ii) to prevent the establishment of such an industry; or

"(iii) to restrain or monopolize trade and commerce in the United States.

"(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

"(i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17, United States Code; or

"(ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

"(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946.

"(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17, United States Code.

"(2) Subparagraphs (B), (C), and (D) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, or mask work concerned, exists or is in the process of being established.

"(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, or mask work concerned—

"(A) significant investment in plant and equipment;

"(B) significant employment of labor or capital; or

"(C) substantial investment in its exploitation, including engineering, research and development, or licensing.

"(4) For the purposes of this section, the phrase 'owner, importer, or consignee' includes any agent of the owner, importer, or consignee.".

(2) Subsection (c) is amended by inserting before the period in the first sentence the following: ", except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination".

(3) Subsection (e) is amended—

(A) by striking out "If" in the first sentence and inserting "(1) If"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission's notice of investigation is published in the Federal Register. The Commission may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection.

Federal Register, publication.

"(3) The Commission may grant preliminary relief under this subsection or subsection (f) to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.".

(4) Subsection (f) is amended—

(A) by striking out "In lieu of" in paragraph (1) and inserting "In addition to, or in lieu of,"; and

(B) by striking out "$10,000 or" in paragraph (2) and inserting "$100,000 or twice".

(5) Such section is further amended—

(A) by redesignating subsections (g), (h), (i), and (j) as subsections (j), (k), (l), and (m), respectively; and

(B) by inserting after subsection (f) the following new subsections:

"(g)(1) If—

"(A) a complaint is filed against a person under this section;

"(B) the complaint and a notice of investigation are served on the person;

"(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

"(D) the person fails to show good cause why the person should not be found in default; and

"(E) the complainant seeks relief limited solely to that person;

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in

the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

"(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

"(A) no person appears to contest an investigation concerning a violation of the provisions of this section, and

"(B) such a violation is established by substantial, reliable, and probative evidence.

"(h) The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.

"(i) FORFEITURE.—

"(1) In addition to taking action under subsection (d), the Commission may issue an order providing that any article imported in violation of the provisions of this section be seized and forfeited to the United States if—

"(A) the owner, importer, or consignee of the article previously attempted to import the article into the United States;

"(B) the article was previously denied entry into the United States by reason of an order issued under subsection (d); and

"(C) upon such previous denial of entry, the Secretary of the Treasury provided the owner, importer, or consignee of the article written notice of—

"(i) such order, and

"(ii) the seizure and forfeiture that would result from any further attempt to import the article into the United States.

"(2) The Commission shall notify the Secretary of the Treasury of any order issued under this subsection and, upon receipt of such notice, the Secretary of the Treasury shall enforce such order in accordance with the provisions of this section.

"(3) Upon the attempted entry of articles subject to an order issued under this subsection, the Secretary of the Treasury shall immediately notify all ports of entry of the attempted importation and shall identify the persons notified under paragraph (1)(C).

"(4) The Secretary of the Treasury shall provide—

"(A) the written notice described in paragraph (1)(C) to the owner, importer, or consignee of any article that is denied entry into the United States by reason of an order issued under subsection (d); and

"(B) a copy of such written notice to the Commission.".

(6) Subsection (k) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by inserting "(1)" before the first sentence; and

(B) by adding at the end the following:

"(2) If any person who has previously been found by the Commission to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), (g), or (i)—

"(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and

"(B) relief may be granted by the Commission with respect to such petition—

"(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

"(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.".

(7) Subsection (l) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by striking out "claims of United States letters patent" in the first sentence and inserting "a proceeding involving a patent, copyright, or mask work under subsection (a)(1)"; and

(B) by striking out "a patent owner" in the second sentence and inserting "an owner of the patent, copyright, or mask work".

(8) Such section is further amended by adding at the end the following:

Classified information.

"(n)(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is properly designated as confidential pursuant to Commission rules may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it.

"(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

"(A) an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted,

"(B) an officer or employee of the United States Government who is directly involved in the review under subsection (h), or

"(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.".

(b) TECHNICAL AMENDMENTS.—Section 337 (as amended by subsection (a)) is further amended—

(1) by amending subsection (b)—

(A) by striking out "Department of Health, Education, and Welfare" in paragraph (2) and inserting "Department of Health and Human Services"; and

(B) by striking out "Secretary of the Treasury" in paragraph (3) and inserting "Secretary of Commerce";

(2) by amending subsection (c)—

(A) by striking out "or (f)" and inserting "(f), or (g)", and

(B) by striking out "and (f)" and inserting "(f), and (g)";

(3) by striking out "or (f)" each place it appears in subsection (j) and inserting "(f), (g), or (i)";

(4) by striking out "(g)" in subsection (k) and inserting "(j)"; and

(5) by striking out "or (f)" in subsection (l) and inserting "(f), (g), or (i)".

(c) CONFORMING AMENDMENT.—The Act entitled "An Act to limit the importation of products made, produced, processed, or mined

under process covered by unexpired valid United States patents, and for other purposes", approved July 2, 1940 (54 Stat. 724, 19 U.S.C. 1337a), is repealed.

19 USC 1337 note.

(d) EFFECTIVE DATE.—

(1)(A) Subject to subparagraph (B), the amendments made by this section shall take effect on the date of the enactment of this Act.

(B) The United States International Trade Commission is not required to apply the provision in section 337(e)(2) of the Tariff Act of 1930 (as amended by subsection (a)(3) of this section) relating to the posting of bonds until the earlier of—

(i) the 90th day after such date of enactment; or

(ii) the day on which the Commission issues interim regulations setting forth the procedures relating to such posting.

(2) Notwithstanding any provision of section 337 of the Tariff Act of 1930, the United States International Trade Commission may extend, by not more than 90 days, the period within which the Commission is required to make a determination in an investigation conducted under such section 337 if—

(A) the Commission would, but for this paragraph, be required to make such determination before the 180th day after the date of enactment of this Act; and

(B) the Commission finds that the investigation is complicated.

PART 4—TELECOMMUNICATIONS TRADE

Telecommunications Trade Act of 1988. 19 USC 3101 note.

SEC. 1371. SHORT TITLE.

This part may be cited as the "Telecommunications Trade Act of 1988".

19 USC 3101.

SEC. 1372. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) rapid growth in the world market for telecommunications products and services is likely to continue for several decades;

(2) the United States can improve prospects for—

(A) the growth of—

(i) United States exports of telecommunications products and services, and

(ii) export-related employment and consumer services in the United States, and

(B) the continuance of the technological leadership of the United States,

by undertaking a program to achieve an open world market for trade in telecommunications products, services, and investment;

(3) most foreign markets for telecommunications products, services, and investment are characterized by extensive government intervention (including restrictive import practices and discriminatory procurement practices) which adversely affect United States exports of telecommunications products and services and United States investment in telecommunications;

(4) the open nature of the United States telecommunications market, accruing from the liberalization and restructuring of such market, has contributed, and will continue to contribute, to an increase in imports of telecommunications products and a

growing imbalance in competitive opportunities for trade in telecommunications;

(5) unless this imbalance is corrected through the achievement of mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries, the United States should avoid granting continued open access to the telecommunications products and services of such foreign countries in the United States market; and

(6) the unique business conditions in the worldwide market for telecommunications products and services caused by the combination of deregulation and divestiture in the United States, which represents a unilateral liberalization of United States trade with the rest of the world, and continuing government intervention in the domestic industries of many other countries create a need to make an exception in the case of telecommunications products and services that should not necessarily be a precedent for legislating specific sectoral priorities in combating the closed markets or unfair foreign trade practices of other countries.

(b) PURPOSES.—The purposes of this part are—

(1) to foster the economic and technological growth of, and employment in, the United States telecommunications industry;

(2) to secure a high quality telecommunications network for the benefit of the people of the United States;

(3) to develop an international consensus in favor of open trade and competition in telecommunications products and services;

(4) to ensure that countries which have made commitments to open telecommunications trade fully abide by those commitments; and

(5) to achieve a more open world trading system for telecommunications products and services through negotiation and provision of mutually advantageous market opportunities for United States telecommunications exporters and their subsidiaries in those markets in which barriers exist to free international trade.

SEC. 1373. DEFINITIONS. 19 USC 3102.

For purposes of this part—

(1) The term "Trade Representative" means the United States Trade Representative.

(2) The term "telecommunications product" means—

(A) any paging devices provided for under item 685.65 of such Schedules, and

(B) any article classified under any of the following item numbers of such Schedules:

684.57	684.67	685.28	685.39
684.58	684.80	685.30	685.48
684.59	685.16	685.31	688.17
684.65	685.24	685.33	688.41
684.66	685.25	685.34	707.90.

SEC. 1374. INVESTIGATION OF FOREIGN TELECOMMUNICATIONS TRADE BARRIERS. 19 USC 3103.

(a) IN GENERAL.—The Trade Representative shall conduct an investigation to identify priority foreign countries. Such investiga- Termination date.

tion shall be concluded by no later than the date that is 5 months after the date of enactment of this Act.

(b) FACTORS TO BE TAKEN INTO ACCOUNT.—In identifying priority foreign countries under subsection (a), the Trade Representative shall take into account, among other relevant factors—

(1) the nature and significance of the acts, policies, and practices that deny mutually advantageous market opportunities to telecommunications products and services of United States firms;

(2) the economic benefits (actual and potential) accruing to foreign firms from open access to the United States market;

(3) the potential size of the market of a foreign country for telecommunications products and services of United States firms;

(4) the potential to increase United States exports of telecommunications products and services, either directly or through the establishment of a beneficial precedent; and

(5) measurable progress being made to eliminate the objectionable acts, policies, or practices.

(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

(1) The Trade Representative may at any time, after taking into account the factors described in subsection (b)—

(A) revoke the identification of any priority foreign country that was made under this section, or

(B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) of the Trade Act of 1974 a detailed explanation of the reasons for the revocation under paragraph (1) of this subsection of any identification of any foreign country as a priority foreign country.

(d) REPORT TO CONGRESS.—By no later than the date that is 30 days after the date on which the investigation conducted under subsection (a) is completed, the United States Trade Representative shall submit a report on the investigation to the President and to appropriate committees of the Congress.

19 USC 3104.

SEC. 1375. NEGOTIATIONS IN RESPONSE TO INVESTIGATION.

(a) IN GENERAL.—Upon—

(1) the date that is 30 days after the date on which any foreign country is identified in the investigation conducted under section 1374(a) as a priority foreign country, and

President of U.S. Contracts.

(2) the date on which any foreign country is identified under section 1374(c)(1)(B) as a priority foreign country,

the President shall enter into negotiations with such priority foreign country for the purpose of entering into a bilateral or multilateral trade agreement under part 1 of subtitle A which meets the specific negotiating objectives established by the President under subsection (b) for such priority foreign country.

President of U.S.

(b) ESTABLISHMENT OF SPECIFIC NEGOTIATING OBJECTIVES FOR EACH FOREIGN PRIORITY COUNTRY.—

(1) The President shall establish such relevant specific negotiating objectives on a country-by-country basis as are necessary to meet the general negotiating objectives of the United States under this section.

(2)(A) The President may refine or modify specific negotiating objectives for particular negotiations in order to respond to circumstances arising during the negotiating period, including—

(i) changed practices by the priority foreign country,

(ii) tangible substantive developments in multilateral negotiations,

(iii) changes in competitive positions, technological developments, or

(iv) other relevant factors.

(B) By no later than the date that is 30 days after the date on which the President makes any modifications or refinements to specific negotiating objectives under subparagraph (A), the President shall submit to appropriate committees of the Congress a statement describing such modifications or refinements and the reasons for such modifications or refinements.

(c) GENERAL NEGOTIATING OBJECTIVES.—The general negotiating objectives of the United States under this section are—

(1) to obtain multilateral or bilateral agreements (or the modification of existing agreements) that provide mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries;

(2) to correct the imbalances in market opportunities accruing from reductions in barriers to the access of telecommunications products and services of foreign firms to the United States market; and

(3) to facilitate the increase in United States exports of telecommunications products and services to a level of exports that reflects the competitiveness of the United States telecommunications industry.

(d) SPECIFIC NEGOTIATING OBJECTIVES.—The specific negotiating objectives of the United States under this section regarding telecommunications products and services are to obtain—

(1) national treatment for telecommunications products and services that are provided by United States firms;

(2) most-favored-nation treatment for such products and services;

(3) nondiscriminatory procurement policies with respect to such products and services and the inclusion under the Agreement on Government Procurement of the procurement (by sale or lease by government-owned or controlled entities) of all telecommunications products and services;

(4) the reduction or elimination of customs duties on telecommunications products;

(5) the elimination of subsidies, violations of intellectual property rights, and other unfair trade practices that distort international trade in telecommunications products and services;

(6) the elimination of investment barriers that restrict the establishment of foreign-owned business entities which market such products and services;

(7) assurances that any requirement for the registration of telecommunications products, which are to be located on customer premises, for the purposes of—

(A) attachment to a telecommunications network in a foreign country, and

(B) the marketing of the products in a foreign country, be limited to the certification by the manufacturer that the products meet the standards established by the foreign country for preventing harm to the network or network personnel;

(8) transparency of, and open participation in, the standards-setting processes used in foreign countries with respect to telecommunications products;

(9) the ability to have telecommunications products, which are to be located on customer premises, approved and registered by type, and, if appropriate, the establishment of procedures between the United States and foreign countries for the mutual recognition of type approvals;

(10) access to the basic telecommunications network in foreign countries on reasonable and nondiscriminatory terms and conditions (including nondiscriminatory prices) for the provision of value-added services by United States suppliers;

(11) the nondiscriminatory procurement of telecommunications products and services by foreign entities that provide local exchange telecommunications services which are owned, controlled, or, if appropriate, regulated by foreign governments; and

(12) monitoring and effective dispute settlement mechanisms to facilitate compliance with matters referred to in the preceding paragraphs of this subsection.

President of U.S.
19 USC 3105.

SEC. 1376. ACTIONS TO BE TAKEN IF NO AGREEMENT OBTAINED.

(a) IN GENERAL.—

(1) If the President is unable, before the close of the negotiating period, to enter into an agreement under subtitle A with any priority foreign country identified under section 1374 which achieves the general negotiating objectives described in section 1375(b) as defined by the specific objectives established by the President for that country, the President shall take whatever actions authorized under subsection (b) that are appropriate and most likely to achieve such general negotiating objectives.

(2) In taking actions under paragraph (1), the President shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the President determines that actions against other economic sectors would be more effective in achieving the general negotiating objectives referred to in paragraph (1).

(b) ACTIONS AUTHORIZED.—

(1) The President is authorized to take any of the following actions under subsection (a) with respect to any priority foreign country:

(A) termination, withdrawal, or suspension of any portion of any trade agreement entered into with such country under—

(i) the Trade Act of 1974,

(ii) section 201 of the Trade Expansion Act of 1962, or

(iii) section 350 of the Tariff Act of 1930,

with respect to any duty or import restriction imposed by the United States on any telecommunications product;

(B) actions described in section 301 of the Trade Act of 1974;

(C) prohibition of purchases by the Federal Government of telecommunications products of such country;

(D) increases in domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) for purchases by the Federal Government of telecommunications products of such country;

(E) suspension of any waiver of domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) which may have been extended to such country pursuant to the Trade Agreements Act of 1979 with respect to telecommunications products or any other products;

(F) issuance of orders to appropriate officers and employees of the Federal Government to deny Federal funds or Federal credits for purchases of the telecommunications products of such country; and

(G) suspension, in whole or in part, of benefits accorded articles of such country under title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.).

(2) Notwithstanding section 125 of the Trade Act of 1974 and any other provision of law, if any portion of a trade agreement described in paragraph (1)(A) is terminated, withdrawn, or suspended under paragraph (1) with respect to any duty imposed by the United States on the products of a foreign country, the rate of such duty that shall apply to such products entered, or withdrawn from warehouse for consumption, after the date on which such termination, withdrawal, or suspension takes effect shall be a rate determined by the President.

(c) NEGOTIATING PERIOD.—

(1) For purposes of this section, the term "negotiating period" means—

(A) with respect to a priority foreign country identified in the investigation conducted under section 1374(a), the 18-month period beginning on the date of the enactment of this Act, and

(B) with respect to any foreign country identified as a priority foreign country after the conclusion of such investigation, the 1-year period beginning on the date on which such identification is made.

(2)(A) The negotiating period with respect to a priority foreign country may be extended for not more than two 1-year periods.

(B) By no later than the date that is 15 days after the date on which the President extends the negotiating period with respect to any priority foreign country, the President shall submit to appropriate committees of the Congress a report on the status of negotiations with such country that includes—

(i) a finding by the President that substantial progress is being made in negotiations with such country, and

(ii) a statement detailing the reasons why an extension of such negotiating period is necessary.

(d) MODIFICATION AND TERMINATION AUTHORITY.—The President may modify or terminate any action taken under subsection (a) if, after taking into consideration the factors described in section 1374(b), the President determines that changed circumstances warrant such modification or termination.

(e) REPORT.—The President shall promptly inform the appropriate committees of the Congress of any action taken under subsection (a)

or of the modification or termination of any such action under subsection (d).

19 USC 3106.

SEC. 1377. REVIEW OF TRADE AGREEMENT IMPLEMENTATION BY TRADE REPRESENTATIVE.

(a) IN GENERAL.—

(1) In conducting the annual analysis under section 181(a) of the Trade Act of 1974 (19 U.S.C. 2241), the Trade Representative shall review the operation and effectiveness of—

(A) each trade agreement negotiated by reason of this part that is in force with respect to the United States; and

(B) every other trade agreement regarding telecommunications products or services that is in force with respect to the United States.

(2) In each review conducted under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that has entered into the agreement described in paragraph (1)—

(A) is not in compliance with the terms of such agreement, or

(B) otherwise denies, within the context of the terms of such agreement, to telecommunications products and services of United States firms mutually advantageous market opportunities in that foreign country.

(b) REVIEW FACTORS.—

(1) In conducting reviews under subsection (a), the Trade Representative shall consider any evidence of actual patterns of trade (including United States exports to a foreign country of telecommunications products and services, including sales and services related to those products) that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of such products and services.

(2) The Trade Representative shall consult with the United States International Trade Commission with regard to the actual patterns of trade described in paragraph (1).

(c) ACTION IN RESPONSE TO AFFIRMATIVE DETERMINATION.—

(1) Any affirmative determination made by the Trade Representative under subsection (a)(2) with respect to any act, policy, or practice of a foreign country shall, for purposes of chapter 1 of title III of the Trade Act of 1974, be treated as an affirmative determination under section 304(a)(1)(A) of such Act that such act, policy, or practice violates a trade agreement.

(2) In taking actions under section 301 by reason of paragraph (1), the Trade Representative shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the Trade Representative determines that actions against other economic sectors would be more effective in achieving compliance by the foreign country with the trade agreement that is the subject of the affirmative determination made under subsection (a)(2).

19 USC 3107.

SEC. 1378. COMPENSATION AUTHORITY.

If—

(1) the President has taken action under section 1376(a) with respect to any foreign country, and

(2) such action is found to be inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade,

the President may enter into trade agreements with such foreign country for the purpose of granting new concessions as compensation for such action in order to maintain the general level of reciprocal and mutually advantageous concessions.

SEC. 1379. CONSULTATIONS.

(a) ADVICE FROM DEPARTMENTS AND AGENCIES.—Prior to taking any action under this part, the President shall seek information and advice from the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872). President of U.S. 19 USC 3108.

(b) ADVICE FROM THE PRIVATE SECTOR.—Before—

(1) the Trade Representative concludes the investigation conducted under section 1374(a) or takes action under section 1374(c),

(2) the President establishes specific negotiating objectives under section 1375(b) with respect to any foreign country, or

(3) the President takes action under section 1376,

the Trade Representative shall provide an opportunity for the presentation of views by any interested party with respect to such investigation, objectives, or action, including appropriate committees established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(c) CONSULTATIONS WITH CONGRESS AND OFFICIAL ADVISORS.—For purposes of conducting negotiations under section 1375(a), the Trade Representative shall keep appropriate committees of the Congress, as well as appropriate committees established pursuant to section 135 of the Trade Act of 1974, currently informed with respect to—

(1) the negotiating priorities and objectives for each priority foreign country;

(2) the assessment of negotiating prospects, both bilateral and multilateral; and

(3) any United States concessions which might be included in negotiations to achieve the objectives described in subsections (c) and (d) of section 1375.

(d) MODIFICATION OF SPECIFIC NEGOTIATING OBJECTIVES.—Before the President takes any action under section 1375(b)(2)(A) to refine or modify specific negotiating objectives, the President shall consult with the Congress and with members of the industry, and representatives of labor, affected by the proposed refinement or modification. President of U.S.

SEC. 1380. SUBMISSION OF DATA; ACTION TO ENSURE COMPLIANCE. 19 USC 3109.

(a) SUBMISSION OF DATA.—The Federal Communications Commission (hereafter in this section referred to as the "Commission") shall periodically submit to appropriate committees of the House of Representatives and of the Senate any data collected and otherwise made public under Report No. DC-1105, "Information Reporting Requirements Established for Common Carriers", adopted February 25, 1988, relating to FCC Docket No. 86-494, adopted December 23, 1987.

(b) ACTION TO ENSURE COMPLIANCE.—

(1)(A) Any product of a foreign country that is subject to registration or approval by the Commission may be entered only if—

(i) such product conforms with all applicable rules and regulations of the Commission, and

(ii) the information which is required on Federal Communications Commission Form 740 on the date of enactment of this Act is provided to the appropriate customs officer at the time of such entry in such form and manner as the Secretary of the Treasury may prescribe.

(B) For purposes of this paragraph, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The Commission, the Secretary of Commerce, and the Trade Representative shall provide such assistance in the enforcement of paragraph (1) as the Secretary of the Treasury may request.

Reports.

(3) The Secretary of the Treasury shall compile the information collected under paragraph (1)(A)(ii) into a summary and shall annually submit such summary to the Congress until the authority to negotiate trade agreements under part 1 of subtitle A expires. Such information shall also be made available to the public.

Public information.

19 USC 3110.

SEC. 1381. STUDY ON TELECOMMUNICATIONS COMPETITIVENESS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Federal Communications Commission and the United States Trade Representative, shall conduct a study of the competitiveness of the United States telecommunications industry and the effects of foreign telecommunications policies and practices on such industry in order to assist the Congress and the President in determining what actions might be necessary to preserve the competitiveness of the United States telecommunications industry.

(b) PUBLIC COMMENT.—The Secretary of Commerce may, as appropriate, provide notice and reasonable opportunity for public comment as part of the study conducted under subsection (a).

(c) REPORT.—The Secretary of Commerce shall, by no later than the date that is 1 year after the date of enactment of this Act, submit to the Congress and the President a report on the findings and recommendations reached by the Secretary of Commerce as a result of the study conducted under subsection (a). Such report shall be referred to the appropriate committees of the House of Representatives and of the Senate.

19 USC 3111.

SEC. 1382. INTERNATIONAL OBLIGATIONS.

Nothing in this part may be construed to require actions inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

Subtitle D—Adjustment to Import Competition

PART 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

SEC. 1401. POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS.

(a) IN GENERAL.—Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251-2253) is amended to read as follows:

"CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

"SEC. 201. ACTION TO FACILITATE POSITIVE ADJUSTMENT TO IMPORT COMPETITION.

19 USC 2251.

"(a) PRESIDENTIAL ACTION.—If the United States International Trade Commission (hereinafter referred to in this chapter as the 'Commission') determines under section 202(b) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President, in accordance with this chapter, shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

"(b) POSITIVE ADJUSTMENT TO IMPORT COMPETITION.—

"(1) For purposes of this chapter, a positive adjustment to import competition occurs when—

"(A) the domestic industry—

"(i) is able to compete successfully with imports after actions taken under section 204 terminate, or

"(ii) the domestic industry experiences an orderly transfer of resources to other productive pursuits; and

"(B) dislocated workers in the industry experience an orderly transition to productive pursuits.

"(2) The domestic industry may be considered to have made a positive adjustment to import competition even though the industry is not of the same size and composition as the industry at the time the investigation was initiated under section 202(b).

"SEC. 202. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY COMMISSION.

19 USC 2252.

"(a) PETITIONS AND ADJUSTMENT PLANS.—

"(1) A petition requesting action under this chapter for the purpose of facilitating positive adjustment to import competition may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

"(2) A petition under paragraph (1)—

"(A) shall include a statement describing the specific purposes for which action is being sought, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition; and

"(B) may—

"(i) subject to subsection (d)(1)(C)(i), request provisional relief under subsection (d)(1); or

"(ii) request, or at any time before the 150th day after the date of filing be amended to request, provisional relief under subsection (d)(2).

"(3) Whenever a petition is filed under paragraph (1), the Commission shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

"(4) A petitioner under paragraph (1) may submit to the Commission and the United States Trade Representative (hereafter in this chapter referred to as the 'Trade Representative'), either with the petition, or at any time within 120 days after the date of filing of the petition, a plan to facilitate positive adjustment to import competition.

"(5)(A) Before submitting an adjustment plan under paragraph (4), the petitioner and other entities referred to in paragraph (1) that wish to participate may consult with the Trade Representative and the officers and employees of any Federal agency that is considered appropriate by the Trade Representative, for purposes of evaluating the adequacy of the proposals being considered for inclusion in the plan in relation to specific actions that may be taken under this chapter.

Federal Register, publication.

"(B) A request for any consultation under subparagraph (A) must be made to the Trade Representative. Upon receiving such a request, the Trade Representative shall confer with the petitioner and provide such assistance, including publication of appropriate notice in the Federal Register, as may be practicable in obtaining other participants in the consultation. No consultation may occur under subparagraph (A) unless the Trade Representative, or his delegate, is in attendance.

"(6)(A) In the course of any investigation under subsection (b), the Commission shall seek information (on a confidential basis, to the extent appropriate) on actions being taken, or planned to be taken, or both, by firms and workers in the industry to make a positive adjustment to import competition.

"(B) Regardless whether an adjustment plan is submitted under paragraph (4) by the petitioner, if the Commission makes an affirmative determination under subsection (b), any—

"(i) firm in the domestic industry;

"(ii) certified or recognized union or group of workers in the domestic industry;

"(iii) State or local community;

"(iv) trade association representing the domestic industry; or

"(v) any other person or group of persons,

may, individually, submit to the Commission commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition.

"(7) Nothing in paragraphs (5) and (6) may be construed to provide immunity under the antitrust laws.

"(b) INVESTIGATIONS AND DETERMINATIONS BY COMMISSION.—

"(1)(A) Upon the filing of a petition under subsection (b), the request of the President or the Trade Representative, the resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate,

or on its own motion, the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

"(B) For purposes of this section, the term 'substantial cause' means a cause which is important and not less than any other cause.

"(2)(A) Except as provided in subparagraph (B), the Commission shall make the determination under paragraph (1) within 120 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

"(B) If before the 100th day after a petition is filed under subsection (a)(1) the Commission determines that the investigation is extraordinarily complicated, the Commission shall make the determination under paragraph (1) within 150 days after the date referred to in subparagraph (A).

"(3)(A) If the Commission makes an affirmative determination under paragraph (1) and the petitioner alleges the existence of critical circumstances, the Commission shall make a determination regarding such allegation—

"(i) on or before the 120th day after the day on which the petition was filed, if such allegation was included in the petition on or before the 90th day after such filing date; or

"(ii) on or before the date the report required under subsection (f) regarding the determination is submitted to the President, if such allegation was included in the petition after the 90th day, and on or before the 150th day, after such filing date.

"(B) For purposes of this paragraph and subsection (d)(2), critical circumstances exist if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this chapter would cause harm that would significantly impair the effectiveness of such action.

"(4) In the course of any proceeding under this subsection, the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties and consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), and to be heard at such hearings.

"(c) FACTORS APPLIED IN MAKING DETERMINATIONS.—

"(1) In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

"(A) with respect to serious injury—

"(i) the significant idling of productive facilities in the domestic industry,

"(ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and

"(iii) significant unemployment or underemployment within the domestic industry; Employment and unemployment.

"(B) with respect to threat of serious injury—

Wages.

"(i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry,

"(ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,

"(iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

"(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

"(2) In making determinations under subsection (b), the Commission shall—

"(A) consider the condition of the domestic industry over the course of the relevant business cycle, but may not aggregate the causes of declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat of injury; and

"(B) examine factors other than imports which may be a cause of serious injury, or threat of serious injury, to the domestic industry.

The Commission shall include the results of its examination under subparagraph (B) in the report submitted by the Commission to the President under subsection (e).

"(3) The presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) of paragraph (1) is not necessarily dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.

"(4) For purposes of subsection (b), in determining the domestic industry producing an article like or directly competitive with an imported article, the Commission—

"(A) to the extent information is available, shall, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production;

"(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article; and

"(C) may, in the case of one or more domestic producers which produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as

such domestic industry only that segment of the production located in such area.

"(5) In the course of any proceeding under this subsection, the Commission shall investigate any factor which in its judgment may be contributing to increased imports of the article under investigation. Whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of subtitles A and B of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

"(6) For purposes of this subsection:

"(A) The term 'domestic industry' includes producers located in the United States insular possession.

"(B) The term 'significant idling of productive facilities' includes the closing of plants or the underutilization of production capacity.

"(d) PROVISIONAL RELIEF.—

Agriculture and agricultural commodities.

"(1)(A) An entity representing a domestic industry that produces a perishable agricultural product that is like or directly competitive with an imported perishable agricultural product may file a request with the Trade Representative for the monitoring of imports of that product under subparagraph (B). Within 21 days after receiving the request, the Trade Representative shall determine if—

"(i) the imported product is a perishable agricultural product; and

"(ii) there is a reasonable indication that such product is being imported into the United States in such increased quantities as to be, or likely to be, a substantial cause of serious injury, or the threat thereof, to such domestic industry.

"(B) If the determinations under subparagraph (A) (i) and (ii) are affirmative, the Trade Representative shall request, under section 332(g) of the Tariff Act of 1930, the Commission to monitor and investigate the imports concerned for a period not to exceed 2 years. The monitoring and investigation may include the collection and analysis of information that would expedite an investigation under subsection (b).

"(C) If a petition filed under subsection (a)—

"(i) alleges injury from imports of a perishable agricultural product that has been, on the date the allegation is included in the petition, subject to monitoring by the Commission under paragraph (2) for not less than 90 days; and

"(ii) requests that provisional relief be provided under this subsection with respect to such imports;

the Commission shall, not later than the 21st day after the day on which the request was filed, make a determination, on the basis of available information, whether increased imports (either actual or relative to domestic production) of the perishable agricultural product are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive perishable product, and whether either—

"(I) the serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

"(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

"(D) At the request of the Commission, the Secretary of Agriculture shall promptly provide to the Commission any relevant information that the Department of Agriculture may have for purposes of making determinations and findings under this subsection.

"(E) Whenever the Commission makes an affirmative preliminary determination under subparagraph (C), the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury or threat thereof. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury or threat thereof.

Reports. "(F) The Commission shall immediately report to the President its determination under subparagraph (C) and, if the determination is affirmative, the finding under subparagraph (E).

President of U.S. "(G) Within 7 days after receiving a report from the Commission under subparagraph (F) containing an affirmative determination, the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (E), shall proclaim such provisional relief that the President considers necessary to prevent or remedy the serious injury or threat thereof.

"(2)(A) The Commission shall, at the same time it makes an affirmative determination under subsection (b)(3)(A) regarding the existence of critical circumstances, find the amount or extent of provisional relief that is appropriate to address such

Reports. critical circumstances. The Commission shall immediately report to the President each such affirmative determination and finding.

President of U.S. "(B) After receiving a report from the Commission under subparagraph (A), the President shall, within 7 days after the day on which the report is received and after taking into account the finding of the Commission under subparagraph (A), proclaim such provisional relief, if any, that the President considers appropriate to address the critical circumstances.

President of U.S. "(3) If provisional relief is proclaimed under paragraph (1)(G) or (2)(B) in the form of an increase, or the imposition of, a duty, the President shall order the suspension of liquidation of all imported articles subject to the affirmative determination under paragraph (1)(C) or subsection (b)(1), as the case may be, that are entered, or withdrawn from warehouse for consumption, on or after the date of the determination.

"(4)(A) Any provisional relief implemented under this subsection with respect to an imported article shall terminate on the day on which—

"(i) if such relief was proclaimed under paragraph (1)(G), the Commission makes a negative determination under section 203(a) regarding injury or the threat thereof by imports of such article;

"(ii) action described in section 203(a)(3) (A) or (C) takes effect under section 203 with respect to such article;

"(iii) a decision by the President not to take any action under section 203(a) with respect to such article becomes final; or

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

"(B) 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) If an increase in, or the imposition of, a duty that is proclaimed under section 203 on an imported article is different from a duty increase or imposition that was proclaimed for such an article under this section, 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) If provisional relief in the form of an increase in, or the imposition of, a duty is proclaimed under this section with respect to an imported article and neither a duty increase nor a duty imposition is proclaimed under section 203 regarding such article, the entry of any such article for which liquidation was suspended under paragraph (3) may be liquidated at the rate of duty that applied before provisional relief was provided.

"(5) For purposes of this subsection:

"(A) A perishable agricultural product is any agricultural article, including livestock, regarding which the Trade Representative considers action under this section to be appropriate after taking into account—

"(i) whether the article has—

"(I) a short shelf life,

"(II) a short growing season, or

"(III) a short marketing period,

"(ii) whether the article is treated as a perishable product under any other Federal law or regulation; and

"(iii) any other factor considered appropriate by the Trade Representative.

The presence or absence of any factor which the Trade Representative is required to take into account under clause (i), (ii), or (iii) is not necessarily dispositive of whether an article is a perishable agricultural product.

"(B) The term 'provisional relief' means—

"(i) any increase in, or imposition of, any duty;

"(ii) any modification or imposition of any quantitative restriction on the importation of an article into the United States; or

"(iii) any combination of actions under clauses (i) and (ii).

"(e) COMMISSION RECOMMENDATIONS.—

"(1) If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall also recommend the action that would address the serious injury, or threat thereof, to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

"(2) The Commission is authorized to recommend under paragraph (1)—

"(A) an increase in, or the imposition of, any duty on the imported article;

"(B) a tariff-rate quota on the article;

"(C) a modification or imposition of any quantitative restriction on the importation of the article into the United States;

"(D) one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2; or

"(E) any combination of the actions described in subparagraphs (A) through (D).

"(3) The Commission shall specify the type, amount, and duration of the action recommended by it under paragraph (1). The limitations set forth in section 203(e) are applicable to the action recommended by the Commission.

"(4) In addition to the recommendation made under paragraph (1), the Commission may also recommend that the President—

"(A) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat; or

"(B) implement any other action authorized under law that is likely to facilitate positive adjustment to import competition.

"(5) For purposes of making its recommendation under this subsection, the Commission shall—

"(A) after reasonable notice, hold a public hearing at which all interested parties shall be provided an opportunity to present testimony and evidence; and

"(B) take into account—

"(i) the form and amount of action described in paragraph (2) (A), (B), and (C) that would prevent or remedy the injury of threat thereof,

"(ii) the objectives and actions specified in the adjustment plan, if any, submitted under subsection (a)(4),

"(iii) any individual commitment that was submitted to the Commission under subsection (a)(6),

"(iv) any information available to the Commission concerning the conditions of competition in domestic and world markets, and likely developments affecting such conditions during the period for which action is being requested, and

"(v) whether international negotiations may be constructive to address the injury or threat thereof or to facilitate adjustment.

"(6) Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the recommendation required to be made under paragraph (1) or that may be made under paragraph (3). Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (f), separate views regarding what action, if any, should be taken under section 203.

"(f) REPORT BY COMMISSION.—

"(1) The Commission shall submit to the President a report on each investigation undertaken under subsection (b). The report shall be submitted at the earliest practicable time, but not later

than 180 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

"(2) The Commission shall include in the report required under paragraph (1) the following:

"(A) The determination made under subsection (b) and an explanation of the basis for the determination.

"(B) If the determination under subsection (b) is affirmative, the recommendations for action made under subsection (e) and an explanation of the basis for each recommendation.

"(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

"(D) The findings required to be included in the report under subsection (c)(2).

"(E) A copy of the adjustment plan, if any, submitted under section 201(b)(4).

"(F) Commitments submitted, and information obtained, by the Commission regarding steps that firms and workers in the domestic industry are taking, or plan to take, to facilitate positive adjustment to import competition.

"(G) A description of—

"(i) the short- and long-term effects that implementation of the action recommended under subection (e) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers, and

"(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry is located, and on other domestic industries.

"(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (with the exception of the confidential information obtained under section 202(a)(6)(B) and any other information which the Commission determines to be confidential) and cause a summary thereof to be published in the Federal Register. Public information. Federal Register, publication.

"(g) EXPEDITED CONSIDERATION OF ADJUSTMENT ASSISTANCE PETITIONS.—If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce of the determination. After receiving such notification—

"(1) the Secretary of Labor shall give expedited consideration to petitions by workers in the domestic industry for certification for eligibility to apply for adjustment assistance under chapter 2; and

"(2) the Secretary of Commerce shall give expedited consideration to petitions by firms in the domestic industry for certification of eligibility to apply for adjustment assistance under chapter 3.

"(h) LIMITATIONS ON INVESTIGATIONS.—

"(1) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this chapter, unless 1 year has elapsed since

the Commission made its report to the President of the results of such previous investigation.

"(2) If an article was the subject of an investigation under this section that resulted in any action described in section 203(a)(3) (A), (B), (C), or (E) being taken under section 203, no other investigation under this chapter may be initiated with respect to such article while such action is in effect or during the period beginning on the date on which such action terminates that is equal in duration to the period during which such action was in effect.

19 USC 2253.

"SEC. 203. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

"(a) IN GENERAL.—

"(1)(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the President shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

"(B) The action taken by the President under subparagraph (A) shall be to such extent, and for such duration, subject to subsection (e)(1), that the President determines to be appropriate and feasible under such subparagraph.

"(C) The interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 shall, with respect to each affirmative determination reported under section 202(f), make a recommendation to the President as to what action the President should take under subparagraph (A).

"(2) In determining what action to take under paragraph (1), the President shall take into account—

"(A) the recommendation and report of the Commission;

"(B) the extent to which workers and firms in the domestic industry are—

"(i) benefitting from adjustment assistance and other manpower programs, and

"(ii) engaged in worker retraining efforts;

"(C) the efforts being made, or to be implemented, by the domestic industry (including the efforts included in any adjustment plan or commitment submitted to the Commission under section 201(b)) to make a positive adjustment to import competition;

"(D) the probable effectiveness of the actions authorized under paragraph (3) to facilitate positive adjustment to import competition;

"(E) the short- and long-term economic and social costs of the actions authorized under paragraph (3) relative to their short- and long-term economic and social benefits and other considerations relative to the position of the domestic industry in the United States economy;

"(F) other factors related to the national economic interest of the United States, including, but not limited to—

"(i) the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided under this chapter,

"(ii) the effect of the implementation of actions under this section on consumers and on competition in domestic markets for articles, and

"(iii) the impact on United States industries and firms as a result of international obligations regarding compensation;

"(G) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints;

"(H) the potential for circumvention of any action taken under this section;

"(I) the national security interests of the United States; and

Defense and national security.

"(J) the factors required to be considered by the Commission under section 202(e)(5).

"(3) The President may, for purposes of taking action under paragraph (1)—

"(A) proclaim an increase in, or the imposition of, any duty on the imported article;

"(B) proclaim a tariff-rate quota on the article;

"(C) proclaim a modification or imposition of any quantitative restriction on the importation of the article into the United States;

"(D) implement one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2;

"(E) negotiate, conclude, and carry out orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such article;

"(F) proclaim procedures necessary to allocate among importers by the auction of import licenses quantities of the article that are permitted to be imported into the United States;

"(G) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat thereof;

"(H) submit to Congress legislative proposals to facilitate the efforts of the domestic industry to make a positive adjustment to import competition;

"(I) take any other action which may be taken by the President under the authority of law and which the President considers appropriate and feasible for purposes of paragraph (1); and

"(J) take any combination of actions listed in subparagraphs (A) through (I).

"(4) The President shall take action under paragraph (1) within 60 days after receiving a report from the Commission containing an affirmative determination under section 202(b)(1) (or a determination under such section which he considers to be an affirmative determination by reason of section 330(d) of the Tariff Act of 1930); except that if a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received.

"(5) The President may, within 15 days after the date on which he receives a report from the Commission containing an

Reports.

affirmative determination under section 202(b)(1), request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to the industry in a supplemental report.

"(b) REPORTS TO CONGRESS.—

"(1) On the day the President takes action under subsection (a)(1), the President shall transmit to Congress a document describing the action and the reasons for taking the action. If the action taken by the President differs from the action required to be recommended by the Commission under section 202(e)(1), the President shall state in detail the reasons for the difference.

"(2) On the day on which the President decides that there is no appropriate and feasible action to take under subsection (a)(1) with respect to a domestic industry, the President shall transmit to Congress a document that sets forth in detail the reasons for the decision.

"(3) On the day on which the President takes any action under subsection (a)(1) that is not reported under paragraph (1), the President shall transmit to Congress a document setting forth the action being taken and the reasons therefor.

"(c) IMPLEMENTATION OF ACTION RECOMMENDED BY COMMISSION.—If the President reports under subsection (b)(1) or (2) that—

"(1) the action taken under subsection (a)(1) differs from the action recommended by the Commission under section 202(e)(1); or

"(2) no action will be taken under subsection (a)(1) with respect to the domestic industry;

Effective date.

the action recommended by the Commission shall take effect (as provided in subsection (c)(2)) upon the enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b)(1) or (2) is transmitted to the Congress.

"(d) TIME FOR TAKING EFFECT OF CERTAIN RELIEF.—

"(1) Except as provided in paragraph (2), any action described in subsection (a)(3)(A), (B), or (C), that is taken under subsection (a)(1) shall take effect within 15 days after the day on which the President proclaims the action, unless the President announces, on the date he decides to take such action, his intention to negotiate one or more orderly marketing agreements in which case the action under subsection (a)(3)(A), (B), or (C) shall be proclaimed and take effect within 90 days after the date of such decision.

"(2) If the contingency set forth in subsection (c) occurs, the President shall, within 30 days after the date of the enactment of the joint resolution referred to in such subsection, proclaim the action recommended by the Commission under section 202(e)(1).

"(e) LIMITATIONS ON ACTIONS.—

"(1)(A) The duration of the period in which action taken under this section may be in effect shall not exceed 8 years.

"(B) If the initial effective period for action taken under this section is less than 8 years, the President may extend the effective period once, but the aggregate of the initial period and the extension may not exceed 8 years.

"(2) Action may be taken under subsection (a)(1)(A), (B), or (C) or under section 202(d)(2)(B) only to the extent the cumulative impact of such action does not exceed the amount necessary to prevent or remedy the serious injury or threat thereof.

"(3) No action may be taken under this section which would increase a rate of duty to (or impose a rate) which is more than 50 percent ad valorem above the rate (if any) existing at the time the action is taken.

"(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article.

"(5) To the extent feasible, an effective period of more than 3 years for an action described in subsection (a)(3)(A), (B), or (C) shall be phased down during the period in which the action is taken, with the first reduction taking effect no later than the close of the day which is 3 years after the day on which such action first takes effect.

"(6)(A) The suspension, pursuant to any action taken under this section, of—

"(i) item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article; and

"(ii) the designation of any article as an eligible article for purposes of title V;

shall be treated as an increase in duty.

"(B) No proclamation providing for a suspension referred to in subparagraph (A) with respect to any article may be made by the President, nor may any such suspension be recommended by the Commission under section 203(c), unless the Commission, in addition to making an affirmative determination under section 202(b)(1), determines in the course of its investigation under section 203(a) that the serious injury, or threat thereof, substantially caused by imports to the domestic industry producing a like or directly competitive article results from, as the case may be—

"(A) the application of item 806.30 or item 807.00; or

"(B) the designation of the article as an eligible article for the purposes of title V.

"(f) ORDERLY MARKETING AND OTHER AGREEMENTS.—

"(1) If the President takes action under this section other than the implemention of orderly marketing agreements, the President may, after such action takes effect, negotiate orderly marketing agreements with foreign countries, and may, after such agreements take effect, suspend or terminate, in whole or in part, any action previously taken.

"(2) If an orderly marketing agreement implemented under subsection (a) is not effective, the President may, consistent with the limitations contained in subsection (e), take additional action under subsection (a).

"(g) REGULATIONS.—

"(1) The President shall by regulation provide for the efficient and fair administration of all actions taken for the purpose of providing import relief under this chapter.

"(2) In order to carry out an orderly marketing or other international agreement concluded under this chapter, the President may prescribe regulations governing the entry or

withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any orderly marketing agreement concluded under this chapter with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President may issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

"(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

19 USC 2254.

"SEC. 204. MONITORING, MODIFICATION, AND TERMINATION OF ACTION.

"(a) MONITORING.—

"(1) So long as any action taken under section 203 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

Reports.

"(2) The Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than—

"(A) the 2nd-anniversary of the day on which the action under section 203 first took effect; and

"(B) the last day of each 2-year period occurring after the 2-year period referred to in subparagraph (A).

"(3) In the course of preparing each report under paragraph (2), the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

"(4) Upon request of the President, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of any extension, reduction, modification, or termination of the action taken under section 203 which is under consideration.

"(b) REDUCTION, MODIFICATION, AND TERMINATION OF ACTION.—

"(1) Action taken under section 203 may be reduced, modified, or terminated by the President (but not before the President receives the report required under subsection (a)(2)(A)) if the President—

"(A) after taking into account any report or advice submitted by the Commission under subsection (a) and after seeking the advice of the Secretary of Commerce and the Secretary of Labor, determines, on the basis that either—

"(i) the domestic industry has not made adequate efforts to make a positive adjustment to import competition, or

"(ii) the effectiveness of the action taken under section 203 has been impaired by changed economic circumstances,

that changed circumstances warrant such reduction, or termination; or

"(B) determines, after a majority of the representatives of the domestic industry submits to the President a petition requesting such reduction, modification, or termination on

such basis, that the domestic industry has made a positive adjustment to import competition.

"(2) Notwithstanding paragraph (1), the President is authorized to take such additional action under section 203 as may be necessary to eliminate any circumvention of any action previously taken under such section. President of U.S.

"(d) EVALUATION OF EFFECTIVENESS OF ACTION.—

"(1) After any action taken under section 203 has terminated, the Commission shall evaluate the effectiveness of the actions in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b).

"(2) During the course of the evaluation conducted under paragraph (1), the Commission shall, after reasonable public notice, hold a hearing on the effectiveness of the action. All interested persons shall have the opportunity to attend such hearing and to present evidence or testimony at such hearing.

"(3) A report on the evaluation made under paragraph (1) and the hearings held under paragraph (2) shall be submitted by the Commission to the President and to the Congress by no later than the 180th day after the day on which the actions taken under section 203 terminated. Reports.

"(e) OTHER PROVISIONS.—

"(1) Action by the President under this chapter may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such actions to the international obligations of the United States.

"(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 202(c)(4)(C), then the President shall take into account the geographic concentration of domestic production and of imports in that area in taking any action authorized under paragraph (1).". President of U.S.

(b) CONFORMING AMENDMENTS.—

(1) TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(A) section 123(b)(4) is amended by striking out "import relief under section 203(h)." and inserting "action under sections 203(e) and 204.". 19 USC 2133.

(B) Sections 224 and 264 (19 U.S.C. 2274 and 2354) are each amended—

(i) by striking out "201" in subsection (a) and inserting "202";

(ii) by striking out "201" in subsection (b) and inserting "202(f)"; and

such section 264 is amended by striking out "201(b)" in subsection (c) and inserting "202(b)".

(2) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended—

(A) by striking out "proclaimed pursuant to section 203" in subsection (e)(1) and inserting "provided under chapter 1 of title II";

(B) by striking out "201(d)(1)" in subsection (e)(2) and inserting "202(f)";

(C) by striking out "(a) and (c) of section 203" in subsection (e)(3) and inserting "section 203";

(D) by amending subsection (e)(4)—

(i) by striking out "made under subsections (a) and (c) of section 203" and inserting "taken under section 203";

(ii) by striking out "201(b)" the first place it appears and inserting "202(b)"; and

(iii) by striking out "section 201(b) of such Act" and inserting "such section";

(E) by amending subsection (e)(5)—

(i) by striking out "proclamation issued pursuant to section 203" in subparagraph (A) and inserting "action taken under section 203"; and

(ii) by amending subparagraph (B)—

(I) by striking out "to import relief" and inserting "to any such action",

(II) by striking out "such import relief" and inserting "such action", and

(III) by striking out "subsections (h) and (i) of section 203" and inserting "section 203";

(F) by amending subsection (f)(4)—

(i) by amending subparagraph (A) by striking out "proclamation of import relief pursuant to section 202(a)(1)" and inserting "taking of action under section 203", and

(ii) by amending subparagraph (B) to read as follows:

"(B) on the day a determination by the President not to take action under section 203 of such Act not to take action becomes final,".

(3) TRADE AND TARIFF ACT OF 1984.—

(A) Title IV of the Tariff and Trade Act of 1984 is amended—

19 USC 2112 note.

(i) by amending section 403—

(I) by striking out "section 201(d)(1)" in subsection (b) and inserting "section 202(f)",

(II) by striking out "subsections (a) and (c) of" in subsections (c) and (d),

(III) by striking out "201(b)" in subsection (d) and inserting "202(b)", and

(IV) by striking out "subsections (h) and (i) of section 203" in subsection (e)(2) and inserting "sections 203 and 204"; and

19 USC 2112 note.

(ii) by amending section 404—

(I) by striking out "section 201" in subsection (a) and inserting "section 202(a)",

(II) by striking out "proclamation of import relief under section 202(a)(1)" in subsection (d)(1) and inserting "taking of action under section 203", and

(III) by amending subsection (d)(2) to read as follows:

"(2) on the day a determination of the President under section 203 of such Act not to take action becomes final;".

(4) TARIFF ACT OF 1930.—Section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) is amended—

(A) by amending paragraph (1) by striking out "201" and inserting "202";

(B) by amending paragraph (2)—

(i) by striking out "201" the first place it appears and inserting "202(b)",

(iii) by striking out "201(d)(1)" and inserting "202(e)(1)",

(iv) by striking out "sections 202 and 203" each place it appears and inserting "section 203", and

(v) by striking out "203(b)" in subparagraph (B) and inserting "204(a)"; and

(C) by striking out "203(c)(1)" in paragraph (4) and inserting "203(a)".

(5) TABLE OF CONTENTS.—The entry for such chapter 1 in the table of contents to the Trade Act of 1974 is amended to read as follows:

"CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

"Sec. 201. Action to facilitate positive adjustment to import competition.
"Sec. 202. Investigations, determinations, and recommendations by Commission.
"Sec. 203. Action by President after determination of import injury.
"Sec. 204. Monitoring, modification, and termination of action.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply with respect to investigations initiated under chapter 1 of title II of the Trade Act of 1974 on or after that date. Any petition filed under section 201 of such chapter before such date of enactment, and with respect to which the United States International Trade Commission did not make a finding before such date with respect to serious injury or the threat thereof, may be withdrawn and refiled, without prejudice, by the petitioner under section 202(a) of such chapter (as amended by this section). 19 USC 2251 note.

PART 2—MARKET DISRUPTION

SEC. 1411. MARKET DISRUPTION.

(a) IN GENERAL.—Section 406 of the Trade Act of 1974 (19 U.S.C. 2436) is amended as follows—

(1) Subsection (b) is amended to read as follows:

"(b) With respect to any affirmative determination of the Commission under subsection (a)—

"(1) such determination shall be treated as an affirmative determination made under section 201(b) of this Act (as in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988); and

"(2) sections 202 and 203 of this Act (as in effect on the day before the date of the enactment of such Act of 1988), rather than the provisions of chapter 1 of title II of this Act as amended by section 1401 of such Act of 1988, shall apply with respect to the taking of subsequent action, if any, by the President in response to such affirmative determination;

except that—

"(A) the President may take action under such sections 202 and 203 only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made; and

"(B) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.".

(2) Subsection (c) is amended by inserting "referred to in subsection (b)" after "sections 202 and 203".

(3) Subsection (e)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by inserting at the end thereof the following new subparagraphs:

"(B) For purposes of subparagraph (A):

"(i) Imports of an article shall be considered to be increasing rapidly if there has been a significant increase in such imports (either actual or relative to domestic production) during a recent period of time.

"(ii) The term 'significant cause' refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

"(C) The Commission, in determining whether market disruption exists, shall consider, among other factors—

"(i) the volume of imports of the merchandise which is the subject of the investigation;

"(ii) the effect of imports of the merchandise on prices in the United States for like or directly competitive articles;

"(iii) the impact of imports of such merchandise on domestic producers of like or directly competitive articles; and

"(iv) evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns.".

(b) CONFORMING AMENDMENTS REQUIRED BY AMENDMENT OF CHAPTER 1 OF TITLE II OF THE TRADE ACT OF 1974.—Such section 406 is further amended— 19 USC 2436.

(1) by striking out "201(a)(1)" in subsection (a)(1) and subsection (d) and inserting "202(a)"; and

(2) by striking out "subsections (a)(2), (b)(3), and (c) of section 201" in subsection (a)(2) and inserting "subsections (a)(3), (b)(4), and (c)(4) of section 202".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to investigations initiated under section 406(a) of the Trade Act of 1974 on or after the date of the enactment of this Act. 19 USC 2436 note.

PART 3—TRADE ADJUSTMENT ASSISTANCE

Employment and unemployment.

SEC. 1421. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

(a) OIL AND NATURAL GAS INDUSTRY.—

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

(i) by striking out "For purposes of paragraph (3), the term 'contributed importantly' means a cause which is important, but not necessarily more important than any other cause.",

(ii) by striking out "The Secretary" and inserting in lieu thereof "(a) The Secretary", and

(iii) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)(3)—

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

"(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

"(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.".

(B) Notwithstanding section 223(b) of the Trade Act of 1974, or any other provision of law, any certification made under subchapter A of chapter 2 of title II of such Act which— 19 USC 2272 note.

(i) is made with respect to a petition filed before the date that is 90 days after the date of enactment of this Act, and

(ii) would not have been made if the amendments made by subparagraph (A) had not been enacted into law,

shall apply to any worker whose most recent total or partial separation from the firm, or appropriate subdivision of the firm, described in section 222(a) of such Act occurs after September 30, 1985.

(2) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) that—

"(i) sales or production, or both, of such firm have decreased absolutely, or

"(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

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

"(B)(i) Any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

"(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.".

(b) APPLICATION TO ALL INDUSTRIES.—

(1) Paragraph (3) of section 222(a) of the Trade Act of 1974 (19 U.S.C. 2272(a)(3)) is amended to read as follows:

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) for which such workers' firm, or appropriate subdivision thereof, provides essential goods or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.".

(2) Subparagraph (C) of section 251(c)(1) of the Trade Act of 1974 (19 U.S.C. 2341(c)(1)(C)) is amended to read as follows:

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) for which such firm provides essential goods or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.".

Employment and unemployment.

SEC. 1422. NOTICE TO WORKERS OF BENEFITS UNDER TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 225 of the Trade Act of 1974 (19 U.S.C. 2275) is amended—

(1) by striking out "The Secretary" in the first sentence and inserting in lieu thereof "(a) The Secretary", and

(2) by adding at the end thereof the following new subsection:

Mail.

"(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by a certification made under subchapter A of this chapter—

"(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

"(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

"(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under subchapter A in newspapers of general circulation in the areas in which such workers reside.".

Employment and unemployment.

SEC. 1423. CASH ASSISTANCE FOR WORKERS.

(a) PARTICIPATION IN TRAINING PROGRAM REQUIRED.—

(1) Paragraph (5) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)) is amended to read as follows:

"(5) Such worker—

"(A) is enrolled in a training program approved by the Secretary under section 236(a),

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

"(C) has received a written statement certified under subsection (c)(1) after the date described in subparagraph (B).".

(2) Subsection (b) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(b)) is amended to read as follows:

"(b)(1) If—

"(A) the Secretary determines that—

"(i) the adversely affected worker—

"(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

"(II) has ceased to participate in such training program before completing such training program, and

"(ii) there is no justifiable cause for such failure or cessation, or

"(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2),

no trade readjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

"(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—

"(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 221, and

"(B) before the first week following the week in which such certification is made under subchapter (A).".

(3) Subsection (c) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

"(c)(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

"(B) If a State or State agency has an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall— State and local governments. Contracts.

"(i) submit to such worker a written statement certifying such finding, and

"(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

"(2)(A) If, after submitting to a worker a written statement certified under paragraph (1)(A), the Secretary finds that it is feasible or appropriate to approve a training program for such worker under section 236(a), the Secretary shall submit to such worker a written statement that revokes the certification made under paragraph (1)(A) with respect to such worker.

"(B) If, after submitting to a worker a written statement certified under paragraph (1)(B), a State or State agency finds that it is feasible or appropriate to approve a training program for such worker pursuant to the requirements of section 236(a), the State or State agency shall submit to such worker, and to the Secretary, a written statement that revokes the certification made under paragraph (1)(B) with respect to such worker.

"(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.". Reports.

(4) Paragraph (3) of section 239(a) of the Trade Act of 1974 (19 U.S.C. 2311(a)(3)) is amended to read as follows:

"(3) will make any certifications required under section 231(c)(2), and".

(b) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCES.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out ", including on-the-job training," in subsection (b), and

(2) by striking out "under section 231(c) or 236(c)" in subsection (c) and inserting in lieu thereof "under section 231(b)".

(c) LIMITATIONS.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(1) by striking out "is approved" in subsection (a)(3)(B) and inserting in lieu thereof "begins",

(2) by striking out "engaged in such training and has not been determined under section 236(c) to be failing to make satisfactory progress in the training" in subsection (a)(3) and inserting in lieu thereof "participating in such training", and

(3) by adding at the end thereof the following new subsection:

"(f) For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

"(1) the worker was participating in a training program approved under section 236(a) before the beginning of such break in training, and

"(2) the break is provided under such training program.".

(d) SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.—

(1) Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 245 the following new section:

19 USC 2318.

"SEC. 246. SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.

"(a) The Secretary shall establish and carry out one or more demonstration projects during fiscal years 1989 and 1990 for the purpose of—

"(1) determining the attractiveness of a supplemental wage allowance to various categories of workers eligible for assistance under this chapter, based on the amount and duration of the supplement;

"(2) determining the effectiveness of a supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers; and

"(3) determining whether a supplemental wage allowance should be made an option under the Trade Adjustment Assistance program for all fiscal years.

"(b)(1) For purposes of this section, the term 'supplemental wage allowance' means a payment that is made to an adversely affected worker who—

"(A) accepts full-time employment at an average weekly wage that is less than the average weekly wage of the worker in the adversely affected employment,

"(B) prior to such acceptance, is eligible for trade readjustment allowances under part I of subchapter B, and

"(C) voluntarily elects to receive such payment in lieu of any trade readjustment allowances that the worker would otherwise

be eligible to receive with respect to the period covered by the certification made under subchapter A that applies to such worker.

"(2) A supplemental wage allowance shall be provided under any demonstration project established under subsection (a) to a worker described in paragraph (1) for each week during which the worker performs services in the full-time employment referred to in paragraph (1)(A) in an amount that does not exceed the lesser of—

"(A) the amount of the trade readjustment allowance that the worker would have been eligible to receive for any week under part 1 of subchapter B if the worker had not accepted the full-time employment and had not made the election described in paragraph (1)(C), or

"(B) the excess of—

"(i) an amount equal to 80 percent of the average weekly wage of the worker in the adversely affected employment, over

"(ii) the average weekly wage in the full-time employment.

"(3)(A) Supplemental wage allowances shall not be provided under any demonstration project established under subsection (a) for more than 52 weeks.

"(B) The total amount of supplemental wage allowances that may be paid to any worker under any demonstration project established under subsection (a) with respect to the period covered by the certification applicable to such worker shall not exceed an amount that is equal to the excess of—

"(i) the amount of the limitation imposed under section 233(a)(1) with respect to such worker for such period, over

"(ii) the amount of the trade readjustment allowances paid under part I of subchapter B to such worker for such period.

"(c) The Secretary shall provide for an evaluation of demonstration projects conducted under this section to determine at least the following:

"(1) the extent to which different age groups of eligible recipients utilize the supplemental wage allowance;

"(2) the effect of the amount and duration of the supplemental wage allowance on the utilization of the allowance;

"(3) the extent to which the supplemental wage allowance affects the demand for training and the appropriateness thereof;

"(4) the extent to which the supplemental wage allowance facilitates the readjustment of workers who would not otherwise utilize benefits provided under this chapter;

"(5) the extent to which the allowance affects the cost of carrying out the provisions of this chapter; and

"(6) the effectiveness of the supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers.

"(d) By no later than the date that is 3 years after the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, the Secretary shall transmit to the Congress a report that includes— Reports.

"(1) an evaluation of the projects authorized under this section that is conducted in accordance with subsection (c), and

"(2) a recommendation as to whether the supplemental wage allowance should be available on a permanent basis as an

option for some or all workers eligible for assistance under this chapter.".

19 USC 2318 note.

(2) For purposes of funding the demonstration projects established under section 246(a) of the Trade Act of 1974, as added by paragraph (1) of this subsection—

(A) the supplemental wage allowances payable under such projects shall be considered to be trade readjustment allowances payable under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974, and

(B) the costs of administering such projects by the States shall be considered to be costs of administering such part I.

(3) The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 245 the following new item:

"Sec. 246. Supplemental wage allowance demonstration projects.".

Employment and unemployment.

SEC. 1424. JOB TRAINING FOR WORKERS.

(a) IN GENERAL.—Subsection (a) of section 236 of the Trade Act of 1974 (19 U.S.C. 2296(a)) is amended—

(1) by striking out "is available" in paragraph (1)(D) and inserting in lieu thereof "is reasonably available",

(2) by striking out ", and" at the end of subparagraph (D) of paragraph (1),

(3) by adding "and" at the end of subparagraph (E) of paragraph (1),

(4) by inserting after subparagraph (E) of paragraph (1) the following new subparagraph:

"(F) such training is suitable for the worker and available at a reasonable cost,",

(5) by striking out "(to the extent appropriated funds are available)" in the first sentence of paragraph (1),

(6) by inserting "(subject to the limitations imposed by this section)" after "costs of such training" in the second sentence of paragraph (1),

(7) by inserting "directly or through a voucher system" after "by the Secretary" in the second sentence of paragraph (1),

(8) by striking out "and" at the end of subparagraph (C) of paragraph (4),

(9) by redesignating subparagraph (D) of paragraph (4) as subparagraph (F) of paragraph (4),

(10) by inserting after subparagraph (C) of paragraph (4) the following new subparagraphs:

Education.

"(D) any program of remedial education,

"(E) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

"(i) under any Federal or State program other than this chapter, or

"(ii) from any source other than this section, and",

(11) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively,

(12) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed $80,000,000.

"(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved

under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such estimate is to be apportioned among the States for the remainder of such fiscal year.", and

(13) by adding at the end of subsection (a) the following new paragraphs:

"(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

"(i) under any Federal or State program other than this chapter, or

"(ii) from any source other than this section.

"(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in subparagraph (A) or (B) of paragraph (1). Contracts.

"(7) The Secretary shall not approve a training program if—

"(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

"(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

"(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

"(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A at any time after the date on which the group is certified under subchapter A, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

"(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).". Regulations.

(b) DELAYED INCREASE IN LIMITATION.—Paragraph (2) of section 236(a) of the Trade Act of 1974, as added by subsection (a)(12) of this section, is amended by striking out "$80,000,000" in subparagraph (A) and inserting in lieu thereof "$120,000,000".

(c) ON-THE-JOB TRAINING.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out that portion of subsection (d) that precedes paragraph (1) and inserting in lieu thereof the following:

"(d) The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—",

(2) by striking out subsection (c), and

(3) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(d) AGREEMENTS WITH THE STATES.—

(1)(A) Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by striking out "cooperating State agencies" and inserting in lieu thereof "the States".

(B) Subsection (e) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended to read as follows:

"(e) Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 of this Act and under title III of the Job Training Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this chapter.".

(2) Subsection (f) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(f)) is amended to read as follows:

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,

"(2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter,

"(3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B, and

"(4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

Employment and unemployment.

SEC. 1425. LIMITATION ON PERIOD IN WHICH TRADE READJUSTMENT ALLOWANCES MAY BE PAID.

(a) IN GENERAL.—Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended to read as follows:

"(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

"(A) within the period which is described in section 231(a)(1), and

"(B) with respect to which the worker meets the requirements of section 231(a)(2).".

19 USC 2293 note.

(b) WAIVER OF CERTAIN TIME LIMITATIONS.—

(1) The provisions of subsections (a)(2) and (b) of section 233 of the Trade Act of 1974 shall not apply with respect to any worker who became totally separated from adversely affected employment (within the meaning of section 247 of such Act) during the period that began on August 13, 1981, and ended on April 7, 1986.

(2)(A) Any worker who is otherwise eligible for payment of a trade readjustment allowance under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 by reason of

paragraph (1) of this subsection may receive payments of such allowance only if such worker—

(i) is enrolled in a training program approved by the Secretary under section 236(a) of such Act, and

(ii) has been unemployed continuously since the date on which the worker became totally separated from the adversely affected employment, not taking into account seasonal employment, odd jobs, or part-time, temporary employment.

(B) If the Secretary of Labor determines that—

(i) a worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subparagraph (A), or

(II) has ceased to participate in such training program before completing such training program, and

(ii) there is no justifiable cause for such failure or cessation,

no trade readjustment allowance may be paid to the worker under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 for the week in which such failure or cessation occurred, or any succeeding week, until the worker begins or resumes participation in a training program approved under section 236(a) of such Act.

SEC. 1426. AUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION OF SUNSET.—Subsection (b) of section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended to read as follows:

"(b) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, no technical assistance may be provided under chapter 3, and no duty shall be imposed under section 287, after September 30, 1993.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "1986, 1987, 1988, 1989, 1990, and 1991" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993".

(2) Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking out "1986, 1987, 1988, 1989, 1990, and 1991" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993".

(c) SPECIAL RULE.—In addition to amounts appropriated for payments under sections 236, 237, and 238 of the Trade Act of 1974 (19 U.S.C. 2296) for fiscal year 1988, such amounts as may be necessary for payments under such sections—

(1) after the date of enactment of this Act, and

(2) before October 1, 1988,

are hereby appropriated and shall be charged to the appropriation for payments under such sections for fiscal year 1989.

SEC. 1427. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

(a) IN GENERAL.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.) is amended by inserting after section 285 the following new section:

19 USC 2396.

"SEC. 286. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

"(a) There is hereby established within the Treasury of the United States a trust fund to be known as the Trade Adjustment Assistance Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or appropriated to the Trust Fund under subsection (e).

"(b)(1) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the duty imposed by section 287.

"(2) The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

Reports.

"(c)(1) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

Securities.

"(2)(A) The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d)(1) Amounts in the Trust Fund shall be available—

"(A) for the payment of drawbacks and refunds of the duty imposed by section 287 that are allowable under any other provision of Federal law,

"(B) as provided in appropriation Acts—

"(i) for expenditures that are required to carry out the provisions of chapters 2 and 3, including administrative costs, and

"(ii) for payments required under subsection (e)(2).

"(2) None of the amounts in the Trust Fund shall be available for the payment of loans guaranteed under chapter 3 or for any other expenses relating to financial assistance provided under chapter 3.

"(3)(A) If the total amount of funds expended in any fiscal year to carry out chapters 2 and 3 (including administrative costs) exceeds an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed by section 287 during the preceding 1-year period, the Secretary of Labor and the Secretary of Commerce (in consultation with the Secretary of the Treasury) shall, notwithstanding any provision of chapter 2 or 3, make a pro rata reduction in—

"(i) the amounts of the trade readjustment allowances that are paid under part I of subchapter B of chapter 2, and

"(ii) the assistance provided under chapter 3,

to ensure (based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during the remainder of such fiscal year and for the fiscal year succeeding such fiscal year) that all workers and firms eligible for assistance under chapter 2 or 3 receive some assistance under chapter 2 or 3 and that the expenditures made in providing such assistance during the remainder of such fiscal year and the fiscal year succeeding such fiscal year do not exceed the amount of funds available in the Trust Fund to pay for such expenditures.

"(B) No reduction may be made under this paragraph in the amount of any trade readjustment allowance payable under part I of subchapter B of chapter 2 to any worker who received such trade readjustment allowance under such part for the week preceding the first week for which such reduction is otherwise being made under this paragraph.

"(C) If a pro rata reduction made under subparagraph (A) is in effect at the close of a fiscal year, the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, may adjust or modify such reduction at the beginning of the fiscal year succeeding such fiscal year, based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during that succeeding fiscal year.

"(D) Any pro rata reduction made under subparagraph (A), and any pro rata reduction adjusted or modified under subparagraph (C), shall cease to apply after the week in which—

"(i) a 1-year period ends during which the total amount of funds that would have been expended to carry out chapters 2 and 3, including administrative costs, if such reduction were not in effect did not exceed an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed during such 1-year period, or

"(ii) the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, determine that the amount of funds available in the Trust Fund are sufficient to carry out chapters 2 and 3 without such reduction.

"(e)(1)(A) There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d)(1)(B). Appropriation authorization.

"(B) Any advance appropriated to the Trust Fund under the authority of subparagraph (A) may be paid to the Trust Fund only to the extent that the total amount of advances paid during the fiscal year to the Trust Fund from any appropriation authorized under

subparagraph (A) that are outstanding after such advance is paid to the Trust Fund does not exceed the lesser of—

"(i) the excess of—

"(I) the total amount of funds that the Secretary of the Treasury (in consultation with the Secretary of Labor and the Secretary of Commerce) estimates will be necessary for the payments and expenditures described in subparagraphs (A) and (B) of subsection (d)(1) for such fiscal year, over

"(II) the total amount of funds that the Secretary of the Treasury estimates will be available in the Trust Fund during the fiscal year (determined without regard to any advances made under this subsection during such fiscal year), or

"(ii) the excess of—

"(I) an amount equal to 0.15 percent of the total value of all articles upon which the Secretary of the Treasury estimates a duty will be imposed by section 287 during such fiscal year, over

"(II) the amount described in clause (i)(II).

"(2) Advances made to the Trust Fund from appropriations authorized under paragraph (1)(A) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury of the United States when the Secretary of the Treasury determines that sufficient funds are available in the Trust Fund for such purposes.

"(3) Interest on advances made from appropriations authorized under paragraph (1)(A) shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.".

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting, after the item relating to section 285, the following new items:

"Sec. 286. Trade Adjustment Trust Fund.
"Sec. 287. Imposition of additional fee.".

President of U.S.
19 USC 2397 note.

SEC. 1428. IMPOSITION OF SMALL UNIFORM FEE ON ALL IMPORTS.

(a) NEGOTIATIONS.—

(1) The President shall—

(A) undertake negotiations necessary to achieve changes in the General Agreement on Tariffs and Trade that would allow any country to impose a small uniform fee of not more than 0.15 percent on all imports to such country for the purpose of using the revenue from such fee to fund programs which directly assist adjustment to import competition, and

(B) undertake negotiations with any foreign country that has entered into a free trade agreement with the United States under subtitle A or under section 102 of the Trade Act of 1974 to obtain the consent of such country to the imposition of such a fee by the United States.

(2) In the report that is submitted under section 163 of the Trade Act of 1974 for 1989 and 1990, the President shall include a statement on the progress of negotiations conducted under paragraph (1).

(3)(A) On the first day after the date of enactment of this Act on which the General Agreement on Tariffs and Trade allows any country to impose a fee described in paragraph (1), the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such allowance. Federal Register, publication.

(B) On the first day after the date of enactment of this Act on which any foreign country described in paragraph (1)(B) consents to the imposition of such a fee by the United States, the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such consent.

(4) If—

(A) the President does not submit to the Congress the written statement described in paragraph (3)(A) before the date that is 2 years after the date of enactment of this Act, and

(B) the President determines on such date that the fee imposed by the amendment made by subsection (b) is not in the national economic interest,

the President shall submit to the Congress, and publish in the Federal Register, written notice of such determination on such date. Federal Register, publication.

(5)(A) Any disapproval resolution that is introduced in the Senate or House of Representatives within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act shall, for purposes of section 152 of the Trade Act of 1974 (19 U.S.C. 2192), be treated as a joint resolution described in section 152(a)(1)(A) of such Act.

(B) For purposes of this part, the term "disapproval resolution" means a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves of the determination made by the President under section 1428(a)(4)(A) of the Omnibus Trade and Competitiveness Act of 1988.".

(b) IMPOSITION OF FEE.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.), as amended by the preceding section of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 287. IMPOSITION OF ADDITIONAL FEE. 19 USC 2397.

"(a) In addition to any other fee imposed by law, there is hereby imposed a fee on all articles entered, or withdrawn from warehouse, for consumption in the customs territory of the United States during any fiscal year.

"(b)(1) The rate of the fee imposed by subsection (a) shall be a uniform ad valorem rate proclaimed by the President that is equal to the lesser of—

"(A) 0.15 percent, or

"(B) the percentage that is sufficient to provide the funding necessary to—

"(i) carry out the provisions of chapters 2 and 3, and

"(ii) repay any advances made under section 286(e).

"(2) The President shall issue a proclamation setting forth the rate of the fee imposed by subsection (a) by no later than the date that is 15 days before the first date on which a fee is imposed under subsection (a). President of U.S.

"(3)(A) For each fiscal year succeeding the first fiscal year in which a fee is imposed under subsection (a), the President shall issue President of U.S.

a proclamation adjusting the rate of the fee imposed by subsection (a) during such fiscal year to the ad valorem rate that meets the requirements of paragraph (1) for such fiscal year.

"(B) Any proclamation issued under subparagraph (A) for a fiscal year shall be issued at least 30 days before the beginning of such fiscal year.

"(c)(1) Except as otherwise provided in this subsection, duty-free treatment provided with respect to any article under any other provision of law shall not prevent the imposition of a fee with respect to such article by subsection (a).

"(2) No fee shall be imposed by subsection (a) with respect to—

"(A) any article (other than an article provided for in item 870.40, 870.45, 870.50, 870.55, or 870.60 of the Tariff Schedules of the United States) that is treated as duty-free under schedule 8 of the Tariff Schedules of the United States, or

"(B) any article which has a value of less than $1,000.".

SEC. 1429. STUDY OF CERTIFICATION METHODS.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of Commerce, shall conduct a study of the methods (including, but not limited to, industry-wide certification) that could be used to expedite the certification of workers under subchapter A of chapter 2 of title II of the Trade Act of 1974.

(b) REPORT.—By no later than the date that is 6 months after the date of enactment of this Act, the Secretary of Labor shall submit to the Congress a report on the study conducted under subsection (a). The report shall include the recommendations of the Secretary of Labor regarding the methods that are the subject of the study conducted under subsection (a).

19 USC 2397 note.

SEC. 1430. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided by this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) ADDITIONAL FEE.—

(1) Except as otherwise provided in this subsection, the amendment made by section 1428(b) shall apply (if at all) to any article entered, or withdrawn from warehouse for consumption, after the date that is 30 days after the earlier of—

(A) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(A),

(B) the date that is 2 years after the date of enactment of this Act, or

(C) the date of the enactment of a disapproval resolution that passes both Houses of the Congress within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act.

(2) If the President determines on the date that is 2 years after the date of enactment of this Act that the fee imposed by the amendment made by section 1428(b) is not in the national economic interest, subparagraph (B) of paragraph (1) shall not be taken into account in applying the provisions of paragraph (1).

(3) The amendment made by section 1428(b) shall apply (if at all) to the products of any foreign country described in section

1428(a)(1)(B) that are entered, or withdrawn from warehouse for consumption, after the later of—

(A) the first date on which the fee imposed by such amendment applies with respect to products of foreign countries that are not described in section 1428(a)(1)(B), or

(B) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(B) certifying the consent of such foreign country to the imposition of the fee.

(c) TRUST FUND.—The amendments made by section 1427 shall take effect on the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(d) ELIGIBILITY OF WORKERS AND FIRMS.—The amendments made by sections 1421(b) and 1424(b) shall take effect on the date that is 1 year after the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(e) NOTIFICATION REQUIREMENTS.—The amendments made by section 1422 shall take effect on the date that is 30 days after the date of enactment of this Act.

(f) TRAINING REQUIREMENT.—The amendments made by subsections (a), (b)(2), and (c)(2) of section 1423 and by paragraphs (2) and (3) of section 1424(c) shall take effect on the date that is 90 days after the date of enactment of this Act.

(g) LIMITATION ON PERIOD FOR WHICH TRADE READJUSTMENT ALLOWANCES MAY BE MADE.—The amendment made by section 1425(a) shall not apply to with respect to any total separation of a worker from adversely affected employment (within the meaning of section 247 of such Act) that occurs before the date of enactment of this Act if the application of such amendment with respect to such total separation would reduce the period for which such worker would (but for such amendment) be allowed to receive trade readjustment allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974.

Subtitle E—National Security

SEC. 1501. IMPORTS THAT THREATEN NATIONAL SECURITY.

(a) IN GENERAL.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended—

(1) by striking out "subsection (b)" each place it appears in subsection (e) and inserting in lieu thereof "subsection (c)",

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(3) by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1)(A) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall immediately initiate an appropriate investigation to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion.

"(B) The Secretary shall immediately provide notice to the Secretary of Defense of any investigation initiated under this section.

"(2)(A) In the course of any investigation conducted under this subsection, the Secretary shall—

"(i) consult with the Secretary of Defense regarding the methodological and policy questions raised in any investigation initiated under paragraph (1),

"(ii) seek information and advice from, and consult with, appropriate officers of the United States, and

"(iii) if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation.

"(B) Upon the request of the Secretary, the Secretary of Defense shall provide the Secretary an assessment of the defense requirements of any article that is the subject of an investigation conducted under this section.

Reports.

"(3)(A) By no later than the date that is 270 days after the date on which an investigation is initiated under paragraph (1) with respect to any article, the Secretary shall submit to the President a report on the findings of such investigation with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, the recommendations of the Secretary for action or inaction under this section. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in such report.

Federal Register, publication.

"(B) Any portion of the report submitted by the Secretary under subparagraph (A) which does not contain classified information or proprietary information shall be published in the Federal Register.

Regulations.

"(4) The Secretary shall prescribe such procedural regulations as may be necessary to carry out the provisions of this subsection.

President of U.S.

"(c)(1)(A) Within 90 days after receiving a report submitted under subsection (b)(3)(A) in which the Secretary finds that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the President shall—

"(i) determine whether the President concurs with the finding of the Secretary, and

"(ii) if the President concurs, determine the nature and duration of the action that, in the judgment of the President, must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.

"(B) If the President determines under subparagraph (A) to take action to adjust imports of an article and its derivatives, the President shall implement that action by no later than the date that is 15 days after the day on which the President determines to take action under subparagraph (A).

"(2) By no later than the date that is 30 days after the date on which the President makes any determinations under paragraph (1), the President shall submit to the Congress a written statement of the reasons why the President has decided to take action, or refused to take action, under paragraph (1). Such statement shall be included in the report published under subsection (e).

"(3)(A) If—

"(i) the action taken by the President under paragraph (1) is the negotiation of an agreement which limits or restricts the importation into, or the exportation to, the United States of the article that threatens to impair national security, and

"(ii) either—

"(I) no such agreement is entered into before the date that is 180 days after the date on which the President makes the determination under paragraph (1)(A) to take such action, or

"(II) such an agreement that has been entered into is not being carried out or is ineffective in eliminating the threat to the national security posed by imports of such article,

the President shall take such other actions as the President deems necessary to adjust the imports of such article so that such imports will not threaten to impair the national security. The President shall publish in the Federal Register notice of any additional actions being taken under this section by reason of this subparagraph.

Federal Register, publication.

"(B) If—

"(i) clauses (i) and (ii) of subparagraph (A) apply, and

"(ii) the President determines not to take any additional actions under this subsection,

the President shall publish in the Federal Register such determination and the reasons on which such determination is based.".

(b) REPORTS.—

(1) Subsection (e) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as redesignated by subsection (a)(2), is amended to read as follows:

"(d)(1) Upon the disposition of each request, application, or motion under subsection (b), the Secretary shall submit to the Congress, and publish in the Federal Register, a report on such disposition.

Federal Register, publication.

"(2) The President shall submit to the Congress an annual report on the operation of the provisions of this section.".

President of U.S.

(2) Section 127 (c) of the Trade Act of 1974 (19 U.S.C. 1863) is repealed.

(c) ENFORCEMENT OF MACHINE TOOL IMPORT ARRANGEMENTS.—

(1) The Secretary of Commerce is authorized to request the Secretary of the Treasury to carry out such actions as may be necessary or appropriate to ensure the attainment of the objectives of the machine tool decision of the President on May 20, 1986, and to enforce any quantitative limitation, restriction, or other terms contained in related bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of assembled and unassembled machine tool products.

(2) For purposes of this subsection, the term "related bilateral arrangement" means any arrangement, agreement, or understanding entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of assembled and unassembled machine tool products as may be necessary to implement such machine tool decision of May 20, 1986.

(d) APPLICATION OF AMENDMENTS.—

19 USC 1862 note.

(1) Except as otherwise provided under this subsection, the amendments made by this section shall apply with respect to investigations initiated under section 232(b) of the Trade Expansion Act of 1962 on or after the date of enactment of this Act.

(2) The provisions of subsection (c) of section 232 of the Trade Expansion Act of 1962, as amended by this section, shall apply with respect to any report submitted by the Secretary of Commerce to the President under section 232(b) of such Act after the date of enactment of this Act.

President of U.S.

(3) By no later than the date that is 90 days after the date of enactment of this Act, the President shall make the determinations described in section 232(c)(1)(A) of the Trade Expansion Act of 1962, as amended by this section, with respect to any report—

(A) which was submitted by the Secretary of Commerce to the President under section 232(b) of such Act before the date of enactment of this Act, and

(B) with respect to which no action has been taken by the President before the date of enactment of this Act.

Subtitle F—Trade Agencies; Advice, Consultation, and Reporting Regarding Trade Matters

PART 1—FUNCTIONS AND ORGANIZATION OF TRADE AGENCIES

Subpart A—Office of the United States Trade Representative

SEC. 1601. FUNCTIONS.

(a) IN GENERAL.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(c)(1) The United States Trade Representative shall—

"(A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

"(B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

"(C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including commodity and direct investment negotiations, in which the United States participates;

"(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

"(E) act as the principal spokesman of the President on international trade;

"(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

"(G) advise the President and Congress with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

"(H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);

"(I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of his functions; and

"(J) in addition to those functions that are delegated to the United States Trade Representative as of the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, be responsible for such other functions as the President may direct.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) It is the sense of Congress that the United States Trade Representative should—

"(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

"(B) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.".

(b) UNFAIR TRADE PRACTICES.—Such section 141 is further amended— 19 USC 2171.

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) In carrying out subsection (c) with respect to unfair trade practices, the United States Trade Representative shall—

"(A) coordinate the application of interagency resources to specific unfair trade practice cases;

"(B) identify, and refer to the appropriate Federal department or agency for consideration with respect to action, each act, policy, or practice referred to in the report required under section 181(b), or otherwise known to the United States Trade Representative on the basis of other available information, that may be an unfair trade practice that either—

"(i) is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on United States commerce, or

"(ii) has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws;

"(C) identify practices having a significant adverse impact on United States commerce that the attainment of United States negotiating objectives would eliminate; and

"(D) identify, on a biennial basis, those United States Government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under United States law.

"(2) For purposes of carrying out paragraph (1), the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

"(A) The Bureau of Economics and Business Affairs of the Department of State.

"(B) The United States and Foreign Commercial Services of the Department of Commerce.

"(C) The International Trade Administration (other than the United States and Foreign Commercial Service) of the Department of Commerce.

"(D) The Foreign Agricultural Service of the Department of Agriculture.

The United States Trade Representative may also request the advice of the United States International Trade Commission regarding the carrying out of paragraph (1).

"(3) For purposes of this subsection, the term 'unfair trade practice' means any act, policy, or practice that—

"(A) may be a subsidy with respect to which countervailing duties may be imposed under subtitle A of title VII;

"(B) may result in the sale or likely sale of foreign merchandise with respect to which antidumping duties may be imposed under subtitle B of title VII;

"(C) may be either an unfair method of competition, or an unfair act in the importation of articles into the United States, that is unlawful under section 337; or

"(D) may be an act, policy, or practice of a kind with respect to which action may be taken under title III of the Trade Act of 1974.".

Subpart B—United States International Trade Commission

SEC. 1611. SERVICE ON COMMISSION FOR PURPOSES OF DETERMINING ELIGIBILITY FOR DESIGNATION AS CHAIRMAN.

Section 330(c)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1330(c)(A)(i)) is amended by striking out "most recently appointed to" and inserting "with the shortest period of service on".

SEC. 1612. TREATMENT OF COMMISSION UNDER PAPERWORK REDUCTION ACT.

Section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) is amended by adding at the end thereof the following new subsection:

"(f) The Commission shall be considered to be an independent regulatory agency for purposes of chapter 35 of title 44, United States Code.".

SEC. 1613. TREATMENT OF CONFIDENTIAL INFORMATION BY COMMISSION.

The first sentence of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) is amended by striking out ", and shall report to Congress" and inserting ". However, the Commission may not release information which the Commission 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 Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress.". Reports.

SEC. 1614. TRADE REMEDY ASSISTANCE OFFICE.

Section 339 of the Tariff Act of 1930 (19 U.S.C. 1339) is amended—

(1) by amending subsection (a)—

(A) by striking out "a Trade" and inserting "a separate office to be known as the Trade", and

(B) by striking out ", upon request, concerning—" and inserting "upon request and shall, to the extent feasible, provide assistance and advice to interested parties concerning—"; and

(2) by amending subsection (b) to read as follows:

"(b) The Trade Remedy Assistance Office, in coordination with each agency responsible for administering a trade law, shall provide technical and legal assistance and advice to eligible small businesses to enable them—

"(1) to prepare and file petitions and applications (other than those which, in the opinion of the Office, are frivolous); and

"(2) to seek to obtain the remedies and benefits available under the trade laws, including any administrative review or administrative appeal thereunder.".

Subpart C—Interagency Trade Organization

SEC. 1621. FUNCTIONS AND ORGANIZATION.

(a) IN GENERAL.—Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) The President shall establish an interagency organization. President of U.S.

"(2) The functions of the organization are—

"(A) to assist, and make recommendations to, the President in carrying out the functions vested in him by the trade laws and to advise the United States Trade Representative (hereinafter in this section referred to as the 'Trade Representative') in carrying out the functions set forth in section 141 of the Trade Act of 1974;

"(B) to assist the President, and advise the Trade Representative, with respect to the development and implementation of the international trade policy objectives of the United States; and

"(C) to advise the President and the Trade Representative with respect to the relationship between the international trade policy objectives of the United States and other major policy areas which may significantly affect the overall international trade policy and trade competitiveness of the United States.

"(3) The interagency organization shall be composed of the following:

"(A) The Trade Representative, who shall be chairperson.

"(B) The Secretary of Commerce.

"(C) The Secretary of State.

"(D) The Secretary of the Treasury.

"(E) The Secretary of Agriculture.

"(F) The Secretary of Labor.

The Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject

matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the Chairman shall direct.".

(2) Subsection (b) is amended by adding at the end thereof the following:

"In carrying out its functions under this subsection, the organization shall take into account the advice of the congressional advisers and private sector advisory committees, as well as that of any committee or other body established to advise the department, agency, or office which a member of the organization heads.".

19 USC 1872 note.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the interagency organization established under subsection (a) should be the principal interagency forum within the executive branch on international trade policy matters.

PART 2—ADVICE AND CONSULTATION REGARDING TRADE POLICY, NEGOTIATIONS, AND AGREEMENTS

SEC. 1631. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS RELATING TO TRADE POLICY AND AGREEMENTS.

Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended to read as follows:

"SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

President of U.S.

"(a) IN GENERAL.—

"(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

"(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or section 1102 of the Omnibus Trade and Competitiveness Act of 1988;

"(B) the operation of any trade agreement once entered into; and

"(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

"(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy:

"(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

"(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

"(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

"(D) Important developments in other areas of trade for which there must be developed a proper policy response.

"(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

"(b) ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.— President of U.S.

"(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a). The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 2 years. An individual may be reappointed to committee for any number of terms. Appointments to the Committee shall be made without regard to political affiliation.

"(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the committee shall be elected by the committee from among its members.

"(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

"(c) GENERAL POLICY, SECTORAL, OR FUNCTIONAL ADVISORY COMMITTEES.—

"(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

"(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall— President of U.S.

"(A) consult with interested private organizations; and
"(B) take into account such factors as—
"(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,
"(ii) the character of the nontariff barriers and other distortions affecting such competition,
"(iii) the necessity for reasonable limits on the number of such advisory committees,
"(iv) the necessity that each committee be reasonably limited in size, and
"(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

"(3) The President—
"(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice—
"(i) on matters referred to in subsection (a), and
"(ii) with respect to implementation of trade agreements, and

President of U.S.

"(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

"(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

"(d) POLICY, TECHNICAL, AND OTHER ADVICE AND INFORMATION.—Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

Reports.

"(e) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—
"(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988 shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under section 1103(a)(1)(A) of such Act of 1988 of his intention to enter into that agreement.
"(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal

negotiating objectives set forth in section 1101 of the Omnibus Trade and Competitiveness Act of 1988, as appropriate.

"(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

"(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act apply—

"(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b); and

"(2) to all other advisory committees which may be established under subsection (c); except that the meetings of advisory committees established under subsections (b) and (c) shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to matters referred to in subsection (a), and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c).

"(g) TRADE SECRETS AND CONFIDENTIAL INFORMATION.—

"(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

"(A) officers and employees of the United States designated by the United States Trade Representative;

"(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 161(a)(1) or are designated by the chairmen of either such committee under section 161(b)(3)(A) and staff members of either such committee designated by the chairmen under section 161(b)(3)(A); and

"(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 161(a)(2) or designated by the chairman of such committee under section 161(b)(3)(B) and staff members of such committee designated under section 161(b)(3)(B), but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a).

"(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsec-

tion (c), in connection with matters referred to in subsection (a), may be disclosed upon request to—

"(A) the individuals described in paragraph (1); and

"(B) the appropriate advisory committee established under this section.

"(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), may be disclosed in accordance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a).

"(h) ADVISORY COMMITTEE SUPPORT.—The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established under subsection (c) as such committees may reasonably require to carry out their activities.

"(i) CONSULTATION WITH ADVISORY COMMITTEES; PROCEDURES; NONACCEPTANCE OF COMMITTEE ADVICE OR RECOMMENDATIONS.—It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

"(1) significant issues and developments; and

"(2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this title, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

President of U.S.

"(j) PRIVATE ORGANIZATIONS OR GROUPS.—In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g), on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer

interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a).

"(k) SCOPE OF PARTICIPATION BY MEMBERS OF ADVISORY COMMITTEES.—Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

"(l) ADVISORY COMMITTEES ESTABLISHED BY DEPARTMENT OF AGRICULTURE.—The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (c).

"(m) NON-FEDERAL GOVERNMENT DEFINED.—As used in this section, the term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

"(2) any agency or instrumentality of any entity described in paragraph (1).".

SEC. 1632. CONGRESSIONAL LIAISON REGARDING TRADE POLICY AND AGREEMENTS.

Section 161 of the Trade Act of 1974 (19 U.S.C. 2211) is amended to read as follows:

"SEC. 161. CONGRESSIONAL ADVISERS FOR TRADE POLICY AND NEGOTIATIONS.

"(a) SELECTION.—

"(1) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

"(2)(A) In addition to the advisers designated under paragraph (1) from the Committee on Ways and Means and the Committee on Finance—

"(i) the Speaker of the House may select additional members of the House, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the House or joint committee

of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations; and

"(ii) the President pro tempore of the Senate may select additional members of the Senate, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the Senate or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations.

Members of the House and Senate selected as congressional advisers under this subparagraph shall be accredited by the United States Trade Representative.

"(B) Before designating any member under subparagraph (A), the Speaker or the President pro tempore shall consult with—

"(i) the chairman and ranking member of the Committee on Ways and Means or the Committee on Finance, as appropriate; and

"(ii) the chairman and ranking minority member of the committee from which the member will be selected.

"(C) Not more than 3 members (not more than 2 of whom are members of the same political party) may be selected under this paragraph as advisers from any committee of Congress.

"(b) BRIEFING.—

"(1) The United States Trade Representative shall keep each official adviser designated under subsection (a)(1) currently informed on matters affecting the trade policy of the United States and, with respect to possible agreements, negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, such agreement.

"(2) The United States Trade Representative shall keep each official adviser designated under subsection (a)(2) currently informed regarding the trade policy matters and negotiations with respect to which the adviser is designated.

"(3)(A) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)(1)) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

"(B) The Chairman of any committee of the House or Senate or any joint committee of Congress from which official advisers are selected under subsection (a)(2) may designate other members of such committee, and staff members of such committee, who shall have access to the information provided to official advisers under paragraph (2).

"(c) COMMITTEE CONSULTATION.—The United States Trade Representative shall consult on a continuing basis with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the other appropriate committees of the House and Senate on the development, implementation, and administration of overall trade policy of the United States. Such consultations shall include, but are not limited to, the following elements of such policy:

"(1) The principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement.

"(2) The implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

"(3) The actions taken, and proposed to be taken, under the trade laws of the United States and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives.

"(4) The important developments and issues in other areas of trade for which there must be developed proper policy response.

When necessary, meetings shall be held with each Committee in executive session to review matters under negotiation.".

PART 3—ANNUAL REPORTS AND NATIONAL TRADE POLICY AGENDA

SEC. 1641. REPORTS AND AGENDA.

Section 163 of the Trade Act of 1974 (19 U.S.C. 2213) is amended to read as follows:

"SEC. 163. REPORTS.

"(a) ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM AND NATIONAL TRADE POLICY AGENDA.—

"(1) The President shall submit to the Congress during each calendar year (but not later than March 1 of that year) a report on— President of U.S.

"(A) the operation of the trade agreements program, and the provision of import relief and adjustment assistance to workers and firms, under this Act during the preceding calendar year; and

"(B) the national trade policy agenda for the year in which the report is submitted.

"(2) The report shall include, with respect to the matters referred to in paragraph (1)(A), information regarding—

"(A) new trade negotiations;

"(B) changes made in duties and nontariff barriers and other distortions of trade of the United States;

"(C) reciprocal concessions obtained;

"(D) changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor);

"(E) the extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of foreign countries;

"(F) the extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries;

"(G) the results of actions to obtain the removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment;

"(H) the measures being taken to seek the removal of other significant foreign import restrictions;

"(I) each of the referrals made under section 141(d)(1)(B) and any action taken with respect to such referral;

"(J) other information relating to the trade agreements program and to the agreements entered into thereunder; and

"(K) the number of applications filed for adjustment assistance for workers and firms, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

"(3)(A) The national trade policy agenda required under paragraph (1)(B) for the year in which a report is submitted shall be in the form of a statement of—

"(i) the trade policy objectives and priorities of the United States for the year, and the reasons therefor;

"(ii) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including, but not limited to, actions authorized under the trade laws and negotiations with foreign countries;

"(iii) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

"(iv) the progress that was made during the preceding year in achieving the trade policy objectives and priorities included in the statement provided for that year under this paragraph.

Classified information.

"(B) The President may separately submit any information referred to in subparagraph (A) to the Congress in confidence if the President considers confidentiality appropriate.

President of U.S.

"(C) Before submitting the national trade policy agenda for any year, the President shall seek advice from the appropriate advisory committees established under section 135 and shall consult with the appropriate committees of the Congress.

"(D) The United States Trade Representative (hereafter referred to in this section as the 'Trade Representative') and other appropriate officials of the United States Government shall consult periodically with the appropriate committees of the Congress regarding the annual objectives and priorities set forth in each national trade policy agenda with respect to—

"(i) the status and results of the actions that have been undertaken to achieve the objectives and priorities; and

"(ii) any development which may require, or result in, changes to any of such objectives or priorities.

"(b) ANNUAL TRADE PROJECTION REPORT.—

"(1) In order for the Congress to be informed of the impact of foreign trade barriers and macroeconomic factors on the balance of trade of the United States, the Trade Representative and the Secretary of the Treasury shall jointly prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter referred to in this subsection as the 'Committees') on or before March 1 of each year a report which consists of—

"(A) a review and analysis of—

"(i) the merchandise balance of trade,

"(ii) the goods and services balance of trade,

"(iii) the balance on the current account,

"(iv) the external debt position,

"(v) the exchange rates,

"(vi) the economic growth rates,

"(vii) the deficit or surplus in the fiscal budget, and

"(viii) the impact on United States trade of market barriers and other unfair practices,

of countries that are major trading partners of the United States, including, as appropriate, groupings of such countries;

"(B) projections for each of the economic factors described in subparagraph (A) (except those described in clauses (v) and (viii)) for each of the countries and groups of countries referred to in subparagraph (A) for the year in which the report is submitted and for the succeeding year; and

"(C) conclusions and recommendations, based upon the projections referred to in subparagraph (B), for policy changes, including trade policy, exchange rate policy, fiscal policy, and other policies that should be implemented to improve the outlook.

"(2) To the extent that subjects referred to in paragraph (1)(A), (B), or (C) are covered in the national trade policy agenda required under subsection (a)(1)(B) or in other reports required by this Act or other law, the Trade Representative and the Secretary of the Treasury may, as appropriate, draw on the information, analysis, and conclusions, if any, in those reports for the purposes of preparing the report required by this subsection.

"(3) The Trade Representative and the Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System in the preparation of each report required under this subsection.

"(4) The Trade Representative and the Secretary of the Treasury may separately submit any information, analysis, or conclusion referred to in paragraph (1) to the Committees in confidence if the Trade Representative and the Secretary consider confidentiality appropriate.

"(5) After submission of each report required under paragraph (1), the Trade Representative and the Secretary of the Treasury shall consult with each of the Committees with respect to the report.

"(c) ITC REPORTS.—The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.".

Subtitle G—Tariff Provisions

PART 1—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 1701. REFERENCE.

Whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, headnote, item, the Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

Subpart A—Permanent Changes in Tariff Treatment

SEC. 1711. BROADWOVEN FABRICS OF MAN-MADE FIBERS.

(a) IN GENERAL.—Subpart E of part 3 of schedule 3 is amended by striking out item 338.50 and inserting the following new items with the article description for item 338.60 having the same degree of indentation as the article description for item 338.40:

"	338.60	Containing 85% or more by weight of continuous man-made fibers	17% ad val.	8.5% ad val. (I)	81% ad val.	
		Other:				
	338.70	Weighing not more than 5 oz. per square yard	17% ad val.	8.5% ad val. (I)	81% ad val.	
	338.80	Other	17% ad val.	8.5% ad val. (I)	81% ad val.	".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in item 338.50 of the Tariff Schedules of the United States (as in effect before the date of enactment of this Act) that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 338.60, 338.70, and 338.80 of such Schedules.

SEC. 1712. NAPHTHA AND MOTOR FUEL BLENDING STOCKS.

Part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting "motor fuel blending stocks," immediately after "except";

(2) by amending headnote 2—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(c) 'Motor fuel blending stock' (item 475.27) means any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, to be used for direct blending in the manufacture of motor fuel.";

(3) by inserting in numerical sequence the following new item with an article description having the same degree of indentation as the article description for item 475.30:

"	475.27	Motor fuel blending stocks	1.25¢ per gal.		2.5¢ per gal.	",

(4) by amending 475.30 by striking out "fuel)" and inserting "fuel or motor fuel blending stocks)"; and

(5) by amending 475.35 by striking out "fuel)" and inserting in lieu thereof "fuel or motor fuel blending stocks)".

SEC. 1713. WATCHES AND WATCH COMPONENTS.

Headnote 4 of subpart E of part 2 of schedule 7 is amended to read as follows:

"4. Special Marking Requirements: Any movement or case provided for in this subpart, whether imported separately or attached to any article provided for in this subpart, shall not be permitted to be entered unless conspicuously and indelibly marked by cutting,

die-sinking, engraving, stamping, or mold-marking (either indented or raised), as specified below:

"(a) Watch movements shall be marked on one or more of the bridges or top plates to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

"(b) Clock movements shall be marked on the most visible part of the front or back plate to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) the number of jewels, if any.

"(c) Watch cases shall be marked on the inside or outside of the back case to show—

"(i) the name of the country of manufacture; and

"(ii) the name of the manufacturer or purchaser.

"(d) Clock cases provided for in this subpart shall be marked on the most visible part of the outside of the back to show the name of the country of manufacture.".

SEC. 1714. SLABS OF IRON OR STEEL.

Headnote 3(c) to subpart B of part 2 of schedule 6 is amended by striking out "and not over 6 inches".

SEC. 1715. CERTAIN WORK GLOVES.

(a) Headnote 5(a) to schedule 3 is amended by striking out "(except subpart A)" and inserting in lieu thereof "(except subparts A and C)".

(b) Headnote 1 to subpart C of part 1 of schedule 7 of the Tariff Schedules of the United States is amended—

(1) by striking out "and" at the end of subdivision (b),

(2) by striking out the period at the end of subdivision (c) and inserting in lieu thereof "; and", and

(3) by adding after subdivision (c) the following new subdivision:

"(d) gloves which are—

"(i) other than gloves with fourchettes, and

"(ii) constructed of a textile fabric coated, filled, impregnated, or laminated, in whole or in part, with rubber or plastics and cut-and-sewn,

shall be regarded as gloves of textile materials.".

SEC. 1716. DUTY-FREE IMPORTATION OF HATTER'S FUR.

(a) IN GENERAL.—Subpart D of part 15 of schedule 1 is amended—

(1) by striking out "use, and carroted furskins" in item 186.20 and inserting in lieu thereof "use",

(2) by striking out "15% ad val." in item 186.20 and inserting in lieu thereof "Free",

(3) by striking out "Free (A,E) 4.8% ad val. (I)" in item 186.20, and

(4) by inserting after item 186.20 the following new item with the article description having the same degree of indentation as the article description in item 186.20:

"	186.22	Carroted furskins	15% ad. val.	Free (A,E) 4.8% ad val. (I)	35% ad val.	".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in item 186.20 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rate of duty set forth in item 186.22 of such Schedules.

SEC. 1717. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS.

Item 709.15 is amended by inserting "other than extracorporeal shock wave lithotripters," before "and".

SEC. 1718. SALTED AND DRIED PLUMS.

(a) IN GENERAL.—Subpart B of part 9 of schedule 1 is amended by striking out item 149.28 and inserting in lieu thereof the following items with the article descriptions having the same degree of indentation as the article description in item 149.26:

"	149.27	Soaked in brine and dried	2¢ per lb.	Free (E,I)	2¢ per lb.	
	149.29	Otherwise prepared or preserved	17.5% ad val.	Free (E) 5.6% ad val. (I)	35% ad val.	".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in item 149.28 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 149.27 and 149.29 of such Schedules.

SEC. 1719. TELEVISION APPARATUS AND PARTS.

(a) PERMANENT TREATMENT.—The headnotes to part 5 of schedule 6 are amended—

(1) by striking out "assembled," in subparagraph (a) of headnote 3 and inserting in lieu thereof "assembled in its cabinet,";

(2) by redesignating headnotes 4, 5, and 6 as headnotes 5, 6, and 7, respectively; and

(3) by inserting after headnote 3 the following new headnote:

"4. Picture tubes imported in combination with, or incorporated into, other articles are to be classified in items 687.35 through 687.44, inclusive, unless they are—

"(i) incorporated into complete television receivers, as defined in headnote 3;

"(ii) incorporated into fully assembled units such as word processors, ADP terminals, or similar articles;

"(iii) put up in kits containing all the parts necessary for assembly into complete television receivers, as defined in headnote 3; or

"(iv) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors, ADP terminals, or similar articles.".

(b) TEMPORARY TREATMENT.—

(1) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.16	Television picture tubes, color, having a video display diagonal of less than 12 inches (provided for in item 687.35, part 5, schedule 6).....	Free		No change	On or before 12/31/90	".

(2) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.19	Television picture tubes, color, having a video display diagonal of 30 inches and over (provided for in item 687.35, part 5, schedule 6).....	Free		No change	On or before 9/30/88	".

SEC. 1720. CASEIN.

(a) HUMAN FOOD AND ANIMAL FEED USE.—Subpart D of part 4 of schedule 1 is amended by adding at the end thereof the following new items with the superior heading having the same degree of indentation as the article description in item 118.45:

"		Casein, caseinates, and dried milk:					
	118.50	Casein	Free			Free	
	118.55	Dried milk (described in items 115.45, 115.50, 115.55, and 118.05) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the retail consumers in the identical form and package in which imported	1.3¢ per lb.		Free (A,E,I)	5.5¢ per lb.	
	118.60	Other.....	0.2¢ per lb.		Free (A,E,I)	5.5¢ per lb.	".

(b) INDUSTRIAL USE.—Subpart B of part 13 of schedule 4 is amended by striking out items 493.12, 493.14, and 493.17 and the superior heading thereto.

SEC. 1721. TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by inserting before "chiefly" the following: "other than plywood, wood-veneer panels, or cellular panels,".

SEC. 1722. IMPORTATION OF FURSKINS.

Headnote 4 to subpart B of part 5 of schedule 1 is repealed.

SEC. 1723. GRAPEFRUIT.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.29 the following new items with a superior heading having the same degree of indentation as item 165.25:

"		Grapefruit:			
	165.31	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	20¢ per gal.	Free (E)	70¢ per gal.
	165.34	Other	35¢ per gal.	Free (E)	70¢ per gal. ;

and

(2) by redesignating items 165.32 and 165.36 as items 165.37 and 165.38, respectively.

SEC. 1724. SILICONE RESINS AND MATERIALS.

Part 4 of schedule 4 is amended—

(1) by amending subpart A—

(A) by striking out "provided for in part 1C" in headnote 1 and inserting ", other than silicones, provided for in part 1", and

(B) by amending headnote 2 to read as follows:

"2. (a) For purposes of this subpart, the term 'synthetic plastics materials'—

"(i) embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which an antioxidant, color, dispersing agent, emulsifier, extender, filler, pesticide, plasticizer, or stabilizer may have been added; and

"(ii) includes silicones (including fluids, resins, elastomers, and copolymers) whether or not such materials are solid in the finished articles.

"(b) The products referred to in subdivision (a) contain as an essential ingredient an organic substance of high molecular weight; and, except as provided in subdivision (a)(ii), are capable, at some stage during processing into finished articles, of being molded or shaped by flow and are solid in the finished article. The term includes, but is not limited to, such products derived from esters of acrylic or methacrylic acid; vinyl acetate, vinyl chloride resins, polyvinyl alcohol, acetals, butyral, formal resins, polyvinyl ether and ester resins, and polyvinylidene chloride resins; urea and amino resins; polyethylene, polypropylene, and other polyalkene resins;

siloxanes, silicones, and other organo-silicon resins; alkyd, acrylonitrile, allyl, and formaldehyde resins, and cellulosic plastics materials. These synthetic plastics materials may be in solid, semi-solid, or liquid condition such as flakes, powders, pellets, granules, solutions, emulsions, and other basic crude forms not further processed.",

(C) by inserting after item 445.54 the following new item with the article description having the same degree of indentation as the article description for item 445.54:

"	445.55	Silicone resins and materials	3% ad val.	Free (A,E,I)	25% ad val.	",

and

(D) by redesignating item 445.56 as item 445.60; and

(2) by amending headnote 2 to subpart B by adding at the end thereof the following:

"(c) For purposes of the Tariff Schedules, the term 'rubber' does not include silicones.".

Subpart B—Temporary Changes in Tariff Treatment

SEC. 1731. COLOR COUPLERS AND COUPLER INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting ", but excluding 6,7-dihydroxy-2-naphthalene sulfonic acid sodium salt provided for in item 403.57," after "schedule 4" and before the parenthesis in item 907.10; and

(2) by striking out "9/30/85" in each of items 907.10 and 907.12 and inserting in lieu thereof "12/31/90".

SEC. 1732. POTASSIUM 4-SULFOBENZOATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.26	p-Sulfobenzoic acid, potassium salt (provided for in item 404.28, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1733. 2,2'-OXAMIDOBIS[ETHYL-3-(3,5-DI-TERT-BUTYL-4-HYDROXYPHENYL)PROPIONATE].

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.09	2,2'-Oxamidobis-[ethyl-3-(3,5-di-tert-butyl-4-hydroxyphenyl) propionate] (provided for in item 405.34, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1734. 2,4-DICHLORO-5-SULFAMOYLBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.48	2,4-Dichloro-5-sulfamoylbenzoic acid (provided for in item 406.56, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1735. DERIVATIVES OF N-[4-(2-HYDROXY-3-PHENOXYPROPOXY)-PHENYL]ACETAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.11	Mixtures containing derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl] acetamide (provided for in item 407.19, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1736. CERTAIN KNITWEAR FABRICATED IN GUAM.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.45	Sweaters that— (i) do not contain foreign materials in excess of the percentage of total value limitation contained in general headnote 3(a), and						

	(ii) are assembled in Guam, exclusively by United States citizens, nationals, or resident aliens, by joining together (by completely sewing, looping, linking, or other means of attaching) at least 5 otherwise completed major knit-to-shape component parts of foreign origin, if entered before the aggregate quantity of such sweaters that is entered during any 12-month period after October 31, 1985, exceeds the duty-free quantity for that period.....	Free				On or before 10/31/92	".

(b) DUTY-FREE QUANTITY.—The headnotes to subpart B of part 1 of the Appendix are amended by adding at the end thereof the following new headnote:

"3. For purposes of item 905.45, the term 'duty-free quantity' means—

"(a) for the 12-month period ending October 31, 1986, 161,600 dozen; and

"(b) for any 12-month period thereafter, an amount equal to 101 percent of the duty-free quantity for the preceding 12-month period.".

SEC. 1737. 3,5-DINITRO-O-TOLUAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.42	3,5-Dinitro-o-toluamide (provided for in item 411.95, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1738. SECONDARY-BUTYL CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.55	Secondary-butyl chloride (provided for in item 429.47, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1739. CERTAIN NONBENZENOID VINYL ACETATE-VINYL CHLORIDE-ETHYLENE TERPOLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.83	Nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate (provided for in item 445.48, part 4A, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1740. DUTY-FREE ENTRY OF PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 10TH PAN AMERICAN GAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	915.20	Personal effects of aliens who are participants in or officials of the Tenth Pan American Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury	Free		Free	On or before 9/30/87	".

SEC. 1741. CARDING AND SPINNING MACHINES.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.03	Carding and spinning machines specially designed for wool, other than machines specially designed for the manufacture of combed wool (worsted) yarns (provided for in item 670.04, part 4E, schedule 6).....	Free		No change	On or before 12/31/90	".

(b) PARTS.—The headnote to subpart E of part 4 of schedule 6 is amended by striking out "item 912.04" each place it appears and inserting in lieu thereof "item 912.03 or 912.04".

SEC. 1742. DICOFOL AND CERTAIN MIXTURES.

(a) DICOFOL.—Item 907.15 of the Appendix is amended to read as follows:

"	907.15	1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) (provided for in item 408.28, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

(b) MIXTURES OF DICOFOL AND APPLICATION ADJUVANTS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	907.27	Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) and application adjuvants (provided for in item 408.36, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1743. SILK YARN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.25	Yarns of silk (provided for in item 308.51, part 1D, schedule 3).....	Free		No change	On or before 12/31/90	".

SEC. 1744. TERFENADONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.48	1-(4-(1,1-Dimethylethyl)-phenyl)-4-(hydroxydi-phenyl-methyl-1-piperidinyl)-1-butanone (provided for in item 406.42, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1745. FLUAZIFOP-P-BUTYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.49	Butyl 2-[4-(5-trifluoromethyl-2-pryidinyloxy)-phenoxy]-propanoate (provided for in item 408.23, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1746. PARTS OF INDIRECT PROCESS ELECTROSTATIC COPYING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.18	Parts, not including photoreceptors or assemblies containing photoreceptors, of indirect process electrostatic copying machines, which machines reproduce the original image onto the copy material by electrostatic transference to and from an intermediate (provided for in item 676.56, part 4G, schedule 6).....	Free		No change	On or before 12/31/90	"

SEC. 1747. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS IMPORTED BY NONPROFIT INSTITUTIONS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.24	Extracorporeal shock wave lithotripters imported by nonprofit hospitals and research or educational institutions (provided for in item 709.17, part 2B, schedule 7).....	Free		No change	On or before 12/31/87	"

SEC. 1748. TRANSPARENT PLASTIC SHEETING.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	915.10	Transparent plastic sheeting containing 30% or more of lead, by weight (provided for in item 774.58, part 12D, schedule 7).....	Free			No change	On or before 12/31/90	".

SEC. 1749. DOLL WIG YARNS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.30	Grouped filaments and yarns, not textured, in continuous form, colored, of nylon or modacrylic, whether or not curled of not less than 20 denier per filament, to be used in the manufacture of wigs for dolls (provided for in item 309.32 and 309.33, part 1E, schedule 3, or item 389.62, part 7B, schedule 3).....	Free			No change	On or before 12/31/90	".

SEC. 1750. 1-(3-SULFOPROPYL) PYRIDINIUM HYDROXIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.97	1-(3-Sulfopropyl)-pyridinium hydroxide (provided for in item 406.42, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1751. POLYVINYLBENZYLTRIMETHYLAMMONIUM CHLORIDE (CHOLESTYRAMINE RESIN USP).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.30	Cross-linked polyvinyl-benzyltri-methyl-ammonium chloride (cholestyramine resin USP) (provided for in item 412.71, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1752. METHYLENE BLUE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.81	3,7-Bis-(dimethyl-amino)-phenazathio-nium chloride (methylene blue) (provided for in item 409.74, part 1C, schedule 4.....	Free		No change	On or before 12/31/90	"

SEC. 1753. 3-AMINO-3-METHYL-1-BUTYNE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.53	3-Amino-3-methyl-1-butyne (provided for in item 425.52, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1754. DICYCLOHEXYLBENZOTHIAZYLSULFENAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.45	Dicyclohexylben-zothiazyl-sulfenamide (provided for in item 406.39, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1755. D-6-METHOXY-α-METHYL-2-NAPHTHALENEACETIC ACID AND ITS SODIUM SALT.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.39	d-6-Methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt (provided for in item 412.22, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1756. SUSPENSION OF DUTIES ON JACQUARD CARDS AND JACQUARD HEADS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.46	Jacquard cards and jacquard heads for power-driven weaving machines, and parts thereof (provided for in items 670.56 and 670.74, respectively, part 4E, schedule 6).....	Free		No change	On or before 12/31/90	".

SEC. 1757. 2,2-BIS(4-CYANATOPHENYL).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.44	2,2-Bis(4-cyanatophenyl) (provided for in item 405.76, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1758. PHENYLMETHYLAMINOPYRAZOLE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.47	Aminomethyl-phenylpyrazole (Phenylmethy-laminopyrazole) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1759. BENZETHONIUM CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.52	Benzethonium chloride (provided for in item 408.32, part 1C, schedule 4).....	Free		No change	On or before 12/31/90		".

SEC. 1760. MANEB, ZINEB, MANCOZEB, AND METIRAM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.60	Maneb, zineb, mancozeb, and metiram (provided for in item 432.15, part 2E, schedule 4).....	Free		No change	On or before 12/31/90		".

SEC. 1761. METALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.56	Metaldehyde (provided for in item 427.58, part 2D, schedule 4).....	Free		No change	On or before 12/31/90		"

SEC. 1762. PARALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.57	Paraldehyde, USP grade (provided for in item 439.50, part 3C, schedule 4).....	Free		No change	On or before 12/31/90		".

SEC. 1763. CYCLOSPORINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.78	Cyclosporine (provided for in item 439.30, part 3C, schedule 4).....	Free		No change	On or before 12/31/90		".

SEC. 1764. TEMPORARY REDUCTION OF DUTIES ON GLASS INNERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	909.35	Glass inners designed for vacuum flasks or for other vacuum vessels (provided for in items 545.31, 545.34, 545.35, and 545.37, part 3C, schedule 5)....	9% ad val.	3.6% ad val. (I) Free (A,E)	55% ad val.	On or before 12/31/90	"

SEC. 1765. BENZENOID DYE INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following items:

"	907.84	p-Toluenesulfonyl chloride (provided for in item 403.05, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
	907.85	6-Hydroxy-2-naphthalenesulfonic acid; 6-Hydroxy-2-naphthalenesulfonic acid, sodium salt; 6-Hydroxy-2-napthalenesulfonic acid, potassium salt; and 6-Hydroxy-2-napthalenesulfonic acid, ammonium salt (provided for in item 403.57, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
	907.86	2,6-Dichlorobenzaldehyde (provided for in item 403.81 part 1B, schedule 4)....	Free		No change	On or before 12/31/90

907.87	8-Amino-1-naphthalenesulfonic acid and its salts (provided for in item 404.52, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.88	5-Amino-2-(p-amino-anilino) benzene-sulfonic acid (provided for in item 404.84, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.89	1-Amino-2,4-dibromo-anthraquinone; and α,α,α-Trifluoro-o-toluidine (provided for in item 404.88, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.90	1-Amino-8-hydroxy-3,6-naphthalene-disulfonic acid; 4-Amino-5-hydroxy-2,7-naphthalene-disulfonic acid, monosodium salt (H acid, monosodium salt); and 2-Amino-5-nitrophenol (provided for in item 404.92, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.91	1-Amino-4-bromo-2-anthraquinone-sulfonic acid (Bromamine acid);				

	1-Amino-4-bromo-2-anthraquinone-sulfonic acid (Bromamine acid), sodium salt; 6-Amino-4-hydroxy-2-naphthalene-sulfonic acid (Gamma acid); 3,3'-Dimethoxybenzidine (o-Dianisidine); 3,3'-Dimethoxybenzidine dihydrochloride (o-Dianisidine dihydrochloride); and 4-Methoxyaniline-2-sulfonic acid (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.92	N-(7-Hydroxy-1-naphthyl)-acetamide (provided for in item 405.28, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.93	N,N-Bis(2-cyanoethyl)-aniline (provided for in item 405.60, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.94	6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalene-disulfonic acid (Amino-J-pyrazolone) (CAS No. 7277-87-4); and 3-Methyl-1-phenyl-5-pyrazolone				

	(Methylphenyl-pyrazolone) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
907.95	2-Amino-N-ethyl-benzenesulfon-anilide (provided for in item 406.49, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
907.96	m-Sulfamino-pyrazolone m-Sulfamido-phenylmethyl-pyrazolone) (provided for in item 406.56, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1766. TUNGSTEN ORE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	911.96	Tungsten ore (provided for in item 601.54, part 1, schedule 6)	Free		No change	On or before 12/31/90	".

SEC. 1767. CHLOR AMINO BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.07	4-Chloro-2,5-dimethoxy aniline (CAS No. 6358-64-1) (provided for in item 405.01, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1768. NITRO SULFON B.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.01	2-[(3-Nitrophenyl)-sulfonyl]-ethanol (CAS No. 41687-30-3) (provided for in item 406.00, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1769. 4-CHLORO-2-NITRO ANILINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	908.02	4-Chloro-2-nitro aniline (CAS No. 89-63-4) (provided for in item 404.88, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1770. AMINO SULFON BR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.03	3-(4'-aminobenz-amido) phenyl-beta-hydroxy-ethyl sulfone (CAS No. 20241-68-3) (provided for in item 406.00, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1771. ACET QUINONE BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.04	2,5-Dimethoxy-acetanilide (CAS No. 3467-59-2) (provided for in item 405.34, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1772. DIAMINO PHENETOLE SULFATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.05	3,4-Diamino phenetole dihydrogen sulfate (CAS No. 85137-09-3) (provided for in item 405.09, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1773. CERTAIN MIXTURES OF CROSS-LINKED SODIUM POLYACRYLATE POLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.72	Mixtures of two or more organic compounds containing one or more cross-linked sodium polyacrylate polymers (provided for in item 430.20, part 2D, schedule 4).....	Free		No change	On or before 10/31/87	".

SEC. 1774. N-ETHYL-O-TOLUENESULFONAMIDE AND N-ETHYL-P-TOLUENESULFONAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.07	N-Ethyl-o-toluene-sulfonamide, and N-Ethyl-p-toluene-sulfonamide (provided for in item 409.34, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1775. SETHOXYDIM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.36	Mixtures of 2-[1-(ethoxyimino)-butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one (sethoxydim) and application adjuvants (provided for in item 407.19, part 1B, or item 430.20, part 2D of schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1776. 3-ETHYLAMINO-P-CRESOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.34	3-Ethylamino-p-cresol (provided for in item 404.96, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1777. ROSACHLORIDE LUMPS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.11	1-Amino-2-chloro-4-hydroxyanthra-quinone (provided for in item 405.07, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1778. C-AMINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.59	2-Amino-5-chloro-4-methyl-benzene-sulfonic acid; and 2-amino-5-chloro-4-ethylbenzene-sulfonic acid (provided for in item 404.88 and 404.90, respectively, part 1B, sched-						

		ule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1779. DIAMINO IMID SP.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.60	4,11-Diamino-1H-naphth[2,3-f]iso-indole-1,3,5,10(2H)-tetrone (CAS No. 128-81-4) (provided for in item 406.42, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1780. CERTAIN STUFFED TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.32	Stuffed or filled toy figures of animate objects (except dolls), not having a spring mechanism and not exceeding 25 inches in either length, width, or height (provided for in items 737.30 and 737.40, part 5E, schedule 7)....	Free		No change	On or before 12/31/90	".

SEC. 1781. KITCHENWARE OF TRANSPARENT, NONGLAZED GLASS CERAMICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	909.15	Kitchenware of glass-ceramics, nonglazed, greater than 75 percent by volume crystalline, containing lithium aluminosilicate, having a linear coefficient of expansion not exceeding 10×10^{-7} per Kelvin within a temperature range of 0° C to 300° C, transparent, haze-free, exhibiting transmittances of infrared radiations in excess of 75 percent at a wavelength of 2.5 microns when measured on a sample 3 mm. in thickness, and containing beta-quartz solid solution as the predominant crystal phase (provided for in item 534.97, part 2C, schedule 5).....	Free		No change	On or before 12/31/90	".

SEC. 1782. HOSIERY KNITTING MACHINES AND NEEDLES.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	912.28	Needles for knitting machines (provided for in items 670.58 and 670.62, part 4E, schedule 6)....	Free		No change	On or before 12/31/90	

"	912.29	Hosiery knitting machines, single cylinder fine gauge and all double cylinder (provided for in items 670.16 and 670.18, part 4E, schedule 6)....	Free		No change	On or before 12/31/90	"

(b) REPEAL.—Items 912.08 and 912.09 are repealed.

SEC. 1783. CERTAIN BICYCLE PARTS.

(a) BICYCLE TIRES AND TUBES.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.01	Bicycle tires and tubes and rim strips, the foregoing of rubber or plastics (provided for in item 732.42, part 5C, schedule 7, and items 772.48 and 772.57, part 12C, schedule 7)..	Free		No change	On or before 12/31/90	"

(b) GENERATOR LIGHTING SETS.—Item 912.05 of the Appendix is amended by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(c) BICYCLE CHAINS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.06	Bicycle chains (provided for in items 652.13 and 652.15, part 3F, schedule 6)....	Free		No change	On or before 12/31/90	"

(d) OTHER BICYCLE PARTS.—Item 912.10 of the Appendix is amended—

(1) by inserting "front and rear derailleurs, shift levers, cables and casings for derailleurs," immediately after "drum brakes,",

(2) by striking out "multiple free wheel sprockets" and inserting in lieu thereof "free wheel sprockets",

(3) by inserting "and" after "frame lugs,",

(4) by striking out ", including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle", and

(5) by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(e) CALIPER BRAKE CABLE OR INNER WIRE AND CASING.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.12	Cable or inner wire for caliper brakes and casing therefor, whether or not cut to length (provided for in items 642.08, 642.11, 642.14, 642.16, 642.18, 642.19, 642.23, and 657.25, parts 3B and 3G, schedule 6, and items 771.55 and 772.65, parts 12B and 12C, schedule 7).....	Free		No change	On or before 12/31/90	".

(f) EXCEPTION TO CUSTOMS EXEMPTION APPLICABLE TO FOREIGN TRADE ZONES.—Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "June 30, 1986" and inserting in lieu thereof "January 1, 1991".

SEC. 1784. 1,2-DIMETHYL-3,5-DIPHENYLPYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.24	1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate (difenzoquat methyl sulfate) (provided for in item 408.19, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1785. TRIALLATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.64	S-(2,3,3'-trichlorallyl)-diisopropyl-thiocarbamate (provided for in item 425.36, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1786. m-NITRO-p-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.56	m-Nitro-p-anisidine (provided for in item 405.09, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1787. DINOCAP AND MIXTURES OF DINOCAP AND MANCOZEB.

(a) DINOCAP AND APPLICATION ADJUVANTS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	907.98	Dinocap (provided for in item 408.16, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	
	907.99	Mixtures of dinocap and application adjuvants (provided for in item 408.38, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

(b) MIXTURES OF DINOCAP AND MANCOZEB.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.28	Mixtures of mancozeb and dinocap (provided for in item 408.38, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1788. m-NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.35	m-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1789. p-NITRO-O-TOLUIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence to the following new item:

"	906.37	p-Nitro-o-toluidine (provided for in item 404.88, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1790. PHENYLCARBETHOXYPYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.31	Phenylcarbethoxy-pyrazolone (provided for in item 406.39, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1791. p-NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.14	p-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1792. CARBODIIMIDES.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.70	Bis(o-tolyl) carbodiimide; 2,2',6,6'-Tetraisopropyl-diphenyl carbodiimide; Poly[nitrilo-methanete-traryl-nitrilo [2,4,6-tris(1,-methylethyl)-1,3 phenylene]], 2,6-bis(1-methylethyl) phenyl]-omega-[[[[2,6-bis(1-methylethyl) phenyl]amino] methylene]-amino]; and Benezene, 2,4-diisocyanato-1,3,5-tris(1-methylethyl)-homopolymer (provided for in item 405.53, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1793. TRIETHYLENE GLYCOL DICHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.73	Triethylene glycol dichloride (provided for in item 428.47, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1794. MIXTURES OF 5-CHLORO-2-METHYL-4-ISOTHIAZOLIN-3-ONE, 2-METHYL-4-ISOTHIAZOLIN-3-ONE, MAGNESIUM CHLORIDE, STABILIZERS AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.16	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants (provided for in item 432.28, part 2E, schedule 4).....	Free		No change	On or before 12/31/90		"

SEC. 1795. 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE, AND ON MIXTURES OF 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.17	2-n-Octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants (provided in items 425.52 and 430.20, part 2D, schedule 4)....	Free		No change	On or before 12/31/90		"

SEC. 1796. WEAVING MACHINES FOR FABRICS IN EXCESS OF 16 FEET WIDTH.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.48	Power-driven weaving machines for weaving fabrics more than sixteen feet in width, and parts thereof (provided for in item 670.14 and 670.74, part 4E, schedule 6).....	Free		No change	On or before 12/31/90		"

SEC. 1797. BARBITURIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.50	Barbituric acid (provided for in item 437.36, part 3B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1798. 3-METHYL-5-PYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.46	3-Methyl-5-pyrazolone (provided for in item 425.52, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1799. 3-METHYL-1-(P-TOLYL)-2-PYRAZOLIN-5-ONE (P-TOLYL METHYL PYRAZOLONE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.15	3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolyl methyl pyrazolone) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1800. CERTAIN OFFSET PRINTING PRESSES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	911.93	Offset printing presses of the sheet-fed type weighing 3,500 pounds or more (provided for in item 668.21, part 4D, schedule 6).....	No change		10% ad val.	On or before 12/31/90	".

SEC. 1801. FROZEN CRANBERRIES.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following item:

"	903.63	Cranberries, frozen (provided for in item 146.71, part 9B, schedule 1).....	Free			No change	On or before 12/31/90	".

SEC. 1802. m-HYDROXYBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.18	m-Hydroxybenzoic acid (provided for in item 404.40, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1803. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting in numerical sequence the following new item:

"	908.32	N1,N4,N4-Tris(2-hydroxyethyl)-2-nitro-1,4-phenylenediamine; N1,N4-Dimethyl-N1-(2-hydroxyethyl)-3-nitro-1,4-phenylenediamine; N1,N4-Dimethyl-N1-(2,3-dihydroxypropyl)-3-nitro-1,4-phenylenediamine; and N1-(2-Hydroxyethyl)-3-nitro-1,4-phenylenediamine (provided for in item 405.09, part 1B, schedule 4).....	Free			No change	On or before 12/1/90	",

(2) by inserting in numerical sequence the following new item:

"	908.33	N1-(2-Hydroxyethyl)-2-nitro-1,4-phenylenediamine (provided for in item 405.07, part 1B, schedule 4).....	Free			No change	On or before 12/1/90	",

and

(3) by inserting in numerical sequence the following new item:

"	908.34	2-Nitro-5-[(2,3-dihydroxy)-propoxy]-N-methylaniline; 2-Nitro-5-(2-hydroxy-ethoxy)-N-methylaniline; 4-[(2-Hydroxyethyl)-amino]-3-nitrophenol; 4-(2-Hydroxyeth-oxy)-1,3-phenylenedia-mine dihydrochloride; and 3-Methoxy-4-[(2-hydroxyethyl)-amino]nitro-benzene (provided for in item 405.09, part 1B, schedule 4).....	Free		No change	On or before 12/1/90	".

SEC. 1804. EXTENSION OF CERTAIN SUSPENSION PROVISIONS.

(a) PROVISIONS THAT EXPIRED BEFORE 1987.—Each of the following items are amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

(1) Item 903.65 (relating to cantaloupes).

(2) Items 905.10 and 905.11 (relating to certain wools).

(3) Items 906.10 and 906.12 (relating to needlecraft display models).

(4) Item 907.01 (relating to triphenyl phosphate).

(5) Item 907.14 (relating to isomeric mixtures of ethylbiphenyl).

(6) Item 907.17 (relating to sulfapyridine).

(7) Item 911.25 (relating to synthetic rutile).

(8) Item 911.95 (relating to certain clock radios).

(9) Item 912.07 (relating to machines designed for heat-set, stretch texturing of continuous man-made fibers).

(10) Item 912.20 (relating to certain small toys).

(11) Items 912.30, 912.34, and 912.36 (relating to stuffed dolls, certain toy figures, and skins thereof).

(12) Item 912.45 (relating to umbrella frames).

(13) Item 903.60 (relating to mixtures of mashed or macerated hot red peppers and salt).

(b) PROVISIONS EXPIRING IN 1987 OR LATER.—Each of the following items is amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

(1) Items 903.70 and 903.80 (relating to crude feathers and down).

(2) Item 905.50 (relating to surgical gowns).

(3) Item 906.50 (relating to diphenylguanidine and di-ortho-tolylguanidine).
(4) Item 906.57 (relating to m-toluic acid).
(5) Item 907.13 (relating to menthol feedstocks).
(6) Item 907.19 (relating to sulfathiazole).
(7) Item 907.21 (relating to flecainide acetate).
(8) Item 907.23 (relating to o-Benzyl-p-chlorophenol).
(9) Item 907.31 (relating to B-Naphthol).
(10) Item 907.32 (relating to 3,3'-Diaminobenzidine).
(11) Item 907.33 (relating to acetylsulfaguanidine).
(12) Item 907.34 (relating to 6-Amino-1-naphthol-3-sulfonic acid).
(13) Item 907.35 (relating to 2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid).
(14) Item 907.36 (relating to sulfamethazine).
(15) Item 907.37 (relating to sulfaguanidine).
(16) Item 907.38 (relating to sulfaquinoxaline and sulfanilamide).
(17) Item 907.63 (relating to nicotine resins).
(18) Item 907.79 (relating to iron-dextran complex).
(19) Item 909.01 (relating to natural graphite).
(20) Item 912.04 (relating to certain narrow weaving machines).
(21) Item 912.11 (relating to certain lace-braiding machines).
(22) Item 905.40 (relating to certain hovercraft skirts).
(23) Item 906.52 (relating to 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate).

(c) TECHNICAL AMENDMENTS.—
(1) Item 906.10 is amended—
(A) by striking out "365.78" and inserting in lieu thereof "365.66",
(B) by striking out "365.86" and inserting in lieu thereof "365.89",
(C) by striking out "367.34" and inserting in lieu thereof "367.32",
(D) by striking out "367.60" and inserting in lieu thereof "367.63",
(E) by striking out "386.13" and inserting in lieu thereof "386.12", and
(F) by striking out "386.50" and inserting in lieu thereof "386.53".
(2) Item 906.12 is amended by striking out "383.03, 383.08, 383.20, and 383.50" and inserting in lieu thereof "384.04, 384.09, 384.22, and 384.52".
(3) Item 907.14 is amended by striking out "407.16" and inserting in lieu thereof "407.19".
(4) Item 912.45 is amended by striking out "751.20" and inserting in lieu thereof "751.21".
(5) Item 907.21 is amended by striking out "412.12" and inserting in lieu thereof "412.11".

Subpart C—Effective Dates

SEC. 1831. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after September 30, 1988.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, any entry—

(A) which was made after the applicable date and before October 1, 1988, and

(B) with respect to which there would have been no duty or a lesser duty if any amendment made by—

(i) section 1716, 1717, 1719(b)(2), 1731, 1736, 1740, 1742(a), 1747, or 1773,

(ii) subsection (a), (b), (d), or (e) of section 1783, or

(iii) section 1804 (other than section 1804(a)(7) and paragraphs (2) and (10) of section 1804(b)),

applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this section—

(A) The term "applicable date" means—

(i) if the amendment described in paragraph (1)(B) is made by section 1717 or 1747, December 31, 1982,

(ii) if such amendment is made by section 1804(a)(1), May 15, 1985,

(iii) if such amendment is made by paragraph (2), (3), (5), or (13) of section 1804(a), June 30, 1985,

(iv) if such amendment is made by section 1773, July 1, 1985,

(v) if such amendment is made by section 1731, 1742(a), or 1804(a)(4), September 30, 1985,

(vi) if such amendment is made by section 1736, October 31, 1985,

(vii) if such amendment is made by section 1716 or by paragraph (6), (9), or (11) of section 1804(a), December 31, 1985,

(viii) if such amendment is made by section 1740, May 31, 1986,

(ix) if such amendment is made by subsection (b), (d), or (e) of section 1783, June 30, 1986,

(x) if such amendment is made by paragraph (8), (10), or (12) of section 1804(a), December 31, 1986,

(xi) if such amendment is made by section 1783(a) or 1804(b) (other than by paragraph (2) or (10) of section 1804(b)), December 31, 1987, or

(xii) if such amendment is made by section 1719(b)(2), the date that is 15 days after the date of enactment of this Act.

(B) The term "entry" includes any withdrawal from warehouse.

(c) HOSIERY KNITTING MACHINES AND NEEDLES.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989—

(1) any entry of an article described in item 912.08 of the Tariff Schedules of the United States (as in effect on September 30, 1985) that was made—

(A) after September 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on September 30, 1985; and

(2) any entry of an article described in item 912.09 of such Schedules (as in effect on June 30, 1985) that was made—

(A) after June 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on June 30, 1985.

PART II—MISCELLANEOUS PROVISIONS

SEC. 1841. CERTAIN STRUCTURES AND PARTS USED IN THE W.M. KECK OBSERVATORY PROJECT, MAUNA KEA, HAWAII.

The Secretary of the Treasury is authorized and directed to admit free of duty after September 30, 1988, the following articles for the use of the California Association for Research in Astronomy in the construction of the optical telescope for the W.M. Keck Observatory Project, Mauna Kea, Hawaii:

(1) The telescope structure.

Canada.

(2) The observatory domes, produced by Brittain Steel, Ltd., of Vancouver, British Columbia, Canada.

Federal Republic of Germany.

(3) The primary mirror blanks, produced by the Schott Glassworks, Frankfurt, Federal Republic of Germany.

If the liquidation of the entry of any such article has become final before October 1, 1988, the entry shall, notwithstanding any other provision of law, be reliquidated on October 1, 1988, in accordance with the provisions of this section and the appropriate refund of duty made at the time of such reliquidation.

SEC. 1842. RELIQUIDATION OF CERTAIN ENTRIES AND REFUND OF ANTIDUMPING DUTIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in subsection (b) shall be reliquidated on October 1, 1988, without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made on October 1, 1988.

(b) SPECIFIC ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number:	Date of Entry:
144549	March 26, 1976
150297	April 27, 1976
152729	May 11, 1976
156068	May 26, 1976
161653	June 23, 1976

Entry Number:	Date of Entry:
168759	July 30, 1976
173393	August 25, 1976
175173	September 3, 1976
178811	September 23, 1976
108842	November 18, 1976
113000	December 9, 1976
115229	December 21, 1976
120070	January 17, 1977
120908	January 20, 1977
121403	January 24, 1977
130005	March 10, 1977.

SEC. 1843. RELIQUIDATION OF CERTAIN TUBULAR TIN PRODUCTS.

Notwithstanding any provision of the Tariff Act of 1930 or any other provision of the law to the contrary, the Secretary of the Treasury shall reliquidate on or after October 1, 1988, as free of duty under item 911.12 of the Appendix to the Tariff Schedules of the United States, as in effect at the time of entry, the entries numbered 00329493 (dated March 16, 1979), 00329494 (dated March 13, 1979), 00329495 (dated March 28, 1979), and 00330003 (dated March 21, 1979), made at New York, and covering tubular tin products, if a certificate of actual use (remelt certificate) for the articles covered by the four entries is submitted to the United States Customs Service at the port of entry after September 30, 1988, and before April 1, 1989.

SEC. 1844. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER IMPORTED FOR USE IN HAWAII.

Notwithstanding any other provision of law—

(1) the entry, or withdrawal from warehouse, for consumption in October 1986 of any extracorporeal shock wave lithotripter exclusively for use in the State of Hawaii shall be free of duty and, upon a request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, shall be reliquidated in accordance with the provisions of this section, and

(2) the appropriate refund of any duties paid on such entry or withdrawal shall be made after September 30, 1988.

SEC. 1845. EXTENSION OF THE FILING PERIOD FOR RELIQUIDATION OF CERTAIN ENTRIES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned after September 30, 1988, and before April 1, 1989, the entry of any article described in item 687.70 of the Tariff Schedules of the United States which was made on or after March 1, 1985, and before November 6, 1986, shall be liquidated or reliquidated as though such entry had been made on November 6, 1986.

Subtitle H—Miscellaneous Customs, Trade, and Other Provisions

PART 1—CUSTOMS PROVISIONS

SEC. 1901. ENFORCEMENT OF THE RESTRICTIONS AGAINST IMPORTED PORNOGRAPHY.

(a) IN GENERAL.—Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended as follows:

(1) The second paragraph of subsection (a) is designated as subsection (b) and the following side heading, appropriately indented, is inserted before "Upon" at the beginning of the paragraph: "(b) ENFORCEMENT PROCEDURES.—".

(2) The second sentence of subsection (b) (as redesignated by paragraph (1)) is amended to read as follows: "Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—

"(1) the office at which such seizure took place; or

"(2) the place to which such book or matter is addressed; and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.".

(3) The following new subsections are added at the end thereof:

"(c) Notwithstanding the provisions of subsections (a) and (b), whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30 days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

Courts, U.S.

"(d) Upon motion of the United States, a court shall stay such civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter.".

19 USC 1305 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 1902. TARE ON CRUDE OIL AND PETROLEUM PRODUCTS.

(a) IN GENERAL.—Section 507 of the Tariff Act of 1930 (19 U.S.C. 1507) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(a) IN GENERAL.—The Secretary",

(2) by striking out "in no case shall there be" and inserting in lieu thereof "(except as otherwise provided in this section) there shall not be", and

(3) by adding at the end thereof the following new subsection:

"(b) CRUDE OIL AND PETROLEUM PRODUCTS.—In ascertaining tare on imports of crude oil, and on imports of petroleum products,

allowance shall be made for all detectable moisture and impurities present in, or upon, the imported crude oil or petroleum products.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after October 1, 1987. 19 USC 1507 note.

SEC. 1903. ELIGIBLE ARTICLES UNDER THE GENERALIZED SYSTEM OF PREFERENCES.

Section 503(c)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(B)) is amended to read as follows:

"(B) watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions,".

SEC. 1904. CUSTOMS BOND CANCELLATION STANDARDS.

Section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)) is amended by adding at the end thereof the following new sentence: "In order to assure uniform, reasonable, and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.".

SEC. 1905. CUSTOMS SERVICES AT PONTIAC/OAKLAND, MICHIGAN, AIRPORT.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 586) is amended— 19 USC 58b.

(1) by striking out "and" at the end of subsection (a)(1);

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3);

(3) by inserting after paragraph (1) of subsection (a) the following new paragraph:

"(2) the airport located at Pontiac/Oakland, Michigan, and"; and

(4) by striking out "20" in subsection (c).

SEC. 1906. SENSE OF CONGRESS REQUESTING THE PRESIDENT TO INSTRUCT THE SECRETARY OF THE TREASURY TO ENFORCE SECTION 307 OF THE TARIFF ACT OF 1930 WITHOUT DELAY. 19 USC 1307 note.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) its February 1983 report to the Congress on forced labor in the Union of Soviet Socialist Republics, the Department of State confirmed that Soviet forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets", and that such labor is used as an integral part of Soviet national economy;

(2) the Central Intelligence Agency has compiled a list of over three dozen products made by Soviet forced labor and imported by the United States, and that items on the September 27, 1983 list include chemicals, gold, uranium, aluminum, wood products and glassware;

(3) the International Commission on Human Rights has concluded that the Soviet Union "continues the deplorable practice of forced labor in manufacturing and construction projects" and that prisoners "are forced to work under conditions of extreme

hardship including malnutrition, inadequate shelter and clothing, and severe discipline";

(4) the Congress is on record as opposing forced labor, having enacted a prohibition (in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)) on the importation of goods made with such labor and having passed in the Ninety-eighth Congress by unanimous vote a resolution calling such practices morally reprehensible and calling upon the President to express to the Soviet Union the opposition of the United States to such policies;

(5) the prohibition enacted by the Congress declares that "goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited";

(6) there is ample knowledge of the Soviet forced labor system to require enforcement of the prohibition contained in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

(7) the delay in enforcing the law brings into question the commitment of the United States to protest the inhumane treatment of prisoners in the Soviet Gulag, an estimated ten thousand of whom are political and religious prisoners according to the Department of State.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should express to the Soviet Union in the firmest possible terms the strong moral opposition of the United States to the slave labor policies of the Soviet Union by every means possible, including refusing to permit the importation into the United States of any products made in whole or in part by such labor.

(c) PRESIDENTIAL ACTION.—The President is hereby requested to instruct the Secretary of the Treasury to enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) without delay.

SEC. 1907. IMPORT MARKING PROVISIONS.

(a) INCREASE IN PENALTY FOR VIOLATIONS OF COUNTRY-OF-ORIGIN MARKING REQUIREMENTS.—

(1) Section 304(h) of the Tariff Act of 1930 (19 U.S.C. 1304(h)) is amended to read as follows:

"(h) PENALTIES.—Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this Act shall—

"(1) upon conviction for the first violation of this subsection, be fined not more than $100,000, or imprisoned for not more than 1 year, or both; and

"(2) upon conviction for the second or any subsequent violation of this subsection, be fined not more than $250,000, or imprisoned for not more than 1 year, or both.".

19 USC 1304 note.

(2)(A) The amendment made by paragraph (1) applies with respect to acts committed on or after the date of the enactment of this Act.

(B) The conviction of a person under section 304(h) of the Tariff Act of 1930 for an act committed before the date of the enactment of this Act shall be disregarded for purposes of applying paragraph (2) of such subsection (as added by the amendment made by paragraph (1) of this subsection.

(b) MARKING OF CONTAINERS OF IMPORTED MUSHROOMS.—Imported preserved mushrooms shall not be considered to be in compliance with section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or any other law relating to the marking of imported articles unless the containers thereof indicate in English the country in which the mushrooms were grown.

(c) NATIVE-AMERICAN STYLE JEWELRY AND NATIVE-AMERICAN STYLE ARTS AND CRAFTS.—By no later than the date that is 1 year after the date of enactment of this Act, the Secretary of the Treasury shall prescribe and implement regulations under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) which require, to the greatest extent possible, that all Native-American style jewelry and Native-American style arts and crafts that are imported into the United States have the English name of the country of origin of such jewelry or arts and crafts indelibly marked in a conspicuous place on such jewelry or arts and crafts by a permanent method of marking. Regulations.

SEC. 1908. DUTY-FREE SALES ENTERPRISES.

(a) FINDINGS.—The Congress finds that— 19 USC 1555 note.

(1) duty-free sales enterprises play a significant role in attracting international passengers to the United States and thereby their operations favorably affect our balance of payments;

(2) concession fees derived from the operations of authorized duty-free sales enterprises constitute an important source of revenue for the State, local and other governmental authorities that collect such fees;

(3) there is inadequate statutory and regulatory recognition of, and guidelines for the operation of, duty-free sales enterprises; and

(4) there is a need to encourage uniformity and consistency of regulation of duty-free sales enterprises.

(b) IN GENERAL.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended to read as follows:

"(b) DUTY-FREE SALES ENTERPRISES.—

"(1) Duty-free sales enterprises may sell and deliver for export from the customs territory duty-free merchandise in accordance with this subsection and such regulations as the Secretary may prescribe to carry out this subsection.

"(2) A duty-free sales enterprise may be located anywhere within—

"(A) the same port of entry, as established under section 1 of the Act of August 24, 1912 (37 Stat. 434), from which a purchaser of duty-free merchandise departs the customs territory; or

"(B) 25 statute miles from the exit point through which the purchaser of duty-free merchandise will depart the customs territory.

"(3) Each duty-free sales enterprise—

"(A) shall establish procedures to provide reasonable assurance that duty-free merchandise sold by the enterprise will be exported from the customs territory;

"(B) if the duty-free sales enterprise is an airport store, shall establish and enforce, in accordance with such regulations as the Secretary may prescribe, restrictions on the

sale of duty-free merchandise to any one individual to personal use quantities;

"(C) shall display in prominent places within its place of business notices which state clearly that any duty-free merchandise purchased from the enterprise—

"(i) has not been subject to any Federal duty or tax,

"(ii) if brought back into the customs territory, must be declared and is subject to Federal duty and tax, and

"(iii) is subject to the customs laws and regulation of any foreign country to which it is taken;

"(D) shall not be required to mark or otherwise place a distinguishing identifier on individual items of merchandise to indicate that the items were sold by a duty-free sales enterprise, unless the Secretary finds a pattern in which such items are being brought back into the customs territory without declaration;

"(E) may unpack merchandise into saleable units after it has been entered for warehouse and placed in a duty-free sales enterprise, without requirement of further permits; and

"(F) shall deliver duty-free merchandise—

"(i) in the case of a duty-free sales enterprise that is an airport store—

"(I) to the purchaser (or a family member or companion traveling with the purchaser) in an area that is within the airport and to which access to passengers is restricted to those departing from the customs territory;

"(II) to the purchaser (or a family member or companion traveling with the purchaser) at the exit point of a specific departing flight;

"(III) by placing the merchandise within the aircraft on which the purchaser will depart for carriage as passenger baggage; or

"(IV) if the duty-free sales enterprise has made a good faith effort to effect delivery for exportation through one of the methods described in subclause (I), (II), or (III) but is unable to do so, by any other reasonable method to effect delivery; or

"(ii) in the case of a duty-free sales enterprise that is a border store—

"(I) at a merchandise storage location at or beyond the exit point; or

"(II) at any location approved by the Secretary before the date of enactment of the Omnibus Trade Act of 1987.

State and local governments.

"(4) If a State or local or other governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to or through such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to or through such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary that the concession or approval required for the enterprise has been obtained.

"(5) This subsection does not prohibit a duty-free sales enterprise from offering for sale and delivering to, or on behalf of, individuals departing from the customs territory merchandise other than duty-free merchandise, except that such other merchandise may not be stored in a bonded warehouse facility other than a bonded facility used for retail sales.

"(6) Merchandise that is purchased in a duty-free sales enterprise is not eligible for exemption from duty under subpart A of part 2 of schedule 8 of the Tariff Schedules of the United States if such merchandise is brought back to the customs territory.

"(7) The Secretary shall by regulation establish a separate class of bonded warehouses for duty-free sales enterprises. Regulations issued to carry out this paragraph shall take into account the unique characteristics of the different types of duty-free sales enterprises. Regulations.

"(8) For purposes of this subsection—

"(A) The term 'airport store' means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory from an international airport located within the customs territory.

"(B) The term 'border store' means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory through a land or water border by a means of conveyance other than an aircraft.

"(C) The term 'customs territory' means the customs territory of the United States and foreign trade zones.

"(D) The term 'duty-free sales enterprise' means a person that sells, for use outside the customs territory, duty-free merchandise that is delivered from a bonded warehouse to an airport or other exit point for exportation by, or on behalf of, individuals departing from the customs territory.

"(E) The term 'duty-free merchandise' means merchandise sold by a duty-free sales enterprise on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory.

"(F) The term 'exit point' means the area in close proximity to an actual exit for departing from the customs territory, including the gate holding area in the case of an airport, but only if there is reasonable assurance that duty-free merchandise delivered in the gate holding area will be exported from the customs territory.

"(G) The term 'personal use quantities' means quantities that are only suitable for uses other than resale, and includes reasonable quantities for household or family consumption as well as for gifts to others.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date that is 15 days after the date of enactment of this Act. 19 USC 1555 note.

SEC. 1909. CARIBBEAN BASIN INITIATIVE.

(a) FINDINGS.—The Congress finds that— 19 USC 2702 note.

(1) Caribbean and Central American countries historically have had close economic, political, and cultural ties to the United States;

(2) promoting economic and political stability in the Caribbean and Central America is in the national security interests of the United States;

(3) the economic and political stability of the nations of the Caribbean and Central America can be stengthened significantly by the attraction of foreign and domestic investment specifically devoted to employment generation; and

(4) the diversification of the economies and expansion of exports, particularly those of a non-traditional nature, of the nations of the Caribbean and Central America is linked directly to fair access to the markets of the United States.

(b) INTENT OF THE CONGRESS.—The Congress hereby expresses its intention to ensure that—

(1) the trade elements of the Caribbean Basin Initiative be strengthened in a manner consistent with the promotion of economic and political stability in the Caribbean and Central America;

(2) to the extent that Congress imposes changes that are intended to improve the competitive environment for United States industry and workers, such changes do not unduly affect the unilateral duty-free trade system available to the beneficiary countries designated under the Caribbean Basin Economic Recovery Act; and

(3) generic changes in the trade laws of the United States do not discriminate against imports from designated beneficiary countries in relation to imports from other United States trading partners.

(c) WITHDRAWAL OR SUSPENSION OF DUTY-FREE TREATMENT TO SPECIFIC ARTICLES.—Subsection (e) of section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended to read as follows:

"(e)(1) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

"(A) withdraw or suspend the designation of any country as a beneficiary country, or

"(B) withdraw, suspend, or limit the application of duty-free treatment under this subtitle to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

President of U.S. Federal Register, publication.

"(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.

"(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

"(i) accept written comments from the public regarding such proposed action,

"(ii) hold a public hearing on such proposed action, and

Federal Register, publication.

"(iii) publish in the Federal Register—

"(I) notice of the time and place of such hearing prior to the hearing, and

"(II) the time and place at which such written comments will be accepted.".

SEC. 1910. ETHYL ALCOHOL AND MIXTURES FOR FUEL USE.

(a) IN GENERAL.—Subsection (b) of section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703, note) is amended—

(1) by striking out "and 1988" in paragraphs (1) and (2) and inserting in lieu thereof ", 1988, and 1989",

(2) by striking out "an insular possession of the United States or" in paragraph (1)(A),

(3) by striking out "January 1, 1986, or" in paragraph (1)(A) and inserting in lieu thereof "July 1, 1987,",

(4) by inserting "or an insular possession of the United States" after "beneficiary country" in paragraph (1)(B)(ii)(II),

(5) by striking out the period at the end of paragraph (1)(B) and inserting in lieu thereof ", or",

(6) by inserting the following new subparagraph after subparagraph (B) of paragraph (1):

"(C) a distillation facility operated by a corporation which, before the date of enactment of the Omnibus Trade Act of 1987—

"(i) has completed engineering and design of a full-scale fermentation facility in the United States Virgin Islands, and Virgin Islands.

"(ii) has obtained authorization from authorities of the United States Virgin Islands to operate a full-scale fermentation facility.", and

(7) by striking out "or (B)" in paragraph (2) and inserting in lieu thereof ", (B), or (C)".

(b) STUDIES.—

(1) The United States International Trade Commission and the Comptroller General of the United States shall each immediately undertake a study regarding whether the definition of indigenous ethyl alcohol or mixtures thereof used in applying section 423 of the Tax Reform Act of 1986 is consistent with, and will contribute to the achievement of, the stated policy of Congress to encourage the economic development of the beneficiary countries under the Caribbean Basin Economic Recovery Act and the insular possessions of the United States through the maximum utilization of the natural resources of those countries and possessions. Each study shall specifically include—

(A) an assessment regarding whether the indigenous product percentage requirements set forth in subsection (c)(2)(B) of such section 423 are economically feasible for ethyl alcohol producers; and

(B) if the assessment under subparagraph (A) is negative, recommended modifications to the indigenous product percentage requirements that—

(i) will ensure meaningful production and employment in the region,

(ii) will discourage pass-through operations, and

(iii) will not result in harm to producers of ethyl alcohol, or mixtures thereof, in the United States; and

(C) an assessment of the effects of imports of ethyl alcohol, and mixtures thereof, from such beneficiary countries and possessions on producers of ethyl alcohol, and mixtures thereof, in the United States.

Reports.

(2) The United States International Trade Commission and the Comptroller General of the United States shall each submit a report containing the findings and conclusions of the study carried out under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before the 180th day after the date of the enactment of this Act.

SEC. 1911. ENFORCEMENT OF RESTRICTIONS ON IMPORTS FROM CUBA.

The United States Trade Representative shall request that all relevant agencies prepare appropriate recommendations for improving the enforcement of restrictions on the importation of articles from Cuba. Such recommendations should include, but not be limited to, appropriate measures to prevent indirect shipments or other means of circumvention. The United States Trade Representative shall, after considering such recommendations, report to the Congress, within 90 days after the date of enactment of this Act, on any administrative measures or proposed legislation which the United States Trade Representative considers necessary and appropriate to enforce restrictions on imports from Cuba.

Reports.

SEC. 1912. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by striking out "beginning on the date of the enactment of this section, and ending on September 30, 1987," in subsection (c) and inserting in lieu thereof "described in subsection (a) for which the fund is available to the United States Customs Service,", and

(2) by striking out "private citizens" in subsection (a)(iii) and inserting in lieu thereof "private persons".

PART 2—MISCELLANEOUS TRADE PROVISIONS

SEC. 1931. TRADE STATISTICS.

(a) REPORTING OF IMPORT STATISTICS.—Subsection (e) of section 301 of title 13, United States Code, is amended by striking out the last sentence thereof.

13 USC 301 note.

(b) VOLUMETRIC INDEX.—

(1) The Director of the Census, in consultation with the Director of the Bureau of Economic Analysis and the Commissioner of Labor Statistics, shall conduct a study to determine the feasibility of developing, and of publishing, an index that measures the real volume of merchandise trade on a monthly basis, which would be reported simultaneously with the balance of merchandise trade for the United States.

Reports.

(2) The Director of the Census shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under paragraph (1) by no later than the date that is one year after the date of enactment of this Act.

SEC. 1932. ADJUSTMENT OF TRADE STATISTICS FOR INFLATION AND DEFLATION.

Subsection (e) of section 301 of title 13, United States Code, is amended by adding at the end thereof the following new sentence: "The information required to be reported under this subsection shall

be reported in a form that is adjusted for economic inflation or deflation (on a constant dollar basis consistent with the reporting of the National Income and Product Accounts), and in a form that is not so adjusted.".

SEC. 1933. COAL EXPORTS TO JAPAN.

It is the sense of the Congress that—

(1) the objectives of the November 1983 Joint Policy Statement on Energy Cooperation, as it relates to United States exports of coal to Japan, have not been achieved;

(2) the President should seek to establish reciprocity with Japan with respect to metallurgical coal exports and steel product imports and should encourage increased purchases by Japan of United States steam coal;

(3) the President should direct the United States Trade Representative, in negotiating a Steel Trade Arrangement with Japan, to take into consideration, consistent with the President's steel program, the amount of coal that Japan purchases from the United States in determining the level of steel, semi-finished steel and fabricated structured steel products that can be imported into the United States; and

(4) the President should report to the Congress by November 1, 1988 regarding the results of the outcome of any negotiation undertaken in response to this section.

SEC. 1934. PURCHASES OF UNITED STATES-MADE AUTOMOTIVE PARTS BY JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) the United States merchandise trade deficit reached the unprecedented level of $170,000,000,000 in 1986;

(2) the United States trade deficit with Japan, which reached $59,000,000,000 in 1986, accounted for approximately one-third of the total deficit;

(3) approximately one-half of the United States trade deficit with Japan was in motor vehicles and equipment;

(4) while Japanese automobile firms based in Japan produced 7,800,000 passenger cars in 1986 and exported 2,300,000 cars to the United States, United States exports of auto parts to Japan were only about $300,000,000 in 1986;

(5) United States automotive parts producers meet increasingly rigorous requirements for quality, just-in-time supply, and competitive pricing in the United States market; and

(6) the market-oriented sector specific (MOSS) talks on auto parts are aimed at overcoming substantial market access barriers and increasing the access of United States auto parts producers to the original and replacement parts market represented by Japanese automobiles produced in Japan, the United States, and third countries.

(b) SENSE OF CONGRESS.—The Congress—

(1) strongly supports efforts being made by United States negotiators to expand significantly the opportunities for United States automotive parts producers to supply original and replacement parts for Japanese automobiles, wherever those automobiles may be produced; and

(2) determines that success of the MOSS talks will be measured by a significant increase in sales by United States auto parts companies to Japanese vehicle companies and the

initiation of long-term sourcing relationships between such companies.

(c) REPORT ON OUTCOME.—The United States Trade Representative and the Secretary of Commerce shall report to Congress at the conclusion of the MOSS talks on the outcome of the talks and on any agreements reached with Japan with respect to purchases by Japanese firms of United States automotive parts.

SEC. 1935. EFFECT OF IMPORTS ON CRUDE OIL PRODUCTION AND REFINING CAPACITY IN THE UNITED STATES.

Reports.

The Secretary of Energy shall send to the Secretary of Commerce the results of the study conducted under section 3102 of the Omnibus Budget Reconciliation Act of 1986. Within 180 days of the receipt of the results of such study, the Secretary of Commerce shall report to the President and the Congress recommendations for actions which may be appropriate to address any impact of imports of crude oil and petroleum products on domestic crude oil exploration and production and the domestic petroleum refining capacity.

SEC. 1936. STUDY OF TRADE BARRIERS ESTABLISHED BY AUTO PRODUCING COUNTRIES TO AUTO IMPORTS AND THE IMPACT ON THE UNITED STATES MARKET.

(a) STUDY.—The United States Trade Representative shall conduct a study of formal and informal barriers which auto producing countries have established toward automobile imports and the impact of such barriers on diverting automobile imports into the United States. The study shall consider the impact of such barriers on automobile imports into the United States in the presence of, and in the absence of, voluntary restraint agreements between the United States and Japan.

(b) REPORT.—The United States Trade Representative shall include the findings of the study conducted under subsection (a) in the first report that is submitted under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241) after the date of enactment of this Act.

SEC. 1937. LAMB MEAT IMPORTS.

Within 15 days after the date of the enactment of this Act, the United States International Trade Commission, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), shall monitor and investigate for a period of 2 years the importation into the United States of articles provided for in item 106.30 of the Tariff Schedules of the United States (19 U.S.C. 1202) (relating to fresh, chilled, and frozen lamb meat). For purposes of any request made under subsection (d) of section 202 of the Trade Act of 1974 (as amended by section 1401 of this Act) within such 2-year period for provisional relief with respect to imports of such articles, the monitoring and investigation required under this section shall be treated as having been requested by the United States Trade Representative under paragraph (1)(B) of such subsection.

PART 3—OTHER PROVISIONS

SEC. 1941. WINDFALL PROFIT TAX REPEAL.

26 USC 4986–4998.

(a) IN GENERAL.—Chapter 45 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Sections 6050C, 6076, 6232, 6429, 6430, and 7241 of the Internal Revenue Code of 1986 are repealed.

(2)(A) Subsection (a) of section 164 of such Code is amended by striking paragraph (4) and redesignating the subsequent paragraphs as paragraphs (4) and (5), respectively.

(B) The following provisions of such Code are each amended by striking "44, or 45" each place it appears and inserting "or 44":

(i) section 6211(a),
(ii) section 6211(b)(2),
(iii) section 6212(a),
(iv) section 6213(a),
(v) section 6213(g),
(vi) section 6214(c),
(vii) section 6214(d),
(viii) section 6161(b)(1),
(ix) section 6344(a)(1), and
(x) section 7422(e).

(C) Subsection (a) of section 6211 of such Code is amended by striking "44, and 45" and inserting "and 44".

(D) Subsection (b) of section 6211 of such Code is amended by striking paragraphs (5) and (6).

(E) Paragraph (1) of section 6212(b) of such Code is amended—

(i) by striking "chapter 44, or chapter 45" and inserting "or chapter 44", and

(ii) by striking "chapter 44, chapter 45, and this chapter" and inserting "chapter 44, and this chapter".

(F) Paragraph (1) of section 6212(c) of such Code is amended—

(i) by striking "of chapter 42 tax" and inserting "or of chapter 42 tax", and

(ii) by striking ", or of chapter 45 tax for the same taxable period".

(G) Subsection (e) of section 6302 of such Code is amended—

(i) by striking "(1) For" and inserting "For", and

(ii) by striking paragraph (2).

(H) Section 6501 of such Code is amended by striking the subsection relating to special rules for windfall profit tax.

(I) Section 6511 of such Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(J) Subsection (a) of section 6512 of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(K) Paragraph (1) of section 6512(b) of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(L) Section 6611 of such Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(M) Subsection (d) of section 6724 of such Code is amended—

(i) by striking clause (i) in paragraph (1)(B) and redesignating clauses (ii) through (x) as clauses (i) through (ix), respectively, and

(ii) by striking subparagraphs (A) and (K) of paragraph (2) and redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (L), (M), (N), (O), (P), (Q), (R), (S), and (T) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), and (R), respectively.

26 USC 6862. (N) Subsection (a) of section 6862 of such Code is amended by striking "44, and 45" and inserting "and 44".

(O) Section 7512 of such Code is amended—

(i) by striking ", by chapter 33, or by section 4986" in subsections (a) and (b) and inserting "or chapter 33", and

(ii) by striking ", chapter 33, or section 4986" in subsections (b) and (c) and inserting "or chapter 33".

(3)(A) The table of contents of subtitle D of such Code is amended by striking the item relating to chapter 45.

(B) The table of contents of subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050C.

(C) The table of contents of part V of such subchapter is amended by striking the item relating to section 6076.

(D) The table of contents of subchapter C of chapter 63 of such Code is amended by striking the item relating to section 6232.

(E) The table of contents of subchapter B of chapter 65 of such Code is amended by striking the items relating to sections 6429 and 6430.

(F) The table of contents of part II of subchapter A of chapter 75 of such Code is amended by striking the item relating to section 7241.

(4)(A) Section 280D of such Code is repealed.

(B) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 280D.

(5) Paragraph (4) of section 291(b) of such Code is amended to read as follows:

"(4) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means, with respect to any taxable year, any producer of crude oil to whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d)."

(6)(A) Paragraph (3) of section 6654(f) of such Code is amended to read as follows:

"(3) the credits against tax provided by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

(B) Subparagraph (B) of section 6655(g)(1) of such Code is amended to read as follows:

"(B) the credits against tax provided by part IV of subchapter A of chapter 1."

(7) Subparagraph (A) of section 193(b)(3) of such Code is amended by striking "section 4996(b)(8)(C)" and inserting "section 4996(b)(8)(C) as in effect before its repeal".

26 USC 164 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to crude oil removed from the premises on or after the date of the enactment of this Act.

TITLE II—EXPORT ENHANCEMENT

Export Enhancement Act of 1988. 15 USC 4701 note.

SEC. 2001. SHORT TITLE.

This title may be referred to as the "Export Enhancement Act of 1988".

Subtitle A—Trade and Foreign Policy

PART I—RELATIONS WITH CERTAIN COUNTRIES

SEC. 2101. UNITED STATES-MEXICO FRAMEWORK AGREEMENT ON TRADE AND INVESTMENT.

(a) FINDINGS.—The Congress finds that the Bilateral Framework Agreement on Trade and Investment, entered into by the United States and Mexico on November 6, 1987—

(1) provides a useful vehicle for the management of bilateral trade and investment relations, based on shared principles and objectives;

(2) establishes procedures for consultation by the two countries on matters of bilateral trade and investment, and should facilitate resolution of disputes on these matters; and

(3) has led to negotiations between the two countries on important issues, and should continue to facilitate such negotiations.

(b) FURTHER IMPLEMENTATION OF THE AGREEMENT.—Within the context of the Bilateral Framework Agreement on Trade and Investment, the President is urged to continue to pursue consultations with representatives of the Government of Mexico for the purposes of implementing the Agreement and achieving an expansion of mutually beneficial trade and investment.

SEC. 2102. RELATIONS WITH COUNTRIES PROVIDING OFFENSIVE WEAPONRY TO BELLIGERENT COUNTRIES IN THE PERSIAN GULF REGION.

It is the sense of the Congress that the President should use all available appropriate leverage to persuade all countries to desist from any further transfers of offensive weaponry, such as Silkworm missiles, to any belligerent country in the Persian Gulf region.

PART II—FAIR TRADE IN AUTO PARTS

Fair Trade in Auto Parts Act of 1988. 15 USC 4701 note.

SEC. 2121. SHORT TITLE.

This part may be referred to as the "Fair Trade in Auto Parts Act of 1988".

15 USC 4701.

SEC. 2122. DEFINITION.

For purposes of this part, the term "Japanese markets" refers to markets, including those in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

15 USC 4702.

SEC. 2123. ESTABLISHMENT OF INITIATIVE ON AUTO PARTS SALES TO JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall establish an initiative to increase the sale of United States-made auto parts and accessories to Japanese markets.

(b) FUNCTIONS.—In carrying out this section, the Secretary shall—

(1) foster increased access for United States-made auto parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States auto parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States auto parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies, or practices, whether public or private, that result in barriers to increased commerce between United States auto parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made auto parts in Japanese markets; and

Reports.

(7) submit annual written reports or otherwise report annually to the Congress on the sale of United States-made auto parts in Japanese markets, including the extent to which long-term, commercial relationships exist between United States auto parts manufacturers and Japanese automobile manufacturers.

15 USC 4703.

SEC. 2124. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTO PARTS SALES IN JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this part.

(b) ESTABLISHMENT OF COMMITTEE.—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this part.

(c) FUNCTIONS.—The Special Advisory Committee established under subsection (b) shall—

Reports.

(1) report to the Secretary of Commerce on barriers to sales of United States-made auto parts and accessories in Japanese markets;

(2) review and consider data collected on sales of United States-made auto parts and accessories in Japanese markets;

(3) advise the Secretary of Commerce during consultations with the Government of Japan on issues concerning sales of United States-made auto parts in Japanese markets;

(4) assist in establishing priorities for the initiative established under section 2123, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting, or otherwise report to the Congress as requested, on the progress of sales of United States-made auto parts in Japanese markets.

(d) AUTHORITY.—The Secretary of Commerce shall draw on existing budget authority in carrying out this part.

SEC. 2125. EXPIRATION DATE. 15 USC 4704.

The authorities under this part shall expire on December 31, 1993.

Subtitle B—Export Enhancement

PART I—GENERAL PROVISIONS

SEC. 2201. COMMERCIAL PERSONNEL AT THE AMERICAN INSTITUTE OF TAIWAN. 22 USC 3310a.

The American Institute of Taiwan shall employ personnel to perform duties similar to those performed by personnel of the United States and Foreign Commercial Service. The number of individuals employed shall be commensurate with the number of United States personnel of the Commercial Service who are permanently assigned to the United States diplomatic mission to South Korea.

SEC. 2202. COUNTRY REPORTS ON ECONOMIC POLICY AND TRADE PRACTICES. 15 USC 4711.

The Secretary of State shall, not later than January 31 of each year, prepare and transmit to the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives, to the Committee on Foreign Relations and the Committee on Finance of the Senate, and to other appropriate committees of the Congress, a detailed report regarding the economic policy and trade practices of each country with which the United States has an economic or trade relationship. The Secretary may direct the appropriate officers of the Department of State who are serving overseas, in consultation with appropriate officers or employees of other departments and agencies of the United States, including the Department of Agriculture and the Department of Commerce, to coordinate the preparation of such information in a country as is necessary to prepare the report under this section. The report shall identify and describe, with respect to each country—

(1) the macroeconomic policies of the country and their impact on the overall growth in demand for United States exports;

(2) the impact of macroeconomic and other policies on the exchange rate of the country and the resulting impact on price competitiveness of United States exports;

(3) any change in structural policies (including tax incentives, regulations governing financial institutions, production standards, and patterns of industrial ownership) that may affect the country's growth rate and its demand for United States exports;

(4) the management of the country's external debt and its implications for trade with the United States;

(5) acts, policies, and practices that constitute significant barriers to United States exports or foreign direct investment in that country by United States persons, as identified under section 181(a)(1) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1));

(6) acts, policies, and practices that provide direct or indirect government support for exports from that country, including exports by small businesses;

(7) the extent to which the country's laws and enforcement of those laws afford adequate protection to United States intellectual property, including patents, trademarks, copyrights, and mask works; and

(8) the country's laws, enforcement of those laws, and practices with respect to internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974), the conditions of worker rights in any sector which produces goods in which United States capital is invested, and the extent of such investment.

SEC. 2203. OVERSEAS PRIVATE INVESTMENT CORPORATION.

22 USC 2191 note.

(a) REAFFIRMATION OF SUPPORT FOR OPIC.—The Congress reaffirms its support for the Overseas Private Investment Corporation as a United States Government agency serving important development assistance goals. In order to enhance the Corporation's ability to meet these goals, the Overseas Private Investment Corporation should increase its loan guaranty and direct investment programs.

Loans.

(b) INCREASE IN GUARANTIES AND DIRECT INVESTMENTS.—

(1) LOAN GUARANTIES.—Section 235(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)) is amended—

(A) in paragraph (2) by striking "$750,000,000" and inserting "$1,000,000,000";

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) Subject to paragraphs (2), (3), and (4), the Corporation shall issue guaranties under section 234(b) having an aggregate contingent liability with respect to principal of not less than $200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such guaranties.".

(2) DIRECT INVESTMENT.—Section 235(b) of the Foreign Assistance Act of 1961 is amended—

(A) by striking the comma after "Act of 1981" and inserting a period; and

(B) by striking "and the Corporation shall use" and all that follows through "funding" and inserting the following: "The Corporation shall make loans under section 234(c) in an aggregate amount of not less than $25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such loans".

(c) OPERATIONS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION IN THE PEOPLE'S REPUBLIC OF CHINA.—Section 231A(a) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new paragraph:

22 USC 2191a.

"(4) In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 502(a)(4) of the Trade Act of 1974.".

SEC. 2204. TRADE AND DEVELOPMENT PROGRAM.

22 USC 2421 note.

(a) REAFFIRMATION OF SUPPORT FOR TRADE AND DEVELOPMENT PROGRAM.—The Congress reaffirms its support for the Trade and Development Program, and believes that the Program's ability to

support high priority development projects in developing countries would be enhanced by an increase in the funds authorized for the Program as well as by a clarification of the Program's status as a separate component of the International Development Cooperation Agency.

(b) AUTHORIZATION AND USES OF FUNDS; ESTABLISHMENT AS SEPARATE AGENCY.—

(1) ADDITIONAL USES OF FUNDS.—Section 661(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(a)) is amended by inserting after the first sentence the following: "Funds under this section may be used to provide support for project planning, development, management, and procurement for both bilateral and multilateral projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States exports in such projects.".

(2) ESTABLISHMENT AS A SEPARATE AGENCY.—Section 661 of that Act is amended—

(A) by redesignating subsection (b) as subsection (d); and

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

"(b)(1) The purposes of this section shall be carried out by the Trade and Development Program, which shall be a separate component agency of the International Development Cooperation Agency. The Trade and Development Program shall not be an agency within the Agency for International Development or any other component agency of the International Development Cooperation Agency.

"(2) There shall be at the head of the Trade and Development Program a Director. Any individual appointed as the Director on or after January 1, 1989, shall be appointed by the President, by and with the advice and consent of the Senate. President of U.S.

"(3) The Trade and Development Program should serve as the primary Federal agency to provide information to persons in the private sector concerning trade development and export promotion related to bilateral development projects. The Trade and Development Program shall cooperate with the Office of International Major Projects of the Department of Commerce in providing information to persons in the private sector concerning trade development and export promotion related to multilateral development projects. Other Federal departments and agencies shall cooperate with the Trade and Development Program in order for the Program to more effectively provide informational services in accordance with this paragraph.

"(4) The Director of the Trade and Development Program shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Program in the preceding fiscal year. Reports.

"(c) The Director of the Trade and Development Program shall, by regulation, establish an advisory board which shall include representatives of the private sector. The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Program.". Regulations.

(3) FUNDING LEVELS.—In addition to funds otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961—

(A) not less than $5,000,000 and not more than $10,000,000 for fiscal year 1988 shall be made available for such purposes, half of which shall be derived from amounts

available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year; and

(B) not less than $5,000,000 and not more than $10,000,000 for fiscal year 1989 shall be made available for such purposes, half of which shall be derived from amounts available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year.

(4) ADDITIONAL FUNDING.—(A) In addition to the amounts otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961 (including amounts available under paragraph (3) of this subsection) for fiscal years 1988 and 1989, there are authorized to be appropriated $10,000,000 for each such fiscal year for education and training programs undertaken in connection with projects under section 661 of that Act, including the operating expenses incurred in implementing such programs. Particular emphasis shall be placed on including in such programs nationals from the People's Republic of China and the Republic of China (Taiwan). Assistance may be provided for education and training under this paragraph only if there is a reasonable expectation that such education and training will result in increased exports from the United States and will not have a negative impact on employment in the United States.

Education.

Education.

(B) Of the funds made available to carry out subparagraph (A), 50 percent of such funds shall be available only for education and training programs administered in the United States by small business concerns as defined under section 3 of the Small Business Act (15 U.S.C. 632).

(c) AUTHORITIES UNDER THE TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—

(1) TRANSFER OF FUNCTIONS FROM AID TO TDP.—(A) Section 644 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q) is amended—

(i) in subsection (a)(2) by striking "Agency for International Development" and inserting "Trade and Development Program";

(ii) in subsection (a)(3)(A)—

(I) by striking "offered by the Agency for International Development" and inserting "made available under section 645(d) of this Act"; and

(II) by striking "Agency for International Development" and inserting "Trade and Development Program"; and

(iii) in subsection (d)—

(I) by striking "offered by the Agency for International Development" and inserting "made available under section 645(d) of this Act"; and

(II) by striking "subsections (c) and (d) of section 645" and inserting "section 645(c)".

(B) Section 645 of that Act (12 U.S.C. 635r) is amended—

(i) in the section heading by striking "IN THE AGENCY FOR INTERNATIONAL DEVELOPMENT" and inserting "ADMINISTERED BY THE TRADE AND DEVELOPMENT PROGRAM";

(ii) in subsection (a)—

(I) by striking "Administrator of the Agency for International Development shall establish within the Agency" and inserting "Director of the Trade and Development Program shall carry out";

(II) in paragraph (1) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)";

(III) in paragraph (1) by striking "Agency for International Development" and inserting "Trade and Development Program";

(IV) in paragraph (2) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)"; and

(V) in paragraph (2) by striking "Agency for International Development" and inserting "Trade and Development Program";

(iii) in subsection (c)—

(I) in paragraph (1) by striking "of the Agency for International Development"; and

(II) in paragraph (2) by striking "Administrator of the Agency for International Development" and inserting "Director of the Trade and Development Program"; and

(iv) by amending subsection (d) to read as follows:

"(d) Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 may be used by the Director of the Trade and Development Program, with the concurrence of the Secretary of State (as provided under section 531 of the Foreign Assistance Act of 1961), for the purposes for which funds made available under this subsection are authorized to be used in section 644 and this section. The Secretary of State shall exercise his authority in cooperation with the Administrator of the Agency for International Development. Funds made available pursuant to this subsection may be used to finance a tied aid credit activity in any country eligible for tied aid credits under this Act.".

(2) FUNCTIONS OF NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES.—Section 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635s) is amended by adding at the end the following:

"(b) The Trade and Development Program shall be represented at any meetings of the National Advisory Council on International Monetary and Financial Policies for discussion of tied aid credit matters, and the representative of the Trade and Development Program at any such meeting shall have the right to vote on any decisions of the Advisory Council relating to tied aid credit matters.".

(d) ADMINISTRATIVE PROVISIONS.—

(1) PAY OF DIRECTOR OF TDP.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director, Trade and Development Program.".

(2) TRANSITION PROVISIONS.—(A) The Administrator of the Agency for International Development shall transfer to the Director of the Trade and Development Program all records,

Records. Contracts. 12 USC 635q note.

contracts, applications, and any other documents or information in connection with the functions transferred by virtue of the amendments made by subsection (c)(1).

(B) All determinations, regulations, and contracts—

(i) which have been issued, made, granted, or allowed to become effective by the President, the Agency for International Development, or by a court of competent jurisdiction, in the performance of the functions transferred by virtue of the amendments made by subsection (c)(1), and

(ii) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Director of the Trade and Development Program, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(C)(i) The amendments made by subsection (c)(1) shall not affect any proceedings, including notices of proposed rulemaking, or any application for any financial assistance, which is pending on the effective date of this section before the Agency for International Development in the exercise of functions transferred by virtue of the amendments made by subsection (c)(1). Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(ii) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Trade and Development Program or other authorized official, by a court of competent jurisdiction, or by operation of law.

(iii) Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(iv) The Director of the Trade and Development Program is authorized to issue regulations providing for the orderly transfer to the Trade and Development Program of proceedings continued under this subparagraph.

(D) With respect to any function transferred by virtue of the amendments made by subsection (c)(1) and exercised on or after the effective date of this section, reference in any other Federal law to the Agency for International Development or any officer shall be deemed to refer to the Trade and Development Program or other official to which such function is so transferred.

15 USC 4712.

SEC. 2205. BARTER AND COUNTERTRADE.

(a) INTERAGENCY GROUP.—

President of U.S.

(1) ESTABLISHMENT.—The President shall establish an interagency group on countertrade, to be composed of representatives of such departments and agencies of the United States as the President considers appropriate. The Secretary of Commerce shall be the chairman of the interagency group.

(2) FUNCTIONS.—It shall be the function of the interagency group to—

(A) review and evaluate—

(i) United States policy on countertrade and offsets, in light of current trends in international countertrade and offsets and the impact of those trends on the United States economy;

(ii) the use of countertrade and offsets in United States exports and bilateral United States foreign economic assistance programs; and

(iii) the need for and the feasibility of negotiating with other countries, through the Organization for Economic Cooperation and Development and other appropriate international organizations, to reach agreements on the use of countertrade and offsets; and

(B) make recommendations to the President and the Congress on the basis of the review and evaluation referred to in subparagraph (A).

(3) SHARING OF INFORMATION.—Other departments and agencies of the United States shall provide to the interagency group such information available to such departments and agencies as the interagency group may request, except that the requirements, including penalties for violation thereof, for preserving the confidentiality of such information which are applicable to the officials, employees, experts, or consultants of such departments and agencies shall apply in the same manner to each member of the interagency group and to any other person performing any function under this subsection. Classified information.

(b) OFFICE OF BARTER.—

(1) ESTABLISHMENT—There is established, within the International Trade Administration of the Department of Commerce, the Office of Barter (hereafter in this section referred to as the "Office").

(2) DIRECTOR.—There shall be at the head of the Office a Director, who shall be appointed by the Secretary of Commerce.

(3) STAFF.—The Secretary of Commerce shall transfer such staff to the Office as the Secretary determines is necessary to enable the Office to carry out its functions under this section.

(4) FUNCTIONS.—It shall be the function of the Office to—

(A) monitor information relating to trends in international barter;

(B) organize and disseminate information relating to international barter in a manner useful to business firms, educational institutions, export-related Federal, State, and local government agencies, and other interested persons, including publishing periodic lists of known commercial opportunities for barter transactions beneficial to United States enterprises; Public information. State and local governments. Education.

(C) notify Federal agencies with operations abroad of instances where it would be beneficial to the United States for the Federal Government to barter Government-owned surplus commodities for goods and services purchased abroad by the Federal Government; and

(D) provide assistance to enterprises seeking barter and countertrade opportunities.

SEC. 2206. PROTECTION OF UNITED STATES INTELLECTUAL PROPERTY.

It is the sense of the Congress that—

(1) the Secretary of State should urge international technical organizations, such as the World Intellectual Property

Organization, to provide expertise and cooperate fully in developing effective standards, in the General Agreement on Tariffs and Trade, for the international protection of intellectual property rights; and

(2) development assistance programs administered by the Agency for International Development, especially the reimbursable development program, should, in cooperation with the Copyright Office and the Patent and Trademark Office, include technical training for officials responsible for the protection of patents, copyrights, trademarks, and mask works in those countries that receive such development assistance.

SEC. 2207. REPORT ON WORKER RIGHTS.

The Secretary of State shall conduct an in-depth study with a view to improving the breadth, content, and utility of the annual reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 regarding the status of internationally recognized worker rights in foreign countries. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the findings of such study and shall include in the report recommendations for upgrading the capacity of the United States Government to monitor and report on other countries' respect for such rights.

SEC. 2208. JAPANESE IMPORTATION OF MANUFACTURED GOODS FROM LESS DEVELOPED COUNTRIES.

(a) FINDINGS.—The Congress finds that—

(1) Japan's merchandise trade surplus rose from $62,000,000,000 in fiscal year 1985 to $101,000,000,000 in fiscal year 1986;

(2) these surpluses pose a grave threat to the free trade system;

(3) Japan's most important contribution to the international trading system would be to commit itself as a nation to import with vigor, just as it has exported with vigor in recent decades;

(4) Japan should particularly increase its imports of manufactured goods; and

(5) Japan's share of the exports of less developed countries has declined from 10.6 percent in 1979 to below 8 percent in 1985.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) by taking its proportionate share of the manufactured exports of developing countries, Japan will promote not only its economic development but the economic conditions conducive to democracy;

(2) expanding markets for the manufactured exports of less developed countries will directly benefit the United States, and, if less developed countries are able to increase exports to Japan, these countries will be able to earn more of the hard currency needed to service their foreign debt obligations and make the investments necessary to chart a course of solid economic growth; and

(3) if less developed countries are able to export manufactured goods to Japan, they will be under less pressure to divert exports to the United States market.

SEC. 2209. JAPAN AND THE ARAB BOYCOTT OF ISRAEL.

It is the sense of the Congress that the United States should encourage the Government of Japan in its efforts to expand trade relations with Israel and to end compliance by Japanese commercial enterprises with the Arab economic boycott of Israel.

SEC. 2210. FACILITATION OF JEWELRY TRADE.

It is the sense of the Congress that the United States should become a party to the Convention on the Control and Marking of Articles of Precious Metals in order to facilitate the efforts of the United States jewelry industry in penetrating foreign markets.

SEC. 2211. LOAN GUARANTEES.

Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended by adding at the end the following:

"(i)(1) To carry out the purposes of subsection (a), in addition to the other authorities set forth in this section, the agency primarily responsible for administering this part is authorized to issue guarantees on such terms and conditions as it shall determine assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

"(2) Loans guaranteed under this subsection shall be on such terms and conditions as the agency may prescribe, except for the following:

"(A) The agency shall issue guarantees only when it is necessary to alleviate a credit market imperfection.

"(B) Loans guaranteed shall provide for complete amortization within a period not to exceed ten years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than ten years, within a period not to exceed such useful life.

"(C) No loan guaranteed to any one borrower may exceed 50 percent of the cost of the activity to be financed, or $3,000,000, whichever is less, as determined by the agency.

"(D) No loan may be guaranteed unless the agency determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

"(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the revolving fund account as part of the guarantee reserve established under paragraph (5) of this subsection. Fees shall be assessed at a level such that the fees received, plus the funds from the revolving fund account placed in the guarantee reserve, satisfy the requirements of paragraph (5). Fees shall be reviewed every twelve months to ensure that the fees assessed on new loan guarantees are at the required level.

"(F) Any guarantee shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying loan as contracted qualifies for such guarantee. Except for fraud or material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

"(G) The agency shall determine that the standards used by the lender for assessing the credit risk of new and existing

guaranteed loans are reasonable. The agency shall require that there be a reasonable assurance of repayment before credit assistance is extended.

"(H) Commitments to guarantee loans may be made by the agency only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations Acts.

"(3) To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are authorized to maintain an appropriate reserve.

"(4) The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

"(5) The agency shall segregate in the revolving fund account and hold as a reserve an amount estimated to be sufficient to cover the agency's expected net liabilities on the loan guarantees outstanding under this subsection; except that the amount held in reserve shall not be less than 25 percent of the principal amount of the agency's outstanding contingent liabilities on such guarantees. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the revolving fund account and next out of other funds made available for this purpose.".

American Aid to Poland Act of 1988.
7 USC 1421 note.

PART II—ASSISTANCE TO POLAND

SEC. 2221. SHORT TITLE.

This part may be cited as the "American Aid to Poland Act of 1988".

SEC. 2222. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) FUNDING.—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) DEFINITION.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

7 USC 1431 note.

SEC. 2223. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission

described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains; and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. USE OF POLISH CURRENCIES. 7 USC 1431 note.

(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

SEC. 2225. ELIGIBLE ACTIVITIES.

Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 is amended by adding at the end the following: "In addition, foreign currency proceeds generated in Poland may also be used by such agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include— 7 USC 1431.

"(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children; Handicapped persons. Children and youth.

"(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland; and

"(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture.". Agriculture and agricultural commodities.

SEC. 2226. JOINT COMMISSION. 7 USC 1431 note.

(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the

Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 2227. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

Subtitle C—Export Promotion

15 USC 4721.

SEC. 2301. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Commerce shall establish, within the International Trade Administration, the United States and Foreign Commercial Service. The Secretary shall, to the greatest extent practicable, transfer to the Commercial Service the functions and personnel of the United States and Foreign Commercial Services.

(2) ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL; OTHER PERSONNEL.—The head of the Commercial Service shall be the Assistant Secretary of Commerce and Director General of the Commercial Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce and Director General of the Commercial Service may appoint Commercial Service Officers and such other personnel as may be necessary to carry out the activities of the Commercial Service.

(3) COORDINATION WITH FOREIGN POLICY OBJECTIVES.—The Secretary shall take the necessary steps to ensure that the activities of the Commercial Service are carried out in a manner consistent with United States foreign policy objectives, and the Secretary shall consult regularly with the Secretary of State in order to comply with this paragraph.

(4) AUTHORITY OF CHIEF OF MISSION.—All activities of the Commercial Service shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(b) STATEMENT OF PURPOSE.—The Commercial Service shall place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad by carrying out activities such as—

(1) identifying United States businesses with the potential to export goods and services and providing such businesses with advice and information on establishing export businesses;

(2) providing United States exporters with information on economic conditions, market opportunities, the status of the intellectual property system in such country, and the legal and regulatory environment within foreign countries; Patents and trademarks. Copyrights.

(3) providing United States exporters with information and advice on the necessary adaptation of product design and marketing strategy to meet the differing cultural and technical requirements of foreign countries; Marketing.

(4) providing United States exporters with actual leads and an introduction to contacts within foreign countries;

(5) assisting United States exporters in locating reliable sources of business services in foreign countries;

(6) assisting United States exporters in their dealings with foreign governments and enterprises owned by foreign governments; and

(7) assisting the coordination of the efforts of State and local agencies and private organizations which seek to promote United States business interests abroad so as to maximize their effectiveness and minimize the duplication of efforts. State and local governments.

(c) OFFICES.—

(1) IN GENERAL.—The Commercial Service shall conduct its activities at a headquarters office, district offices located in major United States cities, and foreign offices located in major foreign cities.

(2) HEADQUARTERS.—The headquarters of the Commercial Service shall provide such managerial, administrative, research, and other services as the Secretary considers necessary to carry out the purposes of the Commercial Service. Research and development.

(3) DISTRICT OFFICES.—The Secretary shall establish district offices of the Commercial Service in any United States city in a region in which the Secretary determines that there is a need for Federal Government export assistance.

(4) FOREIGN OFFICES.—(A) The Secretary may, after consultation with the Secretary of State, establish foreign offices of the Commercial Service. These offices shall be located in foreign cities in regions in which the Secretary determines there are significant business opportunities for United States exporters.

(B) The Secretary may, in consultation with the Secretary of State, assign to the foreign offices Commercial Service Officers and such other personnel as the Secretary considers necessary. In employing Commercial Service Officers and such other personnel, the Secretary shall use the Foreign Service personnel system in accordance with the Foreign Service Act of 1980. The Secretary shall designate a Commercial Officer as head of each foreign office.

(C) Upon the request of the Secretary, the Secretary of State shall attach the Commercial Service Officers and other employees of each foreign office to the diplomatic mission of the United States in the country in which that foreign office is located, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(D) For purposes of official representation, the senior Commercial Service Officer in each country shall be considered

to be the senior commercial representative of the United States in that country, and the United States chief of mission in that country shall accord that officer all privileges and responsibilities appropriate to the position of senior commercial representative of other countries.

(E) The Secretary of State is authorized, upon the request of the Secretary, to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the operation of the foreign offices. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services.

(F) The authority of the Secretary under this paragraph shall be subject to section 103 of the Diplomatic Security Act (22 U.S.C. 4802).

(d) RANK OF COMMERCIAL SERVICE OFFICERS IN FOREIGN MISSIONS.—

(1) MINISTER-COUNSELOR.—Notwithstanding any other provision of law, the Secretary is authorized to designate up to 8 United States missions abroad at which the senior Commercial Service Officer will be able to use the diplomatic title of Minister-Counselor. The Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Service Officer assigned to a United States mission so designated.

(2) CONSUL GENERAL.—In any United States consulate in which a vacancy occurs in the position of Consul General, the Secretary of State, in consultation with the Secretary, shall consider filling that vacancy with a Commercial Service Officer if the primary functions of the consulate are of a commercial nature and if there are significant business opportunities for United States exporters in the region in which the consulate is located.

(e) INFORMATION DISSEMINATION.—In order to carry out subsection (b)(7), to lessen the cost of distribution of information produced by the Commercial Service, and to make that information more readily available, the Secretary should establish a system for distributing that information in those areas where no district offices of the Commercial Service are located. Distributors of the information should be State export promotion agencies or private export and trade promotion associations. The distribution system should be consistent with cost recovery objectives of the Department of Commerce.

(f) AUDITS.—The Inspector General of the Department of Commerce shall perform periodic audits of the operations of the Commercial Service, but at least once every 3 years. The Inspector General shall report to the Congress the results of each such audit. In addition to an overview of the activities and effectiveness of Commercial Service operations, the audit shall include— Reports.

(1) an evaluation of the current placement of domestic personnel and recommendations for transferring personnel among district offices;

(2) an evaluation of the current placement of foreign-based personnel and recommendations for transferring such personnel in response to newly emerging business opportunities for United States exporters; and

(3) an evaluation of the personnel system and its management, including the recruitment, assignment, promotion, and

performance appraisal of personnel, the use of limited appointees, and the "time-in-class" system.

(g) REPORT BY THE SECRETARY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the feasibility and desirability, the progress to date, the present status, and the 5-year outlook, of the comprehensive integration of the functions and personnel of the foreign and domestic export promotion operations within the International Trade Administration of the Department of Commerce.

(h) PAY OF ASSISTANT SECRETARY AND DIRECTOR GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.".

(i) DEFINITIONS.—For purposes of this section—

(1) the term "Secretary" means the Secretary of Commerce;

(2) the term "Commercial Service" means the United States and Foreign Commercial Service;

(3) the term "United States exporter" means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State; or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(4) the term "small business" means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632);

(5) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(6) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 2302. COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANK PROCUREMENT. 15 USC 4722.

(a) APPOINTMENT OF COMMERCIAL SERVICE OFFICERS TO SERVE WITH EXECUTIVE DIRECTORS.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint a procurement officer, who is a representative of the International Trade Administration or a Commercial Service Officer of the United States and Foreign Commercial Service, to serve, on a full-time or part-time basis, with each of the Executive Directors of the multilateral development banks in which the United States participates.

(b) FUNCTIONS OF OFFICERS.—Each procurement officer appointed under subsection (a) shall assist the United States Executive Director with respect to whom such officer is appointed in promoting opportunities for exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and the multilateral development bank involved, whether or not the bank has offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relat-

ing to projects which are being proposed by the multilateral development bank, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

Loans.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(c) DEFINITION.—As used in this section, the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

15 USC 4723.

SEC. 2303. MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) AUTHORITY OF SECRETARY OF COMMERCE.—In order to promote further the exportation of goods and services from the United States, the Secretary of Commerce is authorized to establish, in the International Trade Administration of the Department of Commerce, a Market Development Cooperator Program. The purpose of the program is to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.

Contracts.

(b) IMPLEMENTATION OF THE PROGRAM.—The Secretary of Commerce shall carry out the Market Development Cooperator Program by entering into contracts with—

(1) nonprofit industry organizations,

(2) trade associations,

State and local governments.

(3) State departments of trade and their regional associations, including centers for international trade development, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

(in this section referred to as "cooperators") to engage in activities in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a). The costs of activities under such a contract shall be shared equitably among the Department of Commerce, the cooperator involved, and, whenever appropriate, foreign businesses. The Department of Commerce shall undertake to support direct costs of activities under such a contract, and the cooperator shall undertake to support indirect costs of such activities. Activities under such a contract shall be carried out by the cooperator with the approval and assistance of the Secretary.

(c) COOPERATOR PARTNERSHIP PROGRAM.—

(1) IN GENERAL.—(A) As part of the Market Development Cooperator Program established under subsection (a), the Secretary of Commerce shall establish a partnership program with

cooperators under which a cooperator may detail individuals, subject to the approval of the Secretary, to the United States and Foreign Commercial Service for a period of not less than 1 year or more than 2 years to supplement the Commercial Service.

(B) Any individual detailed to the United States and Foreign Commercial Service under this subsection shall be responsible for such duties as the Secretary may prescribe in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a).

(C) Individuals detailed to the United States and Foreign Commercial Service under this subsection shall not be considered to be employees of the United States for the purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary of State concerning the detail of such individuals abroad.

(2) QUALIFICATIONS OF PARTICIPANTS.—In order to qualify for the program established under this subsection, individuals shall have demonstrated expertise in the international business arena in at least 2 of the following areas: marketing, market research, and computer data bases.

(3) EXPENSES OF THE PROGRAM.—(A) The cooperator who details an individual to the United States and Foreign Commercial Service under this subsection shall be responsible for that individual's salary and related expenses, including health care, life insurance, and other noncash benefits, if any, normally paid by such cooperator.

(B) The Secretary of Commerce shall pay transportation and housing costs for each individual participating in the program established under this subsection.

(d) BUDGET ACT.—Contracts may be entered into under this section in a fiscal year only to such extent or in such amounts as are provided in appropriations Acts. Contracts.

SEC. 2304. TRADE SHOWS. 15 USC 4724.

(a) AUTHORITY OF THE SECRETARY OF COMMERCE.—In order to facilitate exporting by United States businesses, the Secretary of Commerce shall provide assistance for trade shows in the United States which bring together representatives of United States businesses seeking to export goods or services produced in the United States and representatives of foreign companies or governments seeking to buy such goods or services from these United States businesses.

(b) RECIPIENTS OF ASSISTANCE.—Assistance under subsection (a) may be provided to—

(1) nonprofit industry organizations,

(2) trade associations,

(3) foreign trade zones, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

to provide the services necessary to operate trade shows described in subsection (a).

(c) ASSISTANCE TO SMALL BUSINESSES.—In providing assistance under this section, the Secretary of Commerce shall, in consultation with the Administrator of the Small Business Administration, make special efforts to facilitate participation by small businesses and companies new to export.

(d) USES OF ASSISTANCE.—Funds appropriated to carry out this section shall be used to—

(1) identify potential participants for trade show organizers,

(2) provide information on trade shows to potential participants,

(3) supply language services for participants, and

(4) provide information on trade shows to small businesses and companies new to export.

(e) DEFINITIONS.—As used in this section—

(1) the term "United States business" means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State (including the District of Columbia or any commonwealth, territory, or possession of the United States); or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B); and

(2) the term "small business" means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS FOR EXPORT PROMOTION PROGRAMS.

(a) DEFINITION OF EXPORT PROMOTION PROGRAM.—Section 201(d) of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051(d)) is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) in paragraph (4) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988, and assistance for trade shows provided under section 2304 of that Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs $123,922,000 for the fiscal year 1988, and $146,400,000 for each of the fiscal years 1989 and 1990.".

(2) In addition to funds otherwise available, there are authorized to be appropriated to the Department of Commerce to carry out sections 2303 and 2304 of this Act $6,000,000 for each of the fiscal years 1988, 1989, and 1990.

15 USC 4725.

SEC. 2306. UNITED STATES AND FOREIGN COMMERCIAL SERVICE PACIFIC RIM INITIATIVE.

Japan.
South Korea.
Taiwan.

(a) IN GENERAL.—In order to encourage the export of United States goods and services to Japan, South Korea, and Taiwan, the

United States and Foreign Commercial Service shall make a special effort to—

(1) identify United States goods and services which are not being exported to the markets of Japan, South Korea, and Taiwan but which could be exported to these markets under competitive market conditions;

(2) identify and notify United States persons who sell or provide such goods or services of potential opportunities identified under paragraph (1);

(3) present, periodically, a list of the goods and services identified under paragraph (1), together with a list of any impediments to the export of such goods and services, to appropriate authorities in Japan, South Korea, and Taiwan, with a view toward liberalizing markets to such goods and services;

(4) facilitate the entrance into such markets by United States persons identified and notified under paragraph (2); and

(5) monitor and evaluate the results of efforts to increase the sale of goods and services in such markets.

(b) REPORTS TO THE CONGRESS.—The Secretary of Commerce shall report periodically to the Congress on activities carried out under subsection (a).

(c) DEFINITION.—As used in this section, the term "United States person" means—

(1) a United States citizen; or

(2) a corporation, partnership, or other association created under the laws of the United States or any State (including the District of Columbia or any commonwealth, territory, or possession of the United States).

SEC. 2307. INDIAN TRIBES EXPORT PROMOTION.

Marketing.
15 USC 4726.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce is authorized to provide assistance to eligible entities for the development of foreign markets for authentic American Indian arts and crafts. Eligible entities under this section include Indian tribes, tribal organizations, tribal enterprises, craft guilds, marketing cooperatives, and individual Indian-owned businesses.

(b) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Activities eligible for assistance under this section include, but are not limited to, conduct of market surveys, development of promotional materials, financing of trade missions, participation in international trade fairs, direct marketing, and other market development activities.

(c) ADMINISTRATION OF ASSISTANCE.—Assistance under this section shall be administered by the Secretary of Commerce under guidelines developed by the Secretary. Priority shall be given to projects which support the establishment of long term, stable international markets for American Indian arts and crafts and which are designed to provide the greatest economic benefit to American Indian artisans.

(d) TECHNICAL AND OTHER ASSISTANCE.—The Secretary of Commerce shall provide technical assistance and support services to applicants eligible for and entities receiving assistance under this section for the purpose of helping them in identifying and entering appropriate foreign markets, complying with foreign and domestic legal and banking requirements regarding the export and import of arts and crafts, and utilizing import and export financial arrangements, and shall provide such other assistance as may be necessary

to support the development of export markets for American Indian arts and crafts.

(e) LIMITATION ON ASSISTANCE.—No assistance shall be provided under this section in support of any activity which includes the sale or marketing of any craft items other than authentic arts and crafts hand made or hand crafted by American Indian artisans.

SEC. 2308. PRINTING AT OVERSEAS LOCATIONS.

(a) PRINTING IN CONJUNCTION WITH EXPORT PROMOTION PROGRAMS.—Section 201 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051) is amended by adding at the end the following:

"(e) PRINTING OUTSIDE THE UNITED STATES.—(1) Notwithstanding the provisions of section 501 of title 44, United States Code, and consistent with other applicable law, the Secretary of Commerce, in carrying out any export promotion program, may authorize—

"(A) the printing, distribution, and sale of documents outside the contiguous United States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and if such documents will be distributed primarily and sold exclusively outside the United States; and

"(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

"(2) Any fees received by the Secretary pursuant to paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities.".

SEC. 2309. LOCAL CURRENCIES UNDER PUBLIC LAW 480.

Section 108(i) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1708(i)) is amended—

(1) in paragraph (1) by striking "and";

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

(3) by adding at the end the following:

"(3) the terms 'private sector development activity' and 'private enterprise investment' include the construction of low- and medium-income housing and shelter.".

SEC. 2310. OFFICE OF EXPORT TRADE.

Section 104 of the Export Trading Company Act of 1982 (15 U.S.C. 4003) is amended by adding at the end the following: "The office shall establish a program to encourage and assist the operation of other export intermediaries, including existing and newly formed export management companies.".

15 USC 4011 note.

SEC. 2311. REPORT ON EXPORT TRADING COMPANIES.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives, on the activities of the Department of Commerce to promote and encourage the formation of new and the operation of existing and new export promotion intermediaries,

including export management companies, export trade associations, bank export trading companies, and export trading companies. The report shall include a survey of the activities of export management companies, export trade associations, and those bank export trading companies and export trading companies established pursuant to the amendments made by title II of the Export Trading Company Act of 1982, and pursuant to title III of that Act. The report shall not contain any information subject to the protections from disclosure provided in that Act.

Subtitle D—Export Controls

SEC. 2401. REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.

For purposes of this subtitle, the Export Administration Act of 1979 shall be referred to as "the Act".

PART I—EXPORT CONTROLS GENERALLY

SEC. 2411. EXPORT LICENSE FEES.

Section 4 of the Act (50 U.S.C. App. 2403) is amended by adding at the end the following:

"(g) FEES.—No fee may be charged in connection with the submission or processing of an export license application.".

SEC. 2412. MULTIPLE LICENSE AUTHORITY.

People's Republic of China.

Section 4(a)(2) of the Act (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A) by striking the period at the end of the first sentence and inserting ", except that the Secretary may establish a type of distribution license appropriate for consignees in the People's Republic of China."; and

(2) in subparagraph (B) in the first sentence by inserting "(except the People's Republic of China)" after "controlled countries".

SEC. 2413. DOMESTIC SALES TO COMMERCIAL ENTITIES OF CONTROLLED COUNTRIES.

Section 5(a)(1) of the Act (50 U.S.C. App. 2404(a)(1)) is amended by inserting after the second sentence the following: "For purposes of the preceding sentence, the term 'affiliates' includes both governmental entities and commercial entities that are controlled in fact by controlled countries.".

SEC. 2414. AUTHORITY FOR REEXPORTS.

Science and technology.

Section 5(a) of the Act (50 U.S.C. App. 2404(a)) is amended by adding at the end the following:

"(4)(A) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, or pursuant to an agreement described in subsection (k) of this section. The Secretary may require any person reexporting any goods or technology under this subparagraph to notify the Secretary of such reexports.

"(B) Notwithstanding subparagraph (A), the Secretary may require authority or permission to reexport the following:

"(i) supercomputers;

"(ii) goods or technology for sensitive nuclear uses (as defined by the Secretary);

Communications and telecommunications.

"(iii) devices for surreptitious interception of wire or oral communications; and

"(iv) goods or technology intended for such end users as the Secretary may specify by regulation.

"(5)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States from any country when the goods or technology to be reexported are incorporated in another good and—

"(i) the value of the controlled United States content of that other good is 25 percent or less of the total value of the good; or

"(ii) the export of the goods or technology to a controlled country would require only notification of the participating governments of the Coordinating Committee.

For purposes of this paragraph, the 'controlled United States content' of a good means those goods or technology subject to the jurisdiction of the United States which are incorporated in the good, if the export of those goods or technology from the United States to a country, at the time that the good is exported to that country, would require a validated license.

"(B) The Secretary may by regulation provide that subparagraph (A) does not apply to the reexport of a supercomputer which contains goods or technology subject to the jurisdiction of the United States.

Regulations.

"(6) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall issue regulations to carry out paragraphs (4) and (5). Such regulations shall define the term 'supercomputer' for purposes of those paragraphs.".

SEC. 2415. EXPORTS TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.

Science and technology. People's Republic of China.

(a) COCOM COUNTRIES.—Section 5(b)(2) of the Act (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to export goods or technology to a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section, if the export of such goods or technology to the People's Republic of China or a controlled country on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee.

"(B)(i) The Secretary may require a license for the export of goods or technology described in subparagraph (A) to such end users as the Secretary may specify by regulation.

"(ii) The Secretary may require any person exporting goods or technology under this paragraph to notify the Secretary of those exports.

"(C) The Secretary shall, within 3 months after the date of the enactment of the Export Enhancement Act of 1988, determine which countries referred to in subparagraph (A) are implementing

an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

"(i) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations; Law enforcement and crime.

"(ii) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(iii) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports; Law enforcement and crime.

"(iv) a system of export control documentation to verify the movement of goods and technology; and Records. Science and technology.

"(v) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

The Secretary shall, at least once each year, review the determinations made under the preceding sentence with respect to all countries referred to in subparagraph (A). The Secretary may, as appropriate, add countries to, or remove countries from, the list of countries that are implementing an effective export control system in accordance with this subparagraph. No authority or permission to export may be required for the export of goods or technology to a country on such list.".

(b) COUNTRIES OTHER THAN COCOM COUNTRIES.—Section 5(b) of the Act (50 U.S.C. App. 2404(b)) is amended by adding at the end the following:

"(3)(A) No authority or permission may be required under this section to export to any country, other than a controlled country, any goods or technology if the export of the goods or technology to controlled countries would require only notification of the participating governments of the Coordinating Committee. Science and technology.

"(B) The Secretary may require any person exporting any goods or technology under subparagraph (A) to notify the Secretary of those exports.".

SEC. 2416. CONTROL LIST.

(a) RESOLUTION OF DISPUTES.—Section 5(c)(2) of the Act (50 U.S.C. App. 2404(c)(2)) is amended by striking the last sentence and inserting the following: "If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of any such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the inclusion of such items on the list. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary regarding the inclusion of such items on the list.". President of U.S.

(b) CONDUCT OF LIST REVIEWS.—

(1) CONTROL LIST.—Section 5(c)(3) of the Act is amended to read as follows:

"(3) The Secretary shall conduct partial reviews of the list established pursuant to this subsection at least once each calendar

quarter in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each quarterly review, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list within 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall use the data developed from each review in formulating United States proposals relating to multilateral export controls in the group known as the Coordinating Committee. The Secretary shall further assess, as part of each review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section. All goods and technology on the list shall be reviewed at least once each year. The provisions of this paragraph apply to revisions of the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.".

Federal Register, publication.

Federal Register, publication.

Science and technology.

(2) LIST OF MILITARILY CRITICAL TECHNOLOGIES.—Section 5(d)(5) of the Act (50 U.S.C. App. 2404(d)(5)) is amended in the first sentence by striking "at least annually" and inserting "on an ongoing basis".

(3) TECHNICAL ADVISORY COMMITTEES.—(A) Section 5(c) of the Act is amended by adding at the end the following:

"(4) The appropriate technical advisory committee appointed under subsection (h) of this section shall be consulted by the Secretary with respect to changes, pursuant to paragraph (2) or (3), in the list established pursuant to this subsection, and such technical advisory committee may submit recommendations to the Secretary with respect to such changes. The Secretary shall consider the recommendations of the technical advisory committee and shall inform the committee of the disposition of its recommendations.".

(c) CONTROL LIST REDUCTION.—

(1) IN GENERAL.—Section 5(c) of the Act (50 U.S.C. App. 2404(c)) (as amended by subsection (b)(3) of this section) is further amended by adding at the end the following:

"(5)(A) Not later than 6 months after the date of the enactment of this paragraph, the following shall no longer be subject to export controls under this section:

Science and technology.

"(i) All goods or technology the export of which to controlled countries on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee, except for those goods or technology on which the Coordinating Committee agrees to maintain such notification requirement.

"(ii) All medical instruments and equipment, subject to the provisions of subsection (m) of this section.

Reports.

"(B) The Secretary shall submit to the Congress annually a report setting forth the goods and technology from which export controls have been removed under this paragraph.".

(2) ELIMINATION OF UNILATERAL CONTROLS.—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraph (1) of this subsection) is further amended by adding at the end the following:

"(6)(A) Notwithstanding subsection (f) or (h)(6) of this section, any export control imposed under this section which is maintained unilaterally by the United States shall expire 6 months after the date of the enactment of this paragraph, or 6 months after the export control is imposed, whichever date is later, except that— Science and technology.

"(i) any such export controls on those goods or technology for which a determination of the Secretary that there is no foreign availability has been made under subsection (f) or (h)(6) of this section before the end of the applicable 6-month period and is in effect may be renewed for periods of not more than 6 months each, and

"(ii) any such export controls on those goods or technology with respect to which the President, by the end of the applicable 6-month period, is actively pursuing negotiations with other countries to achieve multilateral export controls on those goods or technology may be renewed for 2 periods of not more than 6 months each.

"(B) Export controls on goods or technology described in clause (i) or (ii) of subparagraph (A) may be renewed only if, before each renewal, the President submits to the Congress a report setting forth all the controls being renewed and stating the specific reasons for such renewal.". President of U.S. Reports.

(3) REVIEW OF CERTAIN LOW TECHNOLOGY ITEMS.—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraphs (1) and (2) of this subsection) is further amended by adding at the end the following:

"(7) Notwithstanding any other provision of this subsection, after 1 year has elapsed since the last review in the Federal Register on any item within a category on the control list the export of which to the People's Republic of China would require only notification of the members of the group known as the Coordinating Committee, an export license applicant may file an allegation with the Secretary that such item has not been so reviewed within such 1-year period. Within 90 days after receipt of such allegation, the Secretary—

"(A) shall determine the truth of the allegation;

"(B) shall, if the allegation is confirmed, commence and complete the review of the item; and

"(C) shall, pursuant to such review, submit a finding for publication in the Federal Register. Federal Register, publication.

In such finding, the Secretary shall identify those goods or technology which shall remain on the control list and those goods or technology which shall be removed from the control list. If such review and submission for publication are not completed within that 90-day period, the goods or technology encompassed by such item shall immediately be removed from the control list.". Science and technology.

SEC. 2417. TRADE SHOWS.

Section 5(e) of the Act (50 U.S.C. App. 2404(e)) is amended by adding at the end the following:

"(6) Any application for a license for the export to the People's Republic of China of any good on which export controls are in effect under this section, without regard to the technical specifications of People's Republic of China.

the good, for the purpose of demonstration or exhibition at a trade show shall carry a presumption of approval if—

"(A) the United States exporter retains title to the good during the entire period in which the good is in the People's Republic of China; and

"(B) the exporter removes the good from the People's Republic of China no later than at the conclusion of the trade show.".

Science and technology. Defense and national security.

SEC. 2418. FOREIGN AVAILABILITY.—

(a) IN GENERAL.—Section 5(f) of the Act (50 U.S.C. App. 2404(f)) is amended to read as follows:

"(f) FOREIGN AVAILABILITY.—

"(1) FOREIGN AVAILABILITY TO CONTROLLED COUNTRIES.—(A) The Secretary, in consultation with the Secretary of Defense and other appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability to controlled countries, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to controlled countries from such sources in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

Regulations.

"(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a controlled country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of comparable quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine

whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

"(2) FOREIGN AVAILABILITY TO OTHER THAN CONTROLLED COUNTRIES.—(A) The Secretary shall review, on a continuing basis, the availability to countries other than controlled countries, from sources outside the United States, of any goods or technology the export of which requires a validated license under this section. If the Secretary determines, in accordance with procedures which the Secretary shall establish, that any goods or technology in sufficient quantity and of comparable quality are available in fact from sources outside the United States (other than availability under license from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section), the Secretary may not, after the determination is made and during the period of such foreign availability, require a validated license for the export of such goods or technology to any country (other than a controlled country) to which the country from which the goods or technology is available does not place controls on the export of such goods or technology. The requirement with respect to a validated license in the preceding sentence shall not apply if the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

"(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a country (other than a controlled country) and which meets all other requirements for such an application, if the Secretary determines that such goods or technology are available from foreign sources to that country under the criteria established in subparagraph (A), unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

"(3) PROCEDURES FOR MAKING DETERMINATIONS.—(A) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on the Secretary's own initiative or upon receipt of an allegation from an export license applicant that such availability exists. In making any such determination, the Secretary shall accept the representations of applicants made in writing and supported by reasonable evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In making determinations of foreign availability, the Secretary

may consider such factors as cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, durability, quality of end products produced by the item proposed for export, and scale of production. For purposes of this subparagraph, 'evidence' may include such items as foreign manufacturers' catalogues, brochures, or operations or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts.

Federal Register, publication.

"(B) In a case in which an allegation is received from an export license applicant, the Secretary shall, upon receipt of the allegation, submit for publication in the Federal Register notice of such receipt. Within 4 months after receipt of the allegation, the Secretary shall determine whether the foreign availability exists, and shall so notify the applicant. If the Secretary has determined that the foreign availability exists, the Secretary shall, upon making such determination, submit the determination for review to other departments and agencies as the Secretary considers appropriate. The Secretary's determination of foreign availability does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted. Not later than 1 month after the Secretary makes the determination, the Secretary shall respond in writing to the applicant and submit for publication in the Federal Register, that—

Federal Register, publication.

"(i) the foreign availability does exist and—

"(I) the requirement of a validated license has been removed,

"(II) the President has determined that export controls under this section must be maintained notwithstanding the foreign availability and the applicable steps are being taken under paragraph (4), or

"(III) in the case of a foreign availability determination under paragraph (1), the foreign availability determination will be submitted to a multilateral review process in accordance with the agreement of the Coordinating Committee for a period of not more than 4 months beginning on the date of the publication; or

"(ii) the foreign availability does not exist.

In any case in which the submission for publication is not made within the time period specified in the preceding sentence, the Secretary may not thereafter require a license for the export of the goods or technology with respect to which the foreign availability allegation was made. In the case of a foreign availability determination under paragraph (1) to which clause (i)(III) applies, no license for such export may be required after the end of the 9-month period beginning on the date on which the allegation is received.

President of U.S.

"(4) NEGOTIATIONS TO ELIMINATE FOREIGN AVAILABILITY.—(A) In any case in which export controls are maintained under this section notwithstanding foreign availability, on account of a determination by the President that the absence of the controls would prove detrimental to the national security of the United States, the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. No later than the commencement of such negotiations, the President shall notify

in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that he has begun such negotiations and why he believes it is important to national security that export controls on the goods or technology involved be maintained.

"(B) If, within 6 months after the President's determination that export controls be maintained, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export controls involved would prove detrimental to the national security of the United States. Whenever the President has reason to believe that goods or technology subject to export controls for national security purposes by the United States may become available from other countries to controlled countries and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability. President of U.S.

"(C) After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate or prevent foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.

"(5) EXPEDITED LICENSES FOR ITEMS AVAILABLE TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.—(A) In any case in which the Secretary finds that any goods or technology from foreign sources is of similar quality to goods or technology the export of which requires a validated license under this section and is available to a country other than a controlled country without effective restrictions, the Secretary shall designate such goods or technology as eligible for export to such country under this paragraph.

"(B) In the case of goods or technology designated under subparagraph (A), then 20 working days after the date of formal filing with the Secretary of an individual validated license application for the export of those goods or technology to an eligible country, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless the license has been denied by the Secretary on account of an inappropriate end user. The Secretary may extend the 20-day period provided in the preceding sentence for an additional period of 15 days if the Secretary requires additional time to consider the application and so notifies the applicant.

"(C) The Secretary may make a foreign availability determination under subparagraph (A) on the Secretary's own initiative, upon receipt of an allegation from an export license applicant that such availability exists, or upon the submission of a certification by a technical advisory committee of appropriate jurisdiction that such availability exists. Upon receipt of such an allegation or certification, the Secretary shall publish Federal Register, publication

notice of such allegation or certification in the Federal Register and shall make the foreign availability determination within 30 days after such receipt and publish the determination in the Federal Register. In the case of the failure of the Secretary to make and publish such determination within that 30-day period, the goods or technology involved shall be deemed to be designated as eligible for export to the country or countries involved, for purposes of subparagraph (B).

"(D) The provisions of paragraphs (1), (2), (3), and (4) do not apply with respect to determinations of foreign availability under this paragraph.

Establishment.

"(6) OFFICE OF FOREIGN AVAILABILITY.—The Secretary shall establish in the Department of Commerce an Office of Foreign Availability, which shall be under the direction of the Under Secretary of Commerce for Export Administration. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability under this Act. The Secretary shall make available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the end of each 6-month period during a fiscal year information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability, during that 6-month period, including information on the training of personnel, the use of computers, and the use of Commercial Service Officers of the United States and Foreign Commercial Service. Such information shall also include a description of representative determinations made under this Act during that 6-month period that foreign availability did or did not exist (as the case may be), together with an explanation of such determinations.

Contracts.

"(7) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, upon the request of the Secretary and consistent with the protection of intelligence sources and methods, furnish information to the Office of Foreign Availability concerning foreign availability of goods and technology subject to export controls under this Act. Each such department or agency shall allow the Office of Foreign Availability access to any information from a laboratory or other facility within such department or agency.

"(8) REMOVAL OF CONTROLS ON LESS SOPHISTICATED GOODS OR TECHNOLOGY.—In any case in which Secretary may not, pursuant to paragraph (1), (2), (3), or (4) of this subsection or paragraph (6) of subsection (h) of this section, require a validated license for the export of goods or technology, then the Secretary may not require a validated license for the export of any similar goods or technology whose function, technological approach, performance thresholds, and other attributes that form the basis for export controls under this section do not exceed the technical parameters of the goods or technology from which the validated license requirement is removed under the applicable paragraph.

Federal Register, publication.

"(9) NOTICE OF ALL FOREIGN AVAILABILITY ASSESSMENTS.—Whenever the Secretary undertakes a foreign availability assessment under this subsection or subsection (h)(6), the Sec-

retary shall publish notice of such assessment in the Federal Register.

"(10) AVAILABILITY DEFINED.—For purposes of this subsection and subsections (f) and (h), the term 'available in fact to controlled countries' includes production or availability of any goods or technology in any country—

"(A) from which the goods or technology is not restricted for export to any controlled country; or

"(B) in which such export restrictions are determined by the Secretary to be ineffective.

For purposes of subparagraph (B), the mere inclusion of goods or technology on a list of goods or technology subject to bilateral or multilateral national security export controls shall not alone constitute credible evidence that a country provides an effective means of controlling the export of such goods or technology to controlled countries.".

(b) TECHNICAL ADVISORY COMMITTEE DETERMINATIONS.—Section 5(h)(6) of the Act (50 U.S.C. App. 2404(h)(6)) is amended by adding at the end the following: "After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.".

(c) TECHNICAL AMENDMENT.—Section 14(a)(8) of the Act (50 U.S.C. 2413(a)(8)) is amended by striking "5(f)(5)" and inserting "5(f)(6)". 50 USC app. 2413.

SEC. 2419. REVIEW OF TECHNOLOGY LEVELS.

Section 5(g) of the Act (50 U.S.C. 2404(g)) is amended— 50 USC app. 2404.

(1) by inserting "(1)" immediately before the first sentence; and

(2) by adding at the end the following:

"(2)(A) In carrying out this subsection, the Secretary shall conduct annual reviews of the performance levels of goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) below which exports to the People's Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and

"(iii) below which no authority or permission to export may be required under subsection (b)(2) or (b)(3) of this section.

The Secretary shall make appropriate adjustments to such performance levels based on these reviews.

"(B) In any case in which the Secretary receives a request which—

"(i) is to revise the qualification requirements or minimum thresholds of any goods eligible for export under a distribution license, and

"(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section,

the Secretary, after consulting with other appropriate Government agencies and technical advisory committees established under subsection (h) of this section, shall determine whether to make such revision, or some other appropriate revision, in such qualification requirements or minimum thresholds. In making this determination, the Secretary shall take into account the availability of the goods from sources outside the United States. The Secretary shall make a determination on a request made under this subparagraph within 90 days after the date on which the request is filed. If the

People's Republic of China.

Federal Register, publication.

Secretary's determination pursuant to such a request is to make a revision, such revision shall be implemented within 120 days after the date on which the request is filed and shall be published in the Federal Register.".

SEC. 2420. FUNCTIONS OF TECHNICAL ADVISORY COMMITTEES.

50 USC app. 2404.

(a) CONSULTATION ON REVISIONS OF CONTROL LIST AND ON REGULATIONS.—Section 5(h)(2) of the Act (50 U.S.C. 2404(h)(2)) is amended—

(1) by redesignating clause (E) as clause (F); and

(2) by striking clause (D) and inserting the following: "(D) revisions of the control list (as provided in subsection (c)(4)), including proposed revisions of multilateral controls in which the United States participates, (E) the issuance of regulations, and".

(b) REVIEW OF REGULATIONS.—Section 15(b) of the Act (50 U.S.C. App. 2414(b)) is amended in the third sentence—

(1) by striking "and such other" and inserting "such other"; and

(2) by inserting after "appropriate" the following: ", and the appropriate technical advisory committee".

SEC. 2421. NEGOTIATIONS WITH COCOM.

(a) NEGOTIATING OBJECTIVES.—Section 5(i) of the Act (50 U.S.C. App. 2404(i)) is amended by striking "The President" and inserting "Recognizing the ineffectiveness of unilateral controls and the importance of uniform enforcement measures to the effectiveness of multilateral controls, the President".

(b) INDUSTRY REPRESENTATIVE TO COCOM.—Section 5(i) of the Act is amended by adding at the end the following:

"For purposes of reviews of the International Control List, the President may include as advisors to the United States delegation to the Committee representatives of industry who are knowledgeable with respect to the items being reviewed.".

SEC. 2422. GOODS CONTAINING MICROPROCESSORS OR CERTAIN OTHER PARTS OR COMPONENTS.

50 USC app. 2404.

Section 5(m) of the Act (50 U.S.C. 2404(m)) is amended to read as follows:

"(m) GOODS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Export controls may not be imposed under this section, or under any other provision of law, on a good solely on the basis that the good contains parts or components subject to export controls under this section if such parts or components—

"(1) are essential to the functioning of the good,

"(2) are customarily included in sales of the good in countries other than controlled countries, and

Defense and national security.

"(3) comprise 25 percent or less of the total value of the good, unless the good itself, if exported, would by virtue of the functional characteristics of the good as a whole make a significant contribution to the military potential of a controlled country which would prove detrimental to the national security of the United States.".

SEC. 2423. FOREIGN POLICY CONTROLS.

50 USC app. 2405.

(a) DIPLOMATIC ALTERNATIVES.—Section 6(a) of the Act (50 U.S.C. 2405(a)) is amended by adding at the end the following:

"(6) Before imposing, expanding, or extending export controls under this section on exports to a country which can use goods,

technology, or information available from foreign sources and so incur little or no economic costs as a result of the controls, the President should, through diplomatic means, employ alternatives to export controls which offer opportunities of distinguishing the United States from, and expressing the displeasure of the United States with, the specific actions of that country in response to which the controls are proposed. Such alternatives include private discussions with foreign leaders, public statements in situations where private diplomacy is unavailable or not effective, withdrawal of ambassadors, and reduction of the size of the diplomatic staff that the country involved is permitted to have in the United States.".

(b) SPARE PARTS.—Section 6 of the Act (50 U.S.C. App. 2405) is amended by adding at the end the following:

"(p) SPARE PARTS.—(1) At the same time as the President imposes or expands export controls under this section, the President shall determine whether such export controls will apply to replacement parts for parts in goods subject to such export controls. President of U.S.

"(2) With respect to export controls imposed under this section before the date of the enactment of this subsection, an individual validated export license shall not be required for replacement parts which are exported to replace on a one-for-one basis parts that were in a good that was lawfully exported from the United States, unless the President determines that such a license should be required for such parts.".

SEC. 2424. EXPORTS OF DOMESTICALLY PRODUCED CRUDE OIL.

(a) TECHNICAL AMENDMENT.—Section 7(d) of the Act (50 U.S.C. App. 2406(d)) is amended by striking paragraph (4).

(b) CRUDE OIL STUDY.— 50 USC app. 2406 note.

(1) REVIEW OF EXPORT RESTRICTIONS ON CRUDE OIL.—The Secretary of Commerce, in consultation with the Secretary of Energy, shall undertake a comprehensive review to assess whether existing statutory restrictions on the export of crude oil produced in the contiguous United States are adequate to protect the energy and national security interests of the United States and American consumers. Taking into account exports licensed since 1983 and potential exports of heavy crude oil produced in California, the review shall assess the effect of increased exports of crude oil produced in the contiguous United States on— California.

(A) the adequacy of domestic supplies of crude oil and refined petroleum products in meeting United States energy and national security needs;

(B) the quantity, quality, and retail price of petroleum products available to consumers in the United States generally and on the West Coast in particular;

(C) the overall trade deficit of the United States;

(D) acquisition costs of crude oil by domestic petroleum refiners;

(E) the financial viability of sectors of the domestic petroleum industry (including independent refiners, distributors, marketers, and pipeline carriers); and

(F) the United States tanker fleet (and the industries that support it), with particular emphasis on the availability of militarily useful tankers to meet anticipated national defense requirements. Defense and national security.

(2) PUBLIC HEARING AND COMMENT.—The Secretary of Commerce shall provide notice and a reasonable opportunity for public hearing and comment on the review conducted pursuant to this subsection.

(3) CONSULTATIONS WITH OTHER AGENCIES.—The Secretary of Commerce shall consult with the Secretary of Defense, the Secretary of the Interior, and the Secretary of Transportation, in addition to the Secretary of Energy, in undertaking the review pursuant to this subsection.

Defense and national security.

(4) FINDINGS, OPTIONS, AND RECOMMENDATIONS.—After taking public comment and consulting with appropriate State and Federal officials, the Secretary of Commerce, in consultation with the Secretary of Energy, shall develop findings, options, and recommendations regarding the adequacy of existing statutory restrictions on the export of crude oil produced in the contiguous United States in protecting the energy and national security interests of the United States and American consumers.

(5) CONSULTATIONS AND REPORT.—In carrying out this subsection, the Secretary of Commerce shall consult with the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources of the Senate. Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to each of those committees a report which contains the results of the review undertaken pursuant to this subsection and the findings, options, and recommendations developed under paragraph (4).

SEC. 2425. PROCEDURES FOR LICENSE APPLICATIONS.

(a) REVIEW OF LICENSE APPLICATIONS BY THE SECRETARY OF DEFENSE.—Section 10(g) of the Act (50 U.S.C. App. 2409(g)) is amended—

(1) in paragraph (2)(A) by inserting "and the Secretary" after "to the President";

(2) by inserting before the last sentence of paragraph (2) the following:

"Whenever the Secretary of Defense makes a recommendation to the President pursuant to paragraph (2)(A), the Secretary shall also submit his recommendation to the President on the request to export if the Secretary differs with the Secretary of Defense.";

(3) by adding at the end of paragraph (2) the following: "If the Secretary of Defense fails to make a recommendation or notification under this paragraph within the 20-day period specified in the third sentence, or if the President, within 20 days after receiving a recommendation from the Secretary of Defense with respect to an export, fails to notify the Secretary that he approves or disapproves the export, the Secretary shall approve or deny the request for a license or other authority to export without such recommendation or notification."; and

(4) by striking paragraph (4).

(b) REPORT BY SECRETARIES OF COMMERCE AND DEFENSE.—The Secretary of Commerce and the Secretary of Defense shall each evaluate and, not later than 4 months after the date of the enactment of this Act, shall jointly prepare and submit a report to the

Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the review by the Department of Defense for national security purposes as provided in the Export Administration Act of 1979, of export license applications for exports to countries other than controlled countries under section 5(b)(1) of that Act

(c) REPORT ON SMALL BUSINESSES.—Section 10(m) of the Act (50 U.S.C. App. 2409(m)) is amended by adding at the end the following: "The Secretary shall, not later than 120 days after the date of the enactment of the Export Enhancement Act of 1988, report to the Congress on steps taken to implement the plan developed under this subsection to assist small businesses in the export licensing application process."

SEC. 2426. VIOLATIONS.

Section 11(h) of the Act (50 U.S.C. App. 2410(h)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "No"; and

(B) by inserting after "violation of" the following: "this Act (or any regulation, license, or order issued under this Act), any regulation, license, or order issued under the International Emergency Economic Powers Act,"; and

(2) by adding at the end the following:

"(2) The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in section 13(c) of this Act.".

SEC. 2427. ENFORCEMENT.

Science and technology.

Section 12(a)(2)(B) of the Act (50 U.S.C. App. 2411(a)(2)(B)) is amended by adding at the end the following: "The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 4(a)(3). In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law.".

SEC. 2428. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

Courts, U.S.

(a) JUDICIAL REVIEW.—(1) Section 13(c) of the Act (50 U.S.C. App. 2412(c)) is amended—

(A) in the last sentence of paragraph (1) by inserting before the period ", except as provided in paragraph (3)";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The order of the Secretary under paragraph (1) shall be final except that the charged party may, within 15 days after the order is issued, appeal the order in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may, while the appeal is pending, stay the order of the Secretary. The court may review only those issues necessary to

Law enforcement and crime.

Records.

determine liability for the civil penalty or other sanction involved. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the court finds there is not substantial evidence on the record and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(2) Section 13(d) of the Act (50 U.S.C. App. 2412(d)) is amended—

(A) in the fifth sentence of paragraph (2) by inserting before the period ", except as provided in paragraph (3)"; and

Records.

(B) by adding at the end of paragraph (2) the following: "All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the courts.

"(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may review only those issues necessary to determine whether the standard for issuing the temporary denial order has been met. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(b) ISSUANCE OF TEMPORARY DENIAL ORDERS.—Section 13(d)(1) of the Act (50 U.S.C. App. 2412(d)(1)) is amended in the second sentence by striking "60" each place it appears and inserting "180".

SEC. 2429. RESPONSIBILITIES OF THE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

Defense and national security.

Section 15(a) of the Act (50 U.S.C. App. 2414(a)) is amended by inserting "and such other statutes that relate to national security" after "functions of the Secretary under this Act".

SEC. 2430. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) of the Act (50 U.S.C. App. 2417(b)) is amended—

(1) in paragraph (1)—

(A) by striking "each of the fiscal years 1987 and 1988" and inserting "the fiscal year 1988";

(B) by striking "for each such year" each place it appears, and

(C) by striking "and" after the semicolon; and

(2) by striking paragraph (2) and inserting the following:

"(2) $46,913,000 for the fiscal year 1989, of which $15,000,000 shall be available only for enforcement, $5,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, $4,000,000 shall be available only for regional export control assistance centers, and $22,913,000 shall be available for all other activities under this Act; and

"(3) such additional amounts for each of the fiscal years 1988 and 1989 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 2431. TERMINATION DATE.

50 USC app. 2419.

Section 20 of the Act (50 U.S.C. 2419) is amended by striking "1989" and inserting "1990".

SEC. 2432. MONITORING OF WOOD EXPORTS.

50 USC app. 2406 note.

The Secretary of Commerce shall, for a period of 2 years beginning on the date of the enactment of this Act, monitor exports of processed and unprocessed wood to all countries of the Pacific Rim. The Secretary shall include the results of such monitoring in monthly reports setting forth, with respect to each item monitored, actual exports, the destination by country, and the domestic and worldwide price, supply, and demand. The Secretary shall transmit such reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

Reports.

SEC. 2433. STUDY ON NATIONAL SECURITY EXPORT CONTROLS.

50 USC app. 2404 note.

(a) ARRANGEMENTS FOR AND CONTENTS OF STUDY.—

(1) ARRANGEMENTS FOR CONDUCTING STUDY.—The Secretary of Commerce and the Secretary of Defense, not later than 60 days after the date of the enactment of this Act, shall enter into appropriate arrangements with the National Academy of Sciences and the National Academy of Engineering (hereafter in this section referred to as the "Academies") to conduct a comprehensive study of the adequacy of the current export administration system in safeguarding United States national security while maintaining United States international competitiveness and Western technological preeminence.

(2) REQUIREMENTS OF STUDY.—Recognizing the need to minimize the disruption of United States trading interests while preventing Western technology from enhancing the development of the military capabilities of controlled countries, the study shall—

(A) identify those goods and technologies which are likely to make crucial differences in the military capabilities of controlled countries, and identify which of those goods and technologies controlled countries already possess or are available to controlled countries from other sources;

(B) develop implementable criteria by which to define those goods and technologies;

(C) demonstrate how such criteria would be applied to the control list by the relevant agencies to revise the list, eliminate ineffective controls, and strengthen controls;

(D) develop proposals to improve United States and multilateral assessments of foreign availability of goods and technology subject to export controls; and

(E) develop proposals to improve the administration of the export control program, including procedures to ensure timely, predictable, and effective decision-making.

(b) ADVISORY PANEL.—In conducting the study under subsection (a), the Academies shall appoint an Advisory Panel of not more than 24 members who shall be selected from among individuals in private life who, by virtue of their experience and expertise, are knowledgeable in relevant scientific, business, legal, or administrative matters. No individual may be selected as a member who, at the time of his or her appointment, is an elected or appointed official or employee in the executive, legislative, or judicial branch of the Government In selecting members of the Advisory Panel, the Academies shall seek suggestions from the President, the Congress, and representatives of industry and the academic community.

(c) EXECUTIVE BRANCH COOPERATION.—The Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Director of the Central Intelligence Agency, and the head of any department or agency that exercises authority in export administration—

Classified information.

(1) shall furnish to the Academies, upon request and under appropriate safeguards, classified or unclassified information which the Academies determine to be necessary for the purposes of conducting the study required by this section; and

(2) shall work with the Academies on such problems related to the study as the Academies consider necessary.

(d) REPORT.—Under the direction of the Advisory Panel, the Academies shall prepare and submit to the President and the Congress, not later than 18 months after entering into the arrangements referred to in subsection (a), a report which contains a detailed statement of the findings and conclusions of the Academies pursuant to the study conducted under subsection (a), together with their recommendations for such legislative or regulatory reforms as they consider appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $900,000 to carry out this section.

Multilateral Export Control Enhancement Amendments Act.
50 USC app. 2401 note.

PART II—MULTILATERAL EXPORT CONTROL ENHANCEMENT

SEC. 2441. SHORT TITLE.

This part may be cited as the "Multilateral Export Control Enhancement Amendments Act".

50 USC app. 2410a note.

SEC. 2442. FINDINGS.

The Congress makes the following findings:

(1) The diversion of advanced milling machinery to the Soviet Union by the Toshiba Machine Company and Kongsberg Trading Company has had a serious impact on United States and Western security interests.

(2) United States and Western security is undermined without the cooperation of the governments and nationals of all countries participating in the group known as the Coordinating Committee (hereafter in this part referred to as "COCOM") in enforcing the COCOM agreement.

(3) It is the responsibility of all governments participating in COCOM to place in effect strong national security export control laws, to license strategic exports carefully, and to enforce those export control laws strictly, since the COCOM system is only as strong as the national laws and enforcement on which it is based.

(4) It is also important for corporations to implement effective internal control systems to ensure compliance with export control laws.

(5) In order to protect United States national security, the United States must take steps to ensure the compliance of foreign companies with COCOM controls, including, where necessary conditions have been met, the imposition of sanctions against violators of controls commensurate with the severity of the violation.

SEC. 2443. MANDATORY SANCTIONS AGAINST TOSHIBA AND KONGSBERG.

President of U.S. Contracts. 50 USC app. 2401a note.

(a) SANCTIONS AGAINST TOSHIBA MACHINE COMPANY, KONGSBERG TRADING COMPANY, AND CERTAIN OTHER FOREIGN PERSONS.—(1) The President shall impose, for a period of 3 years—

(1) a prohibition on contracting with, and procurement of products and services from—

(A) Toshiba Machine Company and Kongsberg Trading Company, and

(B) any other foreign person whom the President finds to have knowingly facilitated the diversion of advanced milling machinery by Toshiba Machine Company and Kongsberg Trading Company to the Soviet Union,

by any department, agency, or instrumentality of the United States Government; and

(2) a prohibition on the importation into the United States of all products produced by Toshiba Machine Company, Kongsberg Trading Company, and any foreign person described in paragraph (1)(B).

(b) SANCTIONS AGAINST TOSHIBA CORPORATION AND KONGSBERG VAAPENFABRIKK.—The President shall impose, for a period of 3 years, a prohibition on contracting with, and procurement of products and services from, the Toshiba Corporation and Kongsberg Vaapenfabrikk, by any department, agency, or instrumentality of the United States Government.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

Defense and national security.

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the company or foreign person to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before June 30, 1987;

(B) spare parts;

(C) component parts, but not finished products, essential to United States products or production;

(D) routine servicing and maintenance of products; or

(E) information and technology.

Science and technology.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "component part" means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

(2) the term "finished product" means any article which is usable for its intended functions without being imbedded in or integrated into any other product, but in no case shall such

term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

(3) the term "sanctioned person" means a company or other foreign person upon whom prohibitions have been imposed under subsection (a) or (b).

SEC. 2444. MANDATORY SANCTIONS FOR FUTURE VIOLATIONS.

The Act is amended by inserting after section 11 the following new section:

"MULTILATERAL EXPORT CONTROL VIOLATIONS

50 USC app. 2410a.

"SEC. 11A. (a) DETERMINATION BY THE PRESIDENT.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

Defense and national security.

"(1) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, and

Arms and munitions.

"(2) such violation has resulted in substantial enhancement of Soviet and East bloc capabilities in submarine or antisubmarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, communications and intelligence, or other critical technologies as determined by the President, on the advice of the National Security Council, to represent a serious adverse impact on the strategic balance of forces.

The President shall notify the Congress of each action taken under this section. This section, except subsections (h) and (j), applies only to violations that occur after the date of the enactment of the Export Enhancement Act of 1988.

"(b) SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

Contracts.

"(1) a prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government, and

"(2) a prohibition on importation into the United States of all products produced by a sanctioned person.

"(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

Defense and national security. Contracts.

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

"(2) to—

"(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies the Congress of the intention to impose the sanctions; Contracts.

"(B) spare parts;

"(C) component parts, but not finished products, essential to United States products or production;

"(D) routine servicing and maintenance of products; or

"(E) information and technology. Science and technology.

"(d) EXCLUSION.—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

"(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person, and

"(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

"(A) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations; Law enforcement and crime.

"(B) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(C) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports; Law enforcement and crime.

"(D) a system of export control documentation to verify the movement of goods and technology; and Records.

"(E) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'component part' means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

"(2) the term 'finished product' means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

"(3) the term 'sanctioned person' means a foreign person, and any parent, affiliate, subsidiary, or successor entity of the for-

eign person, upon whom sanctions have been imposed under this section.

"(f) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—The President may, after consultation with the Congress, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed if the President determines that—

"(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of available evidence, itself violated the export control regulation involved, either directly or through a course of conduct;

"(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in subsection (d)(2);

"(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements in internal controls sufficient to detect and prevent violations of the export control regime implemented under paragraph (2); and

"(4) the impact of the sanctions imposed on the parent, affiliate, subsidiary, or successor entity is proportionate to the increased defense expenditures imposed on the United States.

Notwithstanding the preceding sentence, the President may not limit the scope of the sanction referred to in subsection (b)(1) with respect to the parent of the foreign person determined to have committed the violation, until that sanction has been in effect for at least 2 years.

President of U.S.

"(g) REPORTS TO CONGRESS.—The President shall include in the annual report submitted under section 14, a report on the status of any sanctions imposed under this section, including any exceptions, exclusions, or modifications of sanctions that have been applied under subsection (c), (d), or (f).

Defense and national security.

"(h) DISCRETIONARY IMPOSITION OF SANCTIONS.—If the President determines that a foreign person has violated a regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, but in a case in which subsection (a)(2) may not apply, the President may apply the sanctions referred to in subsection (b) against that foreign person for a period of not more than 5 years.

President of U.S. Research and development. Contracts.

"(i) COMPENSATION FOR DIVERSION OF MILITARILY CRITICAL TECHNOLOGIES TO CONTROLLED COUNTRIES.—(1) In cases in which sanctions have been applied against a foreign person under subsection (a), the President shall initiate discussions with the foreign person and the government with jurisdiction over that foreign person regarding compensation on the part of the foreign person in an amount proportionate to the costs of research and development and procurement of new defensive systems by the United States and the allies of the United States to counteract the effect of the technological advance achieved by the Soviet Union as a result of the violation by that foreign person.

Reports.

"(2) The President shall, at the time that discussions are initiated under paragraph (1), report to the Congress that such discussions are being undertaken, and shall report to the Congress the outcome of those discussions.

"(j) OTHER ACTIONS BY THE PRESIDENT.—Upon making a determination under subsection (a) or (h), the President shall—

"(1) initiate consultations with the foreign government with jurisdiction over the foreign person who committed the violation involved, in order to seek prompt remedial action by that government;

"(2) initiate discussions with the governments participating in the Coordinating Committee regarding the violation and means to ensure that similar violations do not occur; and

"(3) consult with and report to the Congress on the nature of the violation and the actions the President proposes to take, or has taken, to rectify the situation. Reports.

"(k) DAMAGES FOR CERTAIN VIOLATIONS.—(1) In any case in which the President makes a determination under subsection (a), the Secretary of Defense shall determine the costs of restoring the military preparedness of the United States on account of the violation involved. The Secretary of Defense shall notify the Attorney General of his determination, and the Attorney General may bring an action for damages, in any appropriate district court of the United States, to recover such costs against the person who committed the violation, any person that is owned or controlled by the person who committed the violation, and any person who owns and controls the person who committed the violation. Defense and national security.

"(3) The total amount awarded in any case brought under paragraph (2) shall be determined by the court in light of the facts and circumstances, but shall not exceed the amount of the net loss to the national security of the United States. An action under this subsection shall be commenced not later than 3 years after the violation occurs, or one year after the violation is discovered, whichever is later. Courts, U.S.

"(l) DEFINITION.—For purposes of this section, the term 'foreign person' means any person other than a United States person.".

SEC. 2445. ANNUAL REPORT OF DEFENSE IMPACT.

Section 14 of the Act (50 U.S.C. App. 2413) is amended by adding at the end the following new subsection:

"(f) ANNUAL REPORT OF THE PRESIDENT.—The President shall submit an annual report to the Congress estimating the additional defense expenditures of the United States arising from illegal technology transfers, focusing on estimated defense costs arising from illegal technology transfers that resulted in a serious adverse impact on the strategic balance of forces. These estimates shall be based on assessment by the intelligence community of any technology transfers that resulted in such serious adverse impact. This report may have a classified annex covering any information of a sensitive nature.". Classified information.

SEC. 2446. IMPROVED MULTILATERAL COOPERATION.

Section 5(i) of the Act (50 U.S.C. App. 2404) (relating to multilateral export controls), as amended by section 2421 of this Act, is further amended by striking paragraphs (1) through (9) and inserting the following:

"(1) Enhanced public understanding of the Committee's purpose and procedures, including publication of the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement of the Committee, and all changes thereto.

"(2) Periodic meetings of high-level representatives of participating governments for the purpose of coordinating export control policies and issuing policy guidance to the Committee.

"(3) Strengthened legal basis for each government's export control system, including, as appropriate, increased penalties and statutes of limitations.

"(4) Harmonization of export control documentation by the participating governments to verify the movement of goods and technology subject to controls by the Committee.

"(5) Improved procedures for coordination and exchange of information concerning violations of the agreement of the Committee.

"(6) Procedures for effective implementation of the agreement through uniform and consistent interpretations of export controls agreed to by the governments participating in the Committee.

"(7) Coordination of national licensing and enforcement efforts by governments participating in the Committee, including sufficient technical expertise to assess the licensing status of exports and to ensure end-use verification.

"(8) More effective procedures for enforcing export controls, including adequate training, resources, and authority for enforcement officers to investigate and prevent illegal exports.

"(9) Agreement to provide adequate resources to enhance the functioning of individual national export control systems and of the Committee.

"(10) Improved enforcement and compliance with the agreement through elimination of unnecessary export controls and maintenance of an effective control list.

"(11) Agreement to enhance cooperation among members of the Committee in obtaining the agreement of governments outside the Committee to restrict the export of goods and technology on the International Control List, to establish an ongoing mechanism in the Committee to coordinate planning and implementation of export control measures related to such agreements, and to remove items from the International Control List if such items continue to be available to controlled countries or if the control of the items no longer serves the common strategic objectives of the members of the Committee.".

SEC. 2447. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TRADE EXPANSION ACT OF 1962.—Section 233 of the Trade Expansion Act of 1962 (19 U.S.C 1864) is amended—

(1) by striking out "(a)"; and

(2) by striking out subsection (b).

(b) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988.—Sections 8124 and 8129 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(d) of Public Law 100-202) are repealed.

101 Stat. 1329-85, 1329-86.

Subtitle E—Miscellaneous Provisions

SEC. 2501. TRADING WITH THE ENEMY ACT.

(a) TERMINATION OF OFFICE OF ALIEN PROPERTY.—(1) The Trading with the Enemy Act is amended by striking subsections (b) through

(e) of section 39 (50 U.S.C. App. 39) and inserting the following new subsection:

"(b) The Attorney General shall cover into the Treasury, to the credit of miscellaneous receipts, all sums from property vested in or transferred to the Attorney General under this Act—

"(1) which the Attorney General receives after the date of the enactment of the Export Enhancement Act of 1988, or

"(2) which the Attorney General received before that date and which, as of that date, the Attorney General had not covered into the Treasury for deposit in the War Claims Fund, other than any such sums which the Attorney General determines in his or her discretion are the subject matter of any judicial action or proceeding.".

(2) Subsection (f) of such section is amended—

(A) by striking "(f)" and inserting "(c)"; and

(B) by striking "through (d)" and inserting "and (b)".

(b) REMOVAL OF REPORTING REQUIREMENT.—Section 6 of such Act (50 U.S.C. App. 6) is amended in the next to the last sentence by striking ": *Provided further,*" and all that follows through the end of the section and inserting a period.

SEC. 2502. LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES.

(a) TRADING WITH THE ENEMY ACT.—(1) Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

"(4) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.".

(2) The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as added by paragraph (1) of this subsection, may not be regulated or prohibited. 50 USC app. 5 note.

(b) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—(1) Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended—

(A) in paragraph (1) by striking "or" after the semicolon;

(B) in paragraph (2) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.".

50 USC app. 1702 note.

(2) The amendments made by paragraph (1) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enactment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date of enactment.

SEC. 2503. BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this title shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

TITLE III—INTERNATIONAL FINANCIAL POLICY

Subtitle A—Exchange Rates and International Economic Policy Coordination

Exchange Rates and International Economic Policy Coordination Act of 1988.

22 USC 5301.

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the "Exchange Rates and International Economic Policy Coordination Act of 1988".

22 USC 5302.

SEC. 3002. FINDINGS.

The Congress finds that—

(1) the macroeconomic policies, including the exchange rate policies, of the leading industrialized nations require improved coordination and are not consistent with long-term economic growth and financial stability;

(2) currency values have a major role in determining the patterns of production and trade in the world economy;

(3) the rise in the value of the dollar in the early 1980's contributed substantially to our current trade deficit;

(4) exchange rates among major trading nations have become increasingly volatile and a pattern of exchange rates has at times developed which contribute to substantial and persistent imbalances in the flow of goods and services between nations, imposing serious strains on the world trading system and frustrating both business and government planning;

(5) capital flows between nations have become very large compared to trade flows, respond at times quickly and dramatically to policy and economic changes, and, for these reasons, contribute significantly to uncertainty in financial markets, the volatility of exchange rates, and the development of exchange rates which produce imbalances in the flow of goods and services between nations;

(6) policy initiatives by some major trading nations that manipulate the value of their currencies in relation to the United States dollar to gain competitive advantage continue to create serious competitive problems for United States industries;

(7) a more stable exchange rate for the dollar at a level consistent with a more appropriate and sustainable balance in the United States current account should be a major focus of national economic policy;

(8) procedures for improving the coordination of macroeconomic policy need to be strengthened considerably; and

(9) under appropriate circumstances, intervention by the United States in foreign exchange markets as part of a coordinated international strategic intervention effort could produce more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assist adjustment toward a more appropriate and sustainable balance in current accounts.

SEC. 3003. STATEMENT OF POLICY. 22 USC 5303.

It is the policy of the United States that—

(1) the United States and the other major industrialized countries should take steps to continue the process of coordinating monetary, fiscal, and structural policies initiated in the Plaza Agreement of September 1985;

(2) the goal of the United States in international economic negotiations should be to achieve macroeconomic policies and exchange rates consistent with more appropriate and sustainable balances in trade and capital flows and to foster price stability in conjunction with economic growth;

(3) the United States, in close coordination with the other major industrialized countries should, where appropriate, participate in international currency markets with the objective of producing more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assisting adjustment toward a more appropriate and sustainable balance in current accounts; and

(4) the accountability of the President for the impact of economic policies and exchange rates on trade competitiveness should be increased.

SEC. 3004. INTERNATIONAL NEGOTIATIONS ON EXCHANGE RATE AND ECONOMIC POLICIES. 22 USC 5304.

(a) MULTILATERAL NEGOTIATIONS.—The President shall seek to confer and negotiate with other countries— President of U.S.

(1) to achieve—

(A) better coordination of macroeconomic policies of the major industrialized nations; and

(B) more appropriate and sustainable levels of trade and current account balances, and exchange rates of the dollar and other currencies consistent with such balances; and

(2) to develop a program for improving existing mechanisms for coordination and improving the functioning of the exchange rate system to provide for long-term exchange rate stability consistent with more appropriate and sustainable current account balances.

(b) BILATERAL NEGOTIATIONS.—The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United

States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage. The Secretary shall not be required to initiate negotiations in cases where such negotiations would have a serious detrimental impact on vital national economic and security interests; in such cases, the Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives of his determination.

22 USC 5305.

SEC. 3005. REPORTING REQUIREMENTS.

(a) REPORTS REQUIRED.—In furtherance of the purpose of this title, the Secretary, after consultation with the Chairman of the Board, shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on or before October 15 of each year, a written report on international economic policy, including exchange rate policy. The Secretary shall provide a written update of developments six months after the initial report. In addition, the Secretary shall appear, if requested, before both committees to provide testimony on these reports.

(b) CONTENTS OF REPORT.—Each report submitted under subsection (a) shall contain—

(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of our major trade competitors;

(2) an evaluation of the factors in the United States and other economies that underlie conditions in the currency markets, including developments in bilateral trade and capital flows;

(3) a description of currency intervention or other actions undertaken to adjust the actual exchange rate of the dollar;

(4) an assessment of the impact of the exchange rate of the United States dollar on—

(A) the ability of the United States to maintain a more appropriate and sustainable balance in its current account and merchandise trade account;

(B) production, employment, and noninflationary growth in the United States;

(C) the international competitive performance of United States industries and the external indebtedness of the United States;

(5) recommendations for any changes necessary in United States economic policy to attain a more appropriate and sustainable balance in the current account;

(6) the results of negotiations conducted pursuant to section 3004;

(7) key issues in United States policies arising from the most recent consultation requested by the International Monetary Fund under article IV of the Fund's Articles of Agreement; and

(8) a report on the size and composition of international capital flows, and the factors contributing to such flows, includ-

ing, where possible, an assessment of the impact of such flows on exchange rates and trade flows.

(c) REPORT BY BOARD OF GOVERNORS.—Section 2A(1) of the Federal Reserve Act (12 U.S.C. 225a(1)) is amended by inserting after "the Nation" the following: ", including an analysis of the impact of the exchange rate of the dollar on those trends".

SEC. 3006. DEFINITIONS. 22 USC 5306.

As used in this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

Subtitle B—International Debt

International Debt Management Act of 1988. Developing countries. Banks and banking.

PART I—FINDINGS, PURPOSES, AND STATEMENT OF POLICY

SEC. 3101. SHORT TITLE. 22 USC 5321.

This subtitle may be cited as the "International Debt Management Act of 1988".

SEC. 3102. FINDINGS. 22 USC 5322.

The Congress finds that—

(1) the international debt problem threatens the safety and soundness of the international financial system, the stability of the international trading system, and the economic development of the debtor countries;

(2) orderly reduction of international trade imbalances requires very substantial growth in all parts of the world economy, particularly in the developing countries;

(3) growth in developing countries with substantial external debts has been significantly constrained over the last several years by a combination of high debt service obligations and insufficient new flows of financial resources to these countries;

(4) substantial interest payment outflows from debtor countries, combined with inadequate net new capital inflows, have produced a significant net transfer of financial resources from debtor to creditor countries;

(5) negative resource transfers at present levels severely depress both investment and growth in the debtor countries, and force debtor countries to reduce imports and expand exports in order to meet their debt service obligations;

(6) current adjustment policies in debtor countries, which depress domestic demand and increase production for export, help to depress world commodity prices and limit the growth of export markets for United States industries;

(7) the United States has borne a disproportionate share of the burden of absorbing increased exports from debtor countries, while other industrialized countries have increased their imports from developing countries only slightly;

(8) current approaches to the debt problem should not rely solely on new lending as a solution to the debt problem, and should focus on other financing alternatives including a reduction in current debt service obligations;

(9) new international mechanisms to improve the management of the debt problem and to expand the range of financing options available to developing countries should be explored; and

(10) industrial countries with strong current account surpluses have a disproportionate share of the world's capital resources, and bear an additional responsibility for contributing to a viable long-term solution to the debt problem.

22 USC 5323.

SEC. 3103. PURPOSES.

The purposes of this subtitle are—

(1) to expand the world trading system and raise the level of exports from the United States to the developing countries in order to reduce the United States trade deficit and foster economic expansion and an increase in the standard of living throughout the world;

(2) to alleviate the current international debt problem in order to make the debt situation of developing countries more manageable and permit the resumption of sustained growth in those countries; and

(3) to increase the stability of the world financial system and ensure the safety and soundness of United States depository institutions.

22 USC 5324.

SEC. 3104. STATEMENT OF POLICY.

It is the policy of the United States that—

(1) increasing growth in the developing world is a major goal of international economic policy;

(2) it is necessary to broaden the range of options in dealing with the debt problem to include improved mechanisms to restructure existing debt;

(3) active consideration of a new multilateral authority to improve the management of the debt problem and to share the burdens of adjustment more equitably must be undertaken; and

(4) countries with strong current account surpluses bear a major responsibility for providing the financial resources needed for growth in the developing world.

PART II—THE INTERNATIONAL DEBT MANAGEMENT AUTHORITY

22 USC 5331.

SEC. 3111. INTERNATIONAL INITIATIVE.

(a) DIRECTIVE.—

(1) STUDY.—The Secretary of the Treasury shall study the feasibility and advisability of establishing the International Debt Management Authority described in this section.

(2) EXPLANATION OF DETERMINATIONS.—If the Secretary of the Treasury determines that initiation of international discussions with regard to such authority would (A) result in material increase in the discount at which sovereign debt is sold, (B) materially increase the probability of default on such debt, or (C) materially enhance the likelihood of debt service failure or disruption, the Secretary shall include in his interim reports to the Congress an explanation in detail of the reasons for such determination.

(3) INITIATION OF DISCUSSIONS.—Unless such a determination is made, the Secretary of the Treasury shall initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of the International Debt Management Authority, which would undertake to—

(A) purchase sovereign debt of less developed countries from private creditors at an appropriate discount;

(B) enter into negotiations with the debtor countries for the purpose of restructuring the debt in order to—

(i) ease the current debt service burden on the debtor countries; and

(ii) provide additional opportunities for economic growth in both debtor and industrialized countries; and

(C) assist the creditor banks in the voluntary disposition of their Third World loan portfolio.

(b) OBJECTIVES.—In any discussions initiated under subsection (a), the Secretary should include the following specific proposals:

(1) That any loan restructuring assistance provided by such an authority to any debtor nation should involve substantial commitments by the debtor to (A) economic policies designed to improve resource utilization and minimize capital flight, and (B) preparation of an economic management plan calculated to provide sustained economic growth and to allow the debtor to meet its restructured debt obligations. Loans.

(2) That support for such an authority should come from industrialized countries, and that greater support should be expected from countries with strong current account surpluses.

(3) That such an authority should have a clearly defined close working relationship with the International Monetary Fund and the International Bank for Reconstruction and Development and the various regional development banks.

(4) That such an authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government, and to function subject to the prohibitions contained in the first sentence of section 3112(a).

(5) That such an authority should have a defined termination date and a clear proposal for the restoration of creditworthiness to debtor countries within this timeframe.

(c) INTERIM REPORTS.—At the end of the 6-month period beginning on the date of enactment of this Act and at the end of the 12-month period beginning on such date of enactment, the Secretary of the Treasury shall submit a report on the progress being made on the study or in discussions described in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, and shall consult with such committees after submitting each such report.

(d) FINAL REPORT.—On the conclusion of the study or of discussions described in subsection (a), the Secretary shall transmit a report containing a detailed description thereof to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, together with such recommendations for legislation which the Secretary may

determine to be necessary or appropriate for the establishment of the International Debt Management Authority.

22 USC 5332.

SEC. 3112. ACTIONS TO FACILITATE CREATION OF THE AUTHORITY.

(a) IN GENERAL.—No funds, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government may be used for the creation, operation, or support of the International Debt Management Authority specified in section 3111, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such authority, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of the International Debt Management Authority. In the course of this review, the Secretary shall direct—

(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority specified in section 3111; and

(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority specified in section 3111.

Reports.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 3111(c).

(b) CONSTRUCTION OF SECTION.—Subsection (a) shall not be construed to affect any provision of the Articles of Agreement of the International Monetary Fund or of the International Bank for Reconstruction and Development or any agreement entered into under either of such Agreements.

22 USC 5333.

SEC. 3113. IMF-WORLD BANK REVIEW.

(a) IMF REVIEW.—The United States Executive Director of the International Monetary Fund shall request the management of the International Monetary Fund to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 3111 no later than 1 year after the date of the enactment of this Act.

(b) WORLD BANK REVIEW.—The United States Executive Director to the International Bank for Reconstruction and Development shall request the management of the International Bank for Reconstruction and Development to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt,

securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 3111 no later than 1 year after the date of the enactment of this Act.

PART III—REGULATORY PROVISIONS AFFECTING INTERNATIONAL DEBT

SEC. 3121. PROVISIONS RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

(a) REGULATORY OBJECTIVES.—It is the sense of the Congress that regulations prescribed by Federal banking regulatory agencies which affect the international assets of United States commercial banks should grant the widest possible latitude to the banks for negotiating principal and interest reductions with respect to obligations of heavily indebted sovereign borrowers.

(b) FLEXIBILITY IN DEBT RESTRUCTURING.—It is the intent of the Congress that, in applying generally accepted accounting standards, Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) apply to such institutions maximum flexibility in determining the asset value of restructured loans to heavily indebted sovereign borrowers and in accounting for the effects of such restructuring prospectively. Loans.

(c) RECAPITALIZATION.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should require depository institutions with substantial amounts of loans to heavily indebted sovereign borrowers to seek, as appropriate, expanded recapitalization through equity financing to ensure that prudent institutional capital-to-total asset ratios are established and maintained.

(d) RESERVES FOR LOAN LOSSES.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should seek to ensure that appropriate levels of reserves be established by depository institutions engaged in substantial lending to heavily indebted sovereign borrowers in accordance with both the credit and country risks associated with such lending.

(e) DATA ON BANKS FOREIGN LOAN RISKS.—Section 913 of the International Lending Supervision Act of 1983 is amended by adding at the end thereof the following new subsection: 12 USC 3912.

"(d) To ensure that Congress is fully informed of the risks to our banking system posed by troubled foreign loans, the Federal banking agencies, before March 31, 1989, and on April 30 of each succeeding year, shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall include the following: Reports.

"(1) The level of loan exposure of those banking institutions under the jurisdiction of each agency which is rated 'value-impaired', 'substandard', 'other transfer risk problems', or in any other troubled debt category as may be established by the

banking agencies. This tabulation shall clearly identify aggregate loan exposures of the 9 largest United States banks under the agencies' jurisdiction, the aggregate loan exposures of the next 13 largest banks, and the aggregate exposure of all other such banks which have significant country risk exposures. This tabulation shall include a separate section identifying, to the extent feasible, new bank loans to countries with debt service problems which were made within the past year preceding the date on which the report required under this subsection is due, and shall include the amount of sovereign loans written off or sold by such banks during the preceding year.

"(2) Progress that has been achieved by the appropriate Federal banking agencies and by banking institutions in reducing the risk to the economy of the United States posed by the exposure of banking institutions to troubled international loans through appropriate voluntary or regulatory policies, including increases in capital and reserves of banking institutions.

"(3) The relationship between lending activity by the United States banks and foreign banks in countries experiencing debt service difficulties and exports from the United States and other lending countries to these markets, and the extent to which United States banking institutions can be encouraged to continue to make credit available to finance necessary growth in international trade, and particularly to finance United States exports.

"(4) The response of regulatory agencies in other countries to the international debt problems, including measures which encourage the building of capital and reserves by foreign banking institutions, tax treatment of reserves, encouragement of new lending to promote international trade, and measures which may place United States banking institutions at a competitive disadvantage when compared with foreign banking institutions.

"(5) Steps that have been taken during the previous year by countries experiencing debt service difficulties to enhance conditions for private direct investment (including investment by United States persons) and to eliminate production subsidies, attain price stability, and undertake such other steps as will remove the causes of their debt service difficulties.

Classified information.

Each appropriate Federal banking agency may provide data in the aggregate to the extent necessary to preserve the integrity and confidentiality of the regulatory and examination process.".

SEC. 3122. STUDIES RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

(a) REGULATORY STUDY REQUIRED.—The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall conduct a study to determine the extent of any regulatory obstacle to negotiated reductions in the debt service obligations associated with foreign debt.

Loans.

(b) SPECIFIC FACTORS TO BE STUDIED.—The study required by subsection (a) shall include an analysis of regulatory and accounting obstacles to various forms of debt restructuring, including negotiated interest reduction, the amortization of loan losses, securitization and debt conversion techniques, and discounted debt repurchases, as well as an analysis of the profitability of commercial bank lending to developing countries during the 10-year period

ending on December 31, 1986. The analysis should include an assessment of the impact of the various forms of debt restructuring on the development of a secondary market in developing country debt and on the safety and soundness of the United States banking system.

(c) REPORT REQUIRED.—Within 6 months after the date of the enactment of this Act, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall transmit to the Congress a report containing the findings and conclusions of such agencies with respect to the study required under subsection (a), together with any recommendations concerning legislation which such agencies determine to be necessary or appropriate to remove regulatory obstacles to negotiated reductions in the debt service obligations associated with sovereign debt.

SEC. 3123. LIMITED PURPOSE SPECIAL DRAWING RIGHTS FOR THE POOREST HEAVILY INDEBTED COUNTRIES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the directors and staff of the International Monetary Fund and such other interested parties as the Secretary may determine to be appropriate, shall conduct a study of the feasibility and the efficacy of reducing the international debt of the poorest of the heavily indebted countries through a one-time allocation by the International Monetary Fund of limited purpose Special Drawing Rights to such countries in accordance with a plan which provides that—

(A) the allocation be made without regard to the quota established for any such country under the Articles of Agreement of the Fund;

(B) limited purpose Special Drawing Rights be used only to repay official debt of any such country;

(C) the allocation of limited purpose Special Drawing Rights to any such country not be treated as an allocation on which such country must pay interest to the Fund; and

(D) the use of limited purpose Special Drawing Rights by any such country to repay official debt shall be treated as an allocation of regular Special Drawing Rights to the creditor.

(2) ADDITIONAL FACTORS TO BE STUDIED.—The study required under paragraph (1) shall include the following:

(A) To the extent the creation and allocation of the limited purpose Special Drawing Rights described in paragraph (1) would require an amendment of the Articles of Agreement of the International Monetary Fund, an assessment of the period of time within which such amendment could be ratified by the member nations, based on discussions with the major members of the Fund.

(B) An assessment of other means for achieving the objectives of principal and interest reduction on official debt of the poorest heavily indebted countries through the use of Special Drawing Rights.

(C) A comparative evaluation of proposals of other members of the International Monetary Fund, the directors and staff of the Fund, and other interested parties.

(D) An analysis of the effect the implementation of the provisions in paragraph (1) would have on bilateral and

multilateral lenders, the international monetary system, and such other provisions of this Act as may be appropriate.

(E) A comparative analysis of the available alternatives identified under subparagraph (B) or (C).

(b) REPORT REQUIRED.—Within 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate containing the findings and conclusions of the Secretary pursuant to the study required under subsection (a), together with—

(1) the recommendation of the Secretary as to which, of all the alternatives for providing relief for the poorest of the heavily indebted countries which were assessed in connection with such study, represents the best available option; and

(2) recommendations for such legislation and administrative action as the Secretary determines to be necessary and appropriate to implement such option.

Subtitle C—Multilateral Development Banks

Multilateral Development Banks Procurement Act of 1988.

22 USC 262a note.

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Multilateral Development Banks Procurement Act of 1988".

22 USC 262a.

SEC. 3202. MULTILATERAL DEVELOPMENT BANK PROCUREMENT.

(a) EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to attach a high priority to promoting opportunities for exports for goods and services from the United States and, in carrying out this function, to investigate thoroughly any complaints from United States bidders about the awarding of procurement contracts by the multilateral development banks to ensure that all contract procedures and rules of the banks are observed and that United States firms are treated fairly.

(b) OFFICER OF PROCUREMENT.—

(1) ESTABLISHMENT.—The Secretary of the Treasury shall designate, within the Office of International Affairs in the Department of the Treasury, an officer of multilateral development bank procurement.

(2) FUNCTION.—The officer shall act as the liaison between the Department of the Treasury, the Department of Commerce, and the United States Executive Directors' offices in the multilateral development banks, in carrying out this section. The officer shall cooperate with the Department of Commerce in efforts to improve opportunities for multilateral development bank procurement by United States companies.

(b) MULTILATERAL DEVELOPMENT BANK DEFINED.—As used in this section, the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

Subtitle D—Export-Import Bank and Tied Aid Credit Amendments

Export-Import Bank and Tied Aid Credit Amendments of 1988.
12 USC 635 note.

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the "Export-Import Bank and Tied Aid Credit Amendments of 1988".

SEC. 3302. PROVISIONS RELATING TO TIED AID CREDIT.

12 USC 635i-3 note.

(a) FINDINGS.—The Congress finds that—

(1) negotiations have led to an international agreement to increase the grant element required in tied aid credit offers;

(2) concern continues to exist that countries party to the agreement may continue to offer tied aid credits that deviate from the agreement;

(3) in such cases, the United States could continue to lose export sales in connection with the aggressive, and in some cases, unfair, tied aid practices of such countries; and

(4) in such cases, the Export-Import Bank of the United States should continue to use the Tied Aid Credit Fund established by section 15(c) of the Export-Import Bank Act of 1945 to discourage the use of such predatory financing practices.

(b) EXTENSION OF TIED AID CREDIT FUND.—Subsections (c)(2) and (e)(1) of section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3 (c)(2) and (e)(1)) are each amended by striking out "and 1988" and inserting in lieu thereof "1988, and 1989".

(c) REPORT.—

(1) IN GENERAL.—On or before December 31, 1988, the President and Chairman of the Export-Import Bank of the United States, in cooperation with other appropriate government agencies, shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a written report identifying and analyzing the tied aid credit practices of other countries and shall make recommendations for dealing with such practices.

(2) CONSULTATION.—In preparing the report described in paragraph (1), the Export-Import Bank shall consult with appropriate international organizations such as the International Bank for Reconstruction and Development, the International Monetary Fund, and the Development Assistance Committee of the Organization for Economic Cooperation and Development, and with the countries which are party to the Arrangement on Guidelines for Officially Supported Export Credits adopted by the Organization for Economic Cooperation and Development in November 1987.

SEC. 3303. REPORT ON UNITED STATES EXPORTS TO DEVELOPING COUNTRIES.

Within 90 days after the date of the enactment of this Act, the President and Chairman of the Export-Import Bank of the United States shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report which contains—

(1) an assessment of the effectiveness of recent program changes in increasing United States exports to developing countries; and

(2) an identification of additional specific policy and program changes which—

(A) would enable the Bank to increase the financing of United States exports to developing countries; and

(B) would encourage greater private sector participation in such financing efforts.

SEC. 3304. AMENDMENTS TO SECTION 2(e) OF THE EXPORT-IMPORT BANK ACT OF 1945.

(a) TIME FOR DETERMINING SUPPLIES.—Section 2(e)(1)(A)(i) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(1)(A)(i)) is amended by striking out "productive capacity is expected to become operative" and inserting in lieu thereof "commodity will first be sold".

(b) MAKING COMPARATIVE INJURY DETERMINATIONS.—Section 2(e)(2) of such Act (12 U.S.C. 635(e)(2)) is amended—

(1) by inserting "short- and long-term" before "injury to United States producers"; and

(2) by inserting "and employment" before "of the same, similar, or competing commodity".

(c) SUBSTANTIAL INJURY DEFINED FOR EXPORT-IMPORT BANK DETERMINATIONS.—Section 2(e) of such Act (12 U.S.C. 635(e)) is amended by adding at the end the following:

"(3) DEFINITION.—For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.".

Subtitle E—Export Trading Company Act Amendments

Export Trading Company Act Amendments of 1988.
12 USC 1841 note.

SEC. 3401. SHORT TITLE.

This subtitle may be cited as the "Export Trading Company Act Amendments of 1988".

SEC. 3402. EXPORT TRADING COMPANY ACT AMENDMENTS.

(a) STANDARDS FOR DETERMINATION OF EXPORT TRADING COMPANY STATUS.—Section 4(c)(14) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) DETERMINATION OF STATUS AS EXPORT TRADING COMPANY.—

"(i) TIME PERIOD REQUIREMENTS.—For purposes of determining whether an export trading company is operated principally for the purposes described in subparagraph (F)(i)—

"(I) the operations of such company during the 2-year period beginning on the date such company commences operations shall not be taken into account in making any such determination; and

"(II) not less than 4 consecutive years of operations of such company (not including any portion of the period referred to in subclause (I)) shall be taken into account in making any such determination.

"(ii) EXPORT REVENUE REQUIREMENTS.—A company shall not be treated as operated principally for the purposes described in subparagraph (F)(i) unless—

"(I) the revenues of such company from the export, or facilitating the export, of goods or services produced in the United States exceed the revenues of such company from the import, or facilitating the import, into the United States of goods or services produced outside the United States; and

"(II) at least ⅓ of such company's total revenues are revenues from the export, or facilitating the export, of goods or services produced in the United States by persons not affiliated with such company.".

(b) LEVERAGE.—Section 4(c)(14)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(A)) is amended by redesignating clauses (v) and (vi) as clauses (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

"(v) LEVERAGE.—The Board may not disapprove any proposed investment solely on the basis of the anticipated or proposed asset-to-equity ratio of the export trading company with respect to which such investment is proposed, unless the anticipated or proposed annual average asset-to-equity ratio is greater than 20-to-1.". Securities.

(c) INVENTORY.—Section 4(c)(14)(A)) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after subparagraph (G) (as added by subsection (a) of this section) the following new subparagraph:

"(H) INVENTORY.—

"(i) NO GENERAL LIMITATION.—The Board may not prescribe by regulation any maximum dollar amount limitation on the value of goods which an export trading company may maintain in inventory at any time.

"(ii) SPECIFIC LIMITATION BY ORDER.—Notwithstanding clause (i), the Board may issue an order establishing a maximum dollar amount limitation on the value of goods which a particular export trading company may maintain in inventory at any time (after such company has been operating for a reasonable period of time) if the Board finds that, under the facts and circumstances, such limitation is necessary to prevent risks that would affect the financial or managerial resources of an investor bank holding company to an extent which would be likely to have a materially adverse effect on the safety and soundness of any subsidiary bank of such bank holding company.".

Primary Dealers Act of 1988.

Subtitle F—Primary Dealers

22 USC 5341.

SEC. 3501. SHORT TITLE.

This subtitle may be cited as the "Primary Dealers Act of 1988".

22 USC 5342.

SEC. 3502. REQUIREMENT OF NATIONAL TREATMENT IN UNDERWRITING GOVERNMENT DEBT INSTRUMENTS.

(a) FINDINGS.—The Congress finds that—

(1) United States companies can successfully compete in foreign markets if they are given fair access to such markets;

(2) a trade surplus in services could offset the deficit in manufactured goods and help lower the overall trade deficit significantly;

(3) in contrast to the barriers faced by United States firms in Japan, Japanese firms generally have enjoyed access to United States financial markets on the same terms as United States firms; and

(4) United States firms seeking to compete in Japan face or have faced a variety of discriminatory barriers effectively precluding such firms from fairly competing for Japanese business, including—

(A) limitations on membership on the Tokyo Stock Exchange;

(B) high fixed commission rates (ranging as high as 80 percent) which must be paid to members of the exchange by nonmembers for executing trades;

(C) unequal opportunities to participate in and act as lead manager for equity and bond underwritings;

(D) restrictions on access to automated teller machines;

(E) arbitrarily applied employment requirements for opening branch offices;

(F) long delays in processing applications and granting approvals for licenses to operate; and

(G) restrictions on foreign institutions' participation in Ministry of Finance policy advisory councils.

(b) DESIGNATION OF CERTAIN PERSONS AS PRIMARY DEALERS PROHIBITED.—

(1) GENERAL RULE.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, any person of a foreign country as a primary dealer in government debt instruments if such foreign country does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country as such country accords to domestic companies of such country.

(2) CERTAIN PRIOR ACQUISITIONS EXCEPTED.—Paragraph (1) shall not apply to the continuation of the prior designation of a company as a primary dealer in government debt instruments if—

(A) such designation occurred before July 31, 1987; and

(B) before July 31, 1987—

(i) control of such company was acquired from a person (other than a person of a foreign country) by a person of a foreign country; or

(ii) in conjunction with a person of a foreign country, such company informed the Federal Reserve Bank of New York of the intention of such person to acquire control of such company.

(c) EXCEPTION FOR COUNTRIES HAVING OR NEGOTIATING BILATERAL AGREEMENTS WITH THE UNITED STATES.—Subsection (b) shall not apply to any person of a foreign country if—

(1) that country, as of January 1, 1987, was negotiating a bilateral agreement with the United States under the authority of section 102(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2112(b)(4)(A)); or

(2) that country has a bilateral free trade area agreement with the United States which entered into force before January 1, 1987.

(d) PERSON OF A FOREIGN COUNTRY DEFINED.—For purposes of this section, a person is a "person of a foreign country" if that person, or any other person which directly or indirectly owns or controls that person, is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(e) EFFECTIVE DATE.—This section shall take effect 12 months after the date of the enactment of this Act.

Subtitle G—Financial Reports

Financial Reports Act of 1988.

SEC. 3601. SHORT TITLE.

22 USC 5351.

This subtitle may be cited as the "Financial Reports Act of 1988".

SEC. 3602. QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.

22 USC 5352.

Not less frequently than every 4 years, beginning December 1, 1990, the Secretary of the Treasury, in conjunction with the Secretary of State, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Department of Commerce, shall report to the Congress on (1) the foreign countries from which foreign financial services institutions have entered into the business of providing financial services in the United States, (2) the kinds of financial services which are being offered, (3) the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and (4) the efforts undertaken by the United States to eliminate such discrimination. The report shall focus on those countries in which there are significant denials of national treatment which impact United States financial firms. The report shall also describe the progress of discussions pursuant to section 3603.

SEC. 3603. FAIR TRADE IN FINANCIAL SERVICES.

President of U.S.
22 USC 5353.

(a) DISCUSSIONS.—When advantageous the President or his designee shall conduct discussions with the governments of countries that are major financial centers, aimed at:

(1) ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets;

(2) reducing or eliminating barriers to, and other distortions of, international trade in financial services;

(3) achieving reasonable comparability in the types of financial services permissible for financial service companies; and

(4) developing uniform supervisory standards for banking organizations and securities companies, including uniform capital standards.

(b) CONSULTATION BEFORE DISCUSSIONS.—Before entering into those discussions, the President or his designee shall consult with the committees of jurisdiction in the Senate and the House of Representatives.

(c) RECOMMENDATIONS.—After completing those discussions and after consultation with the committees of jurisdiction, the President shall transmit to the Congress any recommendations that have emerged from those discussions. Any recommendations for changes in United States financial laws or practices shall be accompanied by a description of the changes in foreign financial laws or practices that would accompany action by the Congress, and by an explanation of the benefits that would accrue to the United States from adoption of the recommendations.

(d) CONSTRUCTION OF SECTION.—Nothing in this section may be construed as prior approval of any legislation which may be necessary to implement any recommendations resulting from discussions under this section.

Reports.
22 USC 5354.

SEC. 3604. BANKS LOAN LOSS RESERVES.

The Federal Reserve Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the issues raised by including loan loss reserves as part of banks' primary capital for regulatory purposes by March 31, 1989. Such report shall include a review of the treatment of loan loss reserves and the composition of primary capital of banks in other major industrialized countries, and shall include an analysis as to whether loan loss reserves should continue to be counted as primary capital for regulatory purposes.

Agricultural Competitiveness and Trade Act of 1988.
7 USC 5201 note.

TITLE IV—AGRICULTURAL TRADE

SEC. 4001. SHORT TITLE.

This title may be cited as the "Agricultural Competitiveness and Trade Act of 1988".

Subtitle A—Findings, Policy, and Purpose

7 USC 5201.

SEC. 4101. FINDINGS.

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from $43,800,000,000 in 1981 to $27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;

(6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—

(A) the addition of new exporting nations;

(B) innovations in agricultural technology;

(C) increased use of export subsidies designed to lower the price of commodities on the world market;

(D) the existence of barriers to agricultural trade;

(E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and

(F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;

(7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;

(8) in order to increase agricultural exports and improve prices for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(9) greater use should be made by the Secretary of Agriculture of the authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) increase livestock production to enhance the demand for United States feed grains;

(10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;

(11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

7 USC 5202.

SEC. 4102. POLICY.

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 1101(b) of this Act to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

7 USC 5203.

SEC. 4103. PURPOSE.

It is the purpose of this title—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

Subtitle B—Agricultural Trade Initiatives

PART 1—GENERAL PROVISIONS

7 USC 5211.

SEC. 4201. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS.

President of U.S.

(a) CONTENTS.—The Secretary of Agriculture shall prepare annually, and the President shall submit together with the budget for each fiscal year, a Long-Term Agricultural Trade Strategy Report establishing recommended policy goals for United States agricultural trade and exports, and recommended levels of spending on international activities of the Department of Agriculture, for 1-, 5-, and 10-fiscal year periods. In preparing each such report, the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with the annual national trade policy agenda included in the annual report for the relevant fiscal year prepared under section 163 of the Trade Act of 1974 (19 U.S.C. 2213). Each such report shall include—

(1) findings with respect to trends in the comparative position of the United States and other countries in the export of

agricultural commodities and products, organized by major commodity group and including a comparative analysis of the cost of production of such commodities and products;

(2) findings with respect to new developments in research conducted by other countries that may affect the competitiveness of United States agricultural commodities and products;

(3) findings and recommendations with respect to the movement of United States agricultural commodities and products in nonmarket economies;

(4) as appropriate, the agricultural trade goals for each agricultural commodity and value-added product produced in the United States for the period involved, expressed in both physical volume and monetary value;

(5) recommended Federal policy and programs to meet such agricultural trade goals;

(6) recommended levels of Federal spending on international programs and activities of the Department of Agriculture to meet such agricultural trade goals;

(7) recommended levels of Federal spending on programs and activities of agencies other than the Department of Agriculture to meet such agricultural trade goals; and

(8) recommended long-term strategies for growth in agricultural trade and exports—

(A) taking into account United States competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(B) including specific recommendations with respect to export enhancement programs (including credit programs and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

(b) TREATMENT AS ANNUAL BUDGET SUBMISSION.—Provisions of each Long-Term Agricultural Trade Strategy Report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the President's annual budget submission to Congress for such activities for such fiscal year, and shall be submitted along with the budget request for other programs of the Department of Agriculture for such fiscal year.

(c) SUCCEEDING REPORTS.—The Secretary of Agriculture, in each annual Long-Term Agricultural Trade Strategy Report, shall identify any recommendations in such report that might modify the long-term policy contained in any previous report.

(d) RECOMMENDATIONS FOR CHANGES IN LAW.—The President shall include in each annual budget submission recommendations for such changes in law as are required to meet the long-term goals established in the Report. President of U.S.

SEC. 4202. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS. 7 USC 5212.

The Secretary of Agriculture shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

7 USC 5213.

SEC. 4203. JOINT DEVELOPMENT ASSISTANCE AGREEMENTS WITH CERTAIN TRADING PARTNERS.

(a) DEVELOPMENT OF PLAN.—With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) AGREEMENT.—The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries.

7 USC 5214.

SEC. 4204. REORGANIZATION EVALUATION.

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress, together with the views and recommendations of the private sector advisory committee.

Reports.

7 USC 5215.

SEC. 4205. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) IN GENERAL.—The Secretary of Agriculture may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) NOT EMPLOYEES OF THE UNITED STATES.—Such individuals shall not be regarded as officers or employees of the United States.

7 USC 5216.

SEC. 4206. ESTABLISHMENT OF TRADE ASSISTANCE OFFICE.

(a) ESTABLISHMENT WITHIN THE FOREIGN AGRICULTURAL SERVICE.—The Secretary of Agriculture shall establish an office within the Foreign Agricultural Service to carry out the duties described in subsections (b) and (c) under the direction of the Administrator of the Foreign Agricultural Service.

(b) PRIMARY RESPONSIBILITY.—The office established under subsection (a) shall provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

(c) DUTIES.—The office established under subsection (a) shall—

(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injured by unfair trade practices; and

(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other agencies with respect to the international marketing and export of domestically produced agricultural commodities and products or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products.

(d) REPORT.—

(1) DEADLINE FOR SUBMISSION.—Not later than 60 days after the end of each fiscal year, the Administrator of the Foreign Agricultural Service shall submit a report described in paragraphs (2) and (3) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) CONTENTS OF EACH REPORT.—Each such report shall describe—

(A) the type of information that is currently available through the office established by this section; and

(B) the type of assistance provided to persons during the previous fiscal year.

(3) ADDITIONAL CONTENTS FOR FIRST REPORT.—In the first report submitted under this section, the Administrator shall also—

(A) provide an analysis of the information currently available concerning foreign agricultural trade practices and domestic agricultural trade promotion programs and the methods used to disseminate such information;

(B) provide recommendations with respect to additional information and assistance that should be made available to interested persons; and

(C) provide an analysis of the degree that overlapping information and reports concerning agricultural trade are prepared.

PART 2—FOREIGN AGRICULTURAL SERVICE

SEC. 4211. PERSONNEL OF THE SERVICE. 7 USC 5231.

(a) INCREASED LEVEL.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Foreign Agricultural Service of the Department of Agriculture (hereinafter in this part referred to as the "Service") shall not be less than 900 full-time employees during each of the fiscal years 1989 and 1990.

(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, upon the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad.

The number of Service officers holding such diplomatic title at any time may not exceed eight.

7 USC 5232.

SEC. 4212. AGRICULTURAL ATTACHE EDUCATIONAL PROGRAM.

The Administrator of the Service (hereinafter in this part referred to as the "Administrator") shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.

7 USC 5233.

SEC. 4213. PERSONNEL RESOURCE TIME.

(a) IN GENERAL.—In planning the overall allocation of personnel resource time of agricultural attaches of the Service, the Administrator shall ensure that the maximum quantity practicable of the overall personnel resource time of agricultural attaches of the Service be devoted to activities designed to increase markets for United States agricultural commodities and products.

(b) REPORTS.—The Administrator shall submit reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describe the allocation of personnel resource time of agricultural attaches during the 1988 and 1989 fiscal years. The report for fiscal year 1988 shall be submitted not later than September 30, 1988, or 30 days after the date of the enactment of this Act, whichever is later. The report for fiscal year 1989 shall be submitted not later than September 30, 1989.

7 USC 5234.

SEC. 4214. COOPERATOR ORGANIZATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

Marketing.

(b) COMMODITIES FOR COOPERATOR ORGANIZATIONS.—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) RELATION TO FUNDS.—Commodities made available to cooperator organizations under this section shall be in addition to, and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) CONFLICTS OF INTEREST.—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) EVALUATION.—It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

SEC. 4215. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS. 7 USC 5235.

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, $20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Service;

(3) enhancement of the Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and

(5) developing markets for value-added beef, pork, and poultry products.

Subtitle C—Existing Agricultural Trade Programs

SEC. 4301. TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT. President of U.S. 7 USC 1466 note.

(a) CERTIFICATION TO CONGRESS.—Notwithstanding any other provision of law, if, before January 1, 1990, a law has not been enacted in accordance with section 151 of the Trade Act of 1974 (19 U.S.C. 2191) that implements an agreement negotiated under the Uruguay round of multilateral trade negotiations conducted under the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT negotiations") concerning agricultural trade, the President, not later than 45 days after such date—

(1) shall submit a report to the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate describing the status of the GATT negotiations concerning agricultural trade, the progress that has been made to date in the negotiations, the general areas of disagreement, the anticipated date of completion of the negotiations, and the changes in domestic farm programs that are likely to be necessary on conclusion of the negotiations; and Reports.

(2) shall certify to Congress whether or not significant progress has been made in the negotiations.

(b) MARKETING LOAN.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), if the President does not certify that significant progress has been made towards reaching a GATT agreement concerning agricultural trade, the President shall, not later than 60 days before the beginning of the marketing year for the 1990 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under sections 107D(a), 105C(a), and 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a), 1444e(a), and 1446(i)) for each of the 1990 crops of wheat, feed grains, and soybeans at a level that is the lesser of—

(A) the loan level determined for each such crop; or

(B) the prevailing world market price for each such crop, as determined by the Secretary.

(2) WAIVER.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the marketing loan would harm further negotiations.

(3) DISCONTINUANCE.—If, after the implementation of a marketing loan in accordance with paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the marketing loan program implemented in accordance with paragraph (1) would harm such progress, the President may instruct the Secretary of Agriculture to discontinue the marketing loan program.

(c) EXPORT ENHANCEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (4), if the President exercises the authority to waive or discontinue the marketing loan program provided for in paragraph (2) or (3) of subsection (b), the President shall instruct the Secretary of Agriculture to make agricultural commodities and products acquired by the Commodity Credit Corporation equaling at least $2,000,000,000 in value available during the 1990 through 1992 fiscal years to United States exporters of domestically produced agricultural commodities and products for the purpose of making exports of such commodities and products available on the world market at competitive prices.

(2) NONDISPLACEMENT.—Commodities and products made available in accordance with this subsection shall be in addition to, and not in lieu of, other commodities and products made available for the purpose of enhancing the export of United States commodities and products.

(3) USE OF COMMODITY CREDIT CORPORATION.—The Secretary of Agriculture may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

(4) EXCEPTION.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the export enhancement program provided for by this subsection would be a substantial impediment to achieving a successful agreement under the GATT.

(5) DISCONTINUANCE.—If, after the implementation of paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the export enhancement program implemented in accordance with paragraph (1) would harm such progress, the President may, not before 60 days after the consultation required under subsection (d) with respect to such certification, instruct the Secretary of Agriculture to suspend the implementation of such program.

(d) CONSULTATION.—The President may not make a certification to Congress under this section unless the United States Trade Representative—

(1) consults about the certification with—

(A) the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate; and

Reports.

(2) reports to the President the results of such consultation.

SEC. 4302. PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED.

Loans.
7 USC 1446 note.

(a) SUNFLOWER SEEDS.—If producers are permitted to repay loans for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of sunflower seeds through loans and purchases for the 1990 crop of sunflowers in accordance with section 201(l) of the Agricultural Act of 1949.

(b) COTTONSEED.—If a producer is permitted to repay a loan for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of the 1990 crop of cottonseed at such level as the Secretary determines will cause cottonseed to compete on equal terms with soybeans on the market. The Secretary shall carry out this subsection using the funds, facilities, and authorities of the Commodity Credit Corporation.

(c) DISCONTINUANCE.—If the marketing loan program for the 1990 crop of soybeans is discontinued under section 4301(b)(3) of this Act, the Secretary shall discontinue the price support programs for sunflower seeds and cottonseed required by this section.

SEC. 4303. MULTIYEAR AGREEMENTS UNDER THE FOOD FOR PROGRESS PROGRAM.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following:

"(k) In carrying out this section, the President shall, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by recipient countries on a multiyear basis if the agreements otherwise meet the requirements of this section.". President of U.S.

SEC. 4304. TARGETED EXPORT ASSISTANCE.

(a) LEVEL OF PROGRAM.—Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "1988" and inserting in lieu thereof "1987"; and

(B) by striking out "and" at the end; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) for the fiscal year 1988, the Secretary shall use under this section not less than $215,000,000 of the funds of, or commodities owned by, the Corporation, except that the Secretary shall use funds or commodities of the Corporation in excess of $110,000,000 only to the extent appropriations to reimburse the Corporation for such additional expenditures of funds or distribution of commodities are made available in advance to carry out this section; and

"(3) for each of the fiscal years 1989 and 1990, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation.".

(b) COUNTERVAILING DUTY ACTION.—Section 1124(b) of such Act is amended—

(1) in paragraph (1), by striking out "Funds" and inserting in lieu thereof "Except as provided in paragraph (3), funds"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) Funds or commodities made available for use under this section may be used by the Secretary to assist organizations consisting of producers or processors of United States agricultural commodities in amounts necessary to compensate the organizations for reasonable expenses incurred in defending countervailing duty actions instituted after January 1, 1986, in foreign countries to offset the benefits of the agricultural programs provided for under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.). In no event may such assistance exceed $500,000 for the defense of any one countervailing duty action.

"(B) If the Secretary declines to make funds or commodities available under this paragraph, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the reasons for declining to make the funds or commodities available.".

7 USC 1736t note.

SEC. 4305. EXPORT CREDIT GUARANTEE PROGRAM.

It is the sense of Congress that, to the extent that the Commodity Credit Corporation makes a specified allocation of credit guarantees available under the export credit guarantee program referred to in section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) for short-term credit extended to finance the export sales of United States agricultural commodities and products, such allocation should be made on a country-only basis and not on a commodity basis or a commodity and country basis.

SEC. 4306. AGRICULTURAL EXPORT ENHANCEMENT PROGRAM.

(a) PRIORITIES.—Section 1127(b) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) may consider for participation all interested United States exporters, processors, and users and interested foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products;".

(b) LEVEL OF FUNDING.—Section 1127(i) of such Act is amended—

(1) by striking out "1988" and inserting in lieu thereof "1990"; and

(2) by striking out "$1,500,000,000" and inserting in lieu thereof "$2,500,000,000".

SEC. 4307. AGRICULTURAL ATTACHE REPORTS.

Subsection (b) of section 1132 of the Food Security Act of 1985 (7 U.S.C. 1736x(b)) is amended to read as follows:

"(b) The Secretary shall—

"(1) annually compile the information contained in such reports;

"(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)), include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

"(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

"(4) make the compilation available to Congress, the trade assistance office created under section 4602 of the Agricultural Competitiveness and Trade Act of 1988, the agricultural policy advisory committee, and other interested parties.".

SEC. 4308. DAIRY EXPORT INCENTIVE PROGRAM.

Paragraphs (2) through (3) of section 153(d) of the Food Security Act of 1985 (15 U.S.C. 713a-14(d)) are amended to read as follows:

"(2) If payments in commodities are authorized, such payments shall be made through the issuance of generic certificates redeemable in commodities.

"(3) If generic certificates issued in accordance with the program provided for by this section are exchanged for dairy products owned by the Commodity Credit Corporation, the regulations issued by the Secretary shall ensure that—

"(A) such dairy products, or an equal quantity of other dairy products, will be sold for export by the entity; and

"(B) any such export sales by the entity—

"(i) will be in addition to, and not in place of, export sales of dairy products that the entity would otherwise make under the program or in the absence of the program; and

"(ii) to the extent practicable, will not displace commercial export sales of United States dairy products by other exporters.".

SEC. 4309. BARTER OF AGRICULTURAL COMMODITIES. 7 USC 1431 note.

In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.

SEC. 4310. MINIMUM LEVEL OF FOOD ASSISTANCE. 7 USC 1691 note.

(a) ANNUAL MINIMUM.—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

(b) DEFINITION.—For purposes of this section, the term "foreign economic assistance" includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the

Asian Development Bank, the African Development Bank, or any other multilateral development bank.

7 USC 1691 note.

SEC. 4311. FOOD AID AND MARKET DEVELOPMENT.

(a) POLICY STATEMENT.—It is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products.

President of U.S.

(b) REQUIREMENT.—The President (or, as appropriate, the Secretary of Agriculture) shall encourage recipient countries under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in future food purchases.

Subtitle D—Wood and Wood Products

SEC. 4401. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER PUBLIC LAW 480.

Section 104(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(b)(1)) is amended by inserting "(including wood and processed wood products of the United States)" after "agricultural commodities" the first place it appears.

SEC. 4402. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER THE SHORT-TERM AND INTERMEDIATE-TERM EXPORT CREDIT GUARANTEE PROGRAMS.

(a) SHORT-TERM EXPORT CREDIT GUARANTEES.—Section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) is amended—

(1) in subsection (b), by inserting ", including wood and processed wood products" after "agricultural commodities and the products thereof"; and

(2) by adding at the end thereof the following:

"(d) For the purpose of this section, the term 'wood and processed wood products' includes but is not limited to logs, lumber (boards, timber, millwork, molding, flooring, and siding), veneer, panel products (plywood, particle board, and fiberboard), utility and telephone poles, other poles and posts, railroad ties, wood pulp, and wood chips.".

(b) INTERMEDIATE-TERM EXPORT CREDIT.—Section 4(b)(1) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(1)) is amended by adding at the end thereof the following: "For the purpose of this paragraph, the term 'agricultural commodities' includes wood and processed wood products, as defined in section 1125(d) of the Food Security Act of 1985 (7 U.S.C. 1736t(d)).".

SEC. 4403. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end thereof the following:

16 USC 2112.

"SEC. 15. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

"(a) FINDINGS AND PURPOSES.—

"(1) FINDINGS.—Congress finds that—

"(A) the health and vitality of the domestic forest products industry is important to the well-being of the economy of the United States;

"(B) the domestic forest products industry has a significant potential for expansion in both domestic and foreign markets;

"(C) many small-sized to medium-sized forest products firms lack the tools that would enable them to meet the increasing challenge of foreign competition in domestic and foreign markets; and

"(D) a new cooperative forest products marketing program will improve the competitiveness of the United States forest products industry.

"(2) PURPOSES.—The purposes of this section are to—

"(A) provide direct technical assistance to the United States forest products industry to improve marketing activities;

"(B) provide cost-share grants to States to support State and regional forest products marketing programs; and

Grants.
State and local governments.

"(C) target assistance to small-sized and medium-sized producers of solid wood and processed wood products, including pulp.

"(b) PROGRAM AUTHORITY.—

Grants.
State and local governments.

"(1) IN GENERAL.—The Secretary shall establish a cooperative national forest products marketing program under this Act that provides—

"(A) technical assistance to States, landowners, and small-sized to medium-sized forest products firms on ways to improve domestic and foreign markets for forest products; and

"(B) grants of financial assistance with matching requirements to the States to assist in State and regional forest products marketing efforts targeted to aid small-sized to medium-sized forest products firms and private, nonindustrial forest landowners.

"(2) INTERSTATE COOPERATIVE AGREEMENTS.—Grant agreements shall encourage the establishment of interstate cooperative agreements by the States for the purpose of promoting the development of domestic and foreign markets for forest products.

"(c) LIMITATIONS.—

"(1) COOPERATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary shall cooperate with Federal departments and agencies to avoid the duplication of efforts and to increase program efficiency.

"(2) DOMESTIC PROGRAM.—The program authorized under this section shall be carried out within the United States and not be extended to Department of Agriculture activities in foreign countries.

"(d) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1991, to carry out this section.

"(e) PROGRAM REPORT.—The Secretary shall report to Congress annually on the activities taken under the marketing program established under this section. A final report including recommendations for program changes and the need and desirability of

the reauthorization of this authority, and required levels of funding, shall be submitted to Congress not later than September 30, 1990.".

7 USC 1736t note.

SEC. 4404. USE OF DEPARTMENT OF AGRICULTURE PROGRAMS.

The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.

Subtitle E—Studies and Reports

SEC. 4501. STUDY OF CANADIAN WHEAT IMPORT LICENSING REQUIREMENTS.

(a) FINDINGS.—Congress finds that—

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat (except packaged wheat products for retail sale) from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat and wheat products to prove that the wheat or wheat products to be imported are not readily available in Canada before issuance of an import license, and therefore, for all practical purposes, such licenses are not granted by the Canadian Wheat Board;

(3) the licensing requirements of the Canadian Wheat Board's import licensing program result in a trade barrier on the importation of United States wheat and wheat products; and

(4) Canada is a member of the General Agreement on Tariffs and Trade and, under such agreement, member countries should, in general, eliminate import licensing programs that operate as nontariff trade barriers.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the Canadian Wheat Board's import licensing program to—

(1) assess the effect of the Canadian Wheat Board's import licensing program referred to in subsection (a) on wheat producers, processors, and exporters in the United States; and

(2) determine—

(A) the nature and extent of the licensing requirements of the Canadian Wheat Board's import licensing program; and

(B) the estimated effect of the Canadian Wheat Board's import licensing program in reducing exports of United States wheat and wheat products to Canada.

(c) SUBMISSION OF RESULTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the results of the study conducted under subsection (b) to the United States Trade Representative.

(d) CONSULTATION WITH CONGRESS.—Not later than 90 days after the results of the study are submitted, the Secretary and the United States Trade Representative shall consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate on the status of efforts to negotiate the elimination of such Canadian licensing requirements.

SEC. 4502. IMPORT INVENTORY.

7 USC 626.

(a) COMPILATION AND REPORT ON IMPORTS.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) COMPILATION AND REPORT ON CONSUMPTION.—The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

Public information.

(c) ISSUING OF DATA.—The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after the date of enactment of this Act.

SEC. 4503. STUDY RELATING TO HONEY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4504. STUDY OF DAIRY IMPORT QUOTAS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct a study to determine whether, and to what extent, the price support program for milk established under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as a result of multilateral trade negotiations, including negotiations under the General Agreement on Tariffs and Trade. In conducting this study, the Secretary shall assess the likelihood of other nations' agreeing to reduce or eliminate their domestic dairy price stabilization, export subsidization, or import control programs in such multilateral negotiations.

(b) REPORT.—The Secretary shall submit a report describing the results of the study, together with any recommendations, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4505. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries—

Marketing.

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products;

Animals.

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

21 USC 1401 note.

SEC. 4506. IMPORTED MEAT, POULTRY PRODUCTS, EGGS, AND EGG PRODUCTS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to Congress—

Pests and pesticides. Drugs and drug abuse.

(1) specifying the planned distribution, in fiscal years 1988 and 1989, of the resources of the Department of Agriculture available for sampling imported covered products to ensure compliance with the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) that govern the level of residues of pesticides, drugs, and other products permitted in or on such products;

Pests and pesticides. Drugs and drug abuse.

(2) describing current methods used by the Secretary to enforce the requirements of such Acts with respect to the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responding to the audit report of the Inspector General of the Department of Agriculture, Number 38002—2—hy, dated January 14, 1987;

(4) providing a summary with respect to the importation of covered products during fiscal years 1987 and 1988 that specifies—

(A) the number of samples of each such product taken during each such fiscal year in carrying out the requirements described in paragraph (1); and

(B) for each violation of such requirements during each such fiscal year—

(i) the covered products with respect to which such violation occurred;

(ii) the residue in or on such product in violation of such requirements;

(iii) the country exporting such product;

(iv) the actions taken in response to such violation and the reasons for such actions; and

(v) the level of testing conducted by the countries exporting such products;

(5) describing any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on covered products; and Research and development.

(6) providing any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported covered products.

(b) REVISION.—Not later than November 15, 1989, the Secretary of Agriculture shall revise, as necessary, the report prepared under subsection (a) and submit the revision to Congress. Reports.

(c) DEFINITION.—As used in this section, the term "covered products" means meat, poultry products, eggs, and egg products.

SEC. 4507. STUDY OF CIRCUMVENTION OF AGRICULTURAL QUOTAS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study with respect to—

(1) whether articles containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and Dairy products.

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of refined sugar and sugar containing products imposed under Federal law.

(b) REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described in subsection (a);

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations; Dairy products.

(3) the effectiveness of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

(c) REPORT.—On completion of the study required by this section, the Comptroller General shall report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4508. STUDY OF LAMB MEAT IMPORTS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to 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 a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat.

SEC. 4509. ROSE STUDY.

(a) STUDY.—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) REPORT.—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

(1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(3) the United States Trade Representative;

(4) the Secretary of Commerce; and

(5) the Secretary of Agriculture.

(c) REVIEW.—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.

Subtitle F—Miscellaneous Agricultural Provisions

SEC. 4601. ALLOCATION OF CERTAIN MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(K)(i) Notwithstanding any other provision of law, milk produced by dairies—

"(I) owned or controlled by foreign persons; and

"(II) financed by or with the use of bonds the interest on which is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1986;

Securities.
Taxes.

shall be treated as other-source milk, and shall be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program established under this Act. For the purposes of this subparagraph, the term 'foreign person' has the meaning given such term under section 9(3) of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3508(3)).

"(ii) The Secretary of Agriculture shall prescribe regulations to carry out this subparagraph.

Regulations.

"(iii) This subparagraph shall not apply with respect to any dairy that began operation before May 6, 1986.".

SEC. 4602. PAID ADVERTISING FOR FLORIDA-GROWN STRAWBERRIES UNDER MARKETNG ORDERS.

The first proviso of section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking out "or tomatoes" and inserting in lieu thereof "tomatoes, or Florida-grown strawberries,".

SEC. 4603. APPLICATION OF MARKETNG ORDERS TO IMPORTS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e–1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(a)" at the beginning of the first sentence; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements would be in effect for a particular commodity during any year if the Secretary determines that such additional period of time is necessary—

"(A) to effectuate the purposes of this Act; and

"(B) to prevent the circumvention of the grade, size, quality, or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of such commodity.

"(2) In making the determination required by paragraph (1), the Secretary, through notice and comment procedures, shall consider—

"(A) to what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing

order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary):

"(B) if the importation into the United States of such commodity did, or was likely to, circumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to such commodity produced in the United States; and

"(C) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

"(3) An additional period established by the Secretary in accordance with this subsection shall be—

"(A) announced not later than 30 days before the date such additional period is to be in effect; and

"(B) reviewed by the Secretary on request, through notice and comment procedures, at least every 3 years in order to determine if the additional period is still needed to prevent circumvention of the seasonal marketing order by imported commodities.

"(4) For the purposes of carrying out this subsection, the Secretary is authorized to make such reasonable inspections as may be necessary.".

SEC. 4604. RECIPROCAL MEAT INSPECTION REQUIREMENT.

(a) IN GENERAL.—Section 20 of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection:

"(A) The term 'meat articles' means carcasses, meat and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, that are capable of use as human food.

"(B) The term 'standards' means inspection, building construction, sanitary, quality, species verification, residue, and other standards that are applicable to meat articles.

Safety.

"(2) On request of the Committee on Agriculture or the Committee on Ways and Means of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry or the Committee on Finance of the Senate, or at the initiative of the Secretary, the Secretary shall, as soon as practicable, determine whether a particular foreign country applies standards for the importation of meat articles from the United States that are not related to public health concerns about end-product quality that can be substantiated by reliable analytical methods.

"(3) If the Secretary determines that a foreign country applies standards described in paragraph (2)—

"(A) the Secretary shall consult with the United States Trade Representative; and

"(B) within 30 days after the determination of the Secretary under paragraph (2), the Secretary and the United States Trade Representative shall recommend to the President whether action should be taken under paragraph (4).

President of U.S.

"(4) Within 30 days after receiving a recommendation for action under paragraph (3), the President shall, if and for such time as the President considers appropriate, prohibit imports into the United

States of any meat articles produced in such foreign country unless it is determined that the meat articles produced in that country meet the standards applicable to meat articles in commerce within the United States.

"(5) The action authorized under paragraph (4) may be used instead of, or in addition to, any other action taken under any other law.".

(b) REPORTS.—Section 20(e) of such Act is amended— 21 USC 620.

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the name of each foreign country that applies standards for the importation of meat articles from the United States that are described in subsection (h)(2).".

SEC. 4605. STUDY OF INTERNATIONAL MARKETING IN LAND GRANT COLLEGES AND UNIVERSITIES.

It is the sense of Congress that—

(1) land grant colleges and universities (as defined in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(10)) should encourage the study and career objective of international marketing of agricultural commodities and products;

(2) because marketing complements production, international agricultural marketing specialists are needed in a globally competitive world; and

(3) enhanced foreign marketing of United States agricultural commodities and products will help relieve stress in the rural economy.

SEC. 4606. INTERNATIONAL TRADE IN EGGS AND EGG PRODUCTS.

(a) FINDINGS.—Congress finds that—

(1) the system of basic and variable levies of the European Community has severely restricted the export of United States eggs and egg products to European Community member countries;

(2) export subsidies of the European Community have caused displacement of United States egg exports in international markets; and

(3) the Secretary of Agriculture is in the process of certifying the Netherland's inspection procedures for egg products for the purpose of importation into the United States of egg products of the Netherlands.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Trade Representative should enter into negotiations with the European Community concerning—

(1) duties, tariffs, and other means used by the European Community to limit the access of United States eggs and egg products to European Community markets; and

(2) European Community export subsidies that have had the effect of excluding United States eggs and egg products from other world markets.

SEC. 4607. UNITED STATES ACCESS TO THE KOREAN BEEF MARKET.

(a) FINDINGS.—Congress finds that—

(1) the 1986 United States trade deficit with the Republic of Korea was $7,600,000,000;

(2) the Republic of Korea has banned beef imports since May 1985;

(3) this beef import ban is in contravention of Korea's obligations under the General Agreement on Tariffs and Trade and impairs United States rights under such agreement;

(4) Korea imposes an unreasonably high 20 percent ad valorem tariff on meat products; and

(5) if the Korean beef market were liberalized, the United States, due to comparative advantage, could supply a significant portion of the Korean market for beef, thereby increasing profit opportunities for the United States beef industry while benefiting Korean consumers.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Republic of Korea should take immediate action to fulfill its obligations under the General Agreement on Tariffs and Trade and permit access to its market for United States beef;

(2) the United States should aggressively pursue negotiations to gain access to the Korean market for United States beef;

(3) such negotiations, in addition to elimination of the beef import ban, should address the high tariffs set by the Republic of Korea and the means by which imported beef is distributed in Korea; and

(4) if the Republic of Korea does not show clear evidence that it is engaging in meaningful liberalization of its market for United States beef, the United States should use all available and appropriate means to encourage the Republic of Korea to open its market to United States beef imports.

SEC. 4608. UNITED STATES ACCESS TO JAPANESE AGRICULTURAL MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT") to examine Japanese import restrictions on 12 categories of agricultural products;

(2) the GATT panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan eliminate them or otherwise take action to bring them into conformity with the GATT; and

(3) the rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on imports from the United States, including—

(A) a virtual ban on imports of United States rice;

(B) a very restrictive quota on imports of United States beef; and

(C) high tariffs and restrictive quotas on imports of United States citrus.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Japan should immediately take actions to comply with the findings of the GATT panel report;

(2) the Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on

agricultural imports from the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) the United States should continue efforts to persuade the Government of Japan to remove its trade barriers.

SEC. 4609. SENSE OF CONGRESS RELATING TO SECTION 22.

7 USC 624 note.

It is the sense of Congress that—

(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 and 1445-2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.

SEC. 4610. TECHNICAL CORRECTIONS TO THE AGRICULTURAL AID AND TRADE MISSION PORTION OF PUBLIC LAW 100-202.

(a) SHORT TITLE FOR AGRICULTURAL AID AND TRADE MISSIONS ACT.—That portion of the joint resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes" approved December 22, 1987, under the heading "Agricultural Aid and Trade Missions Act" is amended by adding at the end the following:

"SEC. 16. SHORT TITLE.

Agricultural Aid and Trade Missions Act.
7 USC 1691 note.

"Section 1 through this section under the heading 'Agricultural Aid and Trade Missions Act' may be cited as the 'Agricultural Aid and Trade Missions Act'." .

(b) CORRECTION OF INTERNAL REFERENCES.—Sections 1 through 7 of that portion of such joint resolution are each amended by striking out "chapter" each place it appears and inserting "Act" in lieu thereof.

7 USC 1736bb, 1736bb-3—1736bb-6.

(c) ELIMINATION OF SUPERFLUOUS CATCHLINE.—That portion of such joint resolution is amended by striking out "Subtitle E—Public Law 480 and Related Provisions".

101 Stat. 1329-447.

(d) CORRECTION OF CROSS REFERENCE.—Section 13 of that portion of such joint resolution is amended by striking out "section 655 of this Act" and inserting "section 12" in lieu thereof.

7 USC 1726.

Subtitle G—Pesticide Monitoring Improvements

Pesticide Monitoring Improvements Act of 1988.

SEC. 4701. SHORT TITLE.

21 USC 1401 note.

This subtitle may be cited as the "Pesticide Monitoring Improvements Act of 1988".

21 USC 1401.

SEC. 4702. PESTICIDE MONITORING AND ENFORCEMENT INFORMATION.

(a) DATA MANAGEMENT SYSTEMS.—

(1) Not later than 480 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall place in effect computerized data management systems for the Food and Drug Administration under which the Administration will—

(A) record, summarize, and evaluate the results of its program for monitoring food products for pesticide residues,

(B) identify gaps in its pesticide monitoring program in the monitoring of (i) pesticides, (ii) food products, and (iii) food from specific countries and from domestic sources,

Safety.

(C) detect trends in the presence of pesticide residues in food products and identify public health problems emerging from the occurrence of pesticide residues in food products,

(D) focus its testing resources for monitoring pesticide residues in food on detecting those residues which pose a public health concern,

(E) prepare summaries of the information listed in subsection (b), and

(F) provide information to assist the Environmental Protection Agency in carrying out its responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act.

(2) As soon as practicable, the Secretary of Health and Human Services shall develop a means to enable the computerized data management systems placed into effect under paragraph (1) to make the summary described in subsection (c).

(3)(A) Paragraph (1) does not limit the authority of the Food and Drug Administration to—

(i) use the computerized data management systems placed in effect under paragraph (1), or

(ii) develop additional data management systems,

to facilitate the regulation of any substance or product covered under the requirements of the Federal Food, Drug, and Cosmetic Act.

(B) In placing into effect the computerized data management systems under paragraph (1) and in carrying out paragraph (2), the Secretary shall comply with applicable regulations governing computer system design and procurement.

Safety.

(b) INFORMATION.—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to prepare a summary of—

(1) information on—

(A) the types of imported and domestically produced food products analyzed for compliance with the requirements of the Federal Food, Drug, and Cosmetic Act regarding the presence of pesticide residues,

(B) the number of samples of each such food product analyzed for such compliance by country of origin,

(C) the pesticide residues which may be detected using the testing methods employed,

(D) the pesticide residues in such food detected and the levels detected,

(E) the compliance status of each sample of such food tested and the violation rate for each country-product combination, and

(F) the action taken with respect to each sample of such food found to be in violation of the Federal Food, Drug, and Cosmetic Act and its ultimate disposition, and

(2) information on—

(A) the country of origin of each imported food product referred to in paragraph (1)(A), and

(B) the United States district of entry for each such imported food product.

(c) VOLUME DATA.—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to summarize the volume of each type of food product subject to the requirements of the Federal Food, Drug, and Cosmetic Act which is imported into the United States and which has an entry value which exceeds an amount established by the Secretary of Health and Human Services. The summary shall be made by country of origin and district of entry. Information with respect to volumes of food products to be included in the summary shall, to the extent feasible, be obtained from data bases of other Federal agencies.

(d) COMPILATION.—Not later than 90 days after the expiration of 1 year after the data management systems are placed into effect under subsection (a) and annually thereafter, the Secretary of Health and Human Services shall compile a summary of the information described in subsection (b) with respect to the previous year. When the Food and Drug Administration is able to make summaries under subsection (c), the Secretary shall include in the compilation under the preceding sentence a compilation of the information described in subsection (c). Compilations under this subsection shall be made available to Federal and State agencies and other interested persons.

SEC. 4703. FOREIGN PESTICIDE INFORMATION. 21 USC 1402.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Health and Human Services shall enter into cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration for the purpose of improving the ability of the Food and Drug Administration to assure compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act with regard to imported food.

(b) INFORMATION ACTIVITIES.—

(1) The cooperative agreements entered into under subsection (a) with governments of foreign countries shall specify the action to be taken by the parties to the agreements to accomplish the purpose described in subsection (a), including the means by which the governments of the foreign countries will provide to the Secretary of Health and Human Services current information identifying each of the pesticides used in the production, transportation, and storage of food products imported from production regions of such countries into the United States.

(2) In the case of a foreign country with which the Secretary is unable to enter into an agreement under subsection (a) or for which the information provided under paragraph (1) is insuffi-

cient to assure an effective pesticide monitoring program, the Secretary shall, to the extent practicable, obtain the information described in paragraph (1) with respect to such country from other Federal or international agencies or private sources.

(3) The Secretary of Health and Human Services shall assure that appropriate offices of the Food and Drug Administration which are engaged in the monitoring of imported food for pesticide residues receive the information obtained under paragraph (1) or (2).

(4) The Secretary of Health and Human Services shall make available any information obtained under paragraph (1) or (2) to State agencies engaged in the monitoring of imported food for pesticide residues other than information obtained from private sources the disclosure of which to such agencies is restricted.

(c) COORDINATION WITH OTHER AGENCIES.—The Secretary of Health and Human Services shall—

(1) notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State at the initiation of negotiations with a foreign country to develop a cooperative agreement under subsection (a); and

(2) coordinate the activities of the Department of Health and Human Services with the activities of those departments and agencies, as appropriate, during the course of such negotiations.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives on the activities undertaken by the Secretary to implement this section. The report shall be made available to appropriate Federal and State agencies and to interested persons.

State and local governments.

21 USC 1403.

SEC. 4704. PESTICIDE ANALYTICAL METHODS.

The Secretary of Health and Human Services shall, in consultation with the Administrator of the Environmental Protection Agency—

(1) develop a detailed long-range plan and timetable for research that is necessary for the development of and validation of—

(A) new and improved analytical methods capable of detecting at one time the presence of multiple pesticide residues in food, and

(B) rapid pesticide analytical methods, and

(2) conduct a review to determine whether the use of rapid pesticide analytical methods by the Secretary would enable the Secretary to improve the cost-effectiveness of monitoring and enforcement activities under the Federal Food, Drug, and Cosmetic Act, including increasing the number of pesticide residues which can be detected and the number of tests for pesticide residues which can be conducted in a cost-effective manner.

Reports.

The Secretary shall report the plan developed under paragraph (1), the resources necessary to carry out the research described in such paragraph, recommendations for the implementation of such research, and the result of the review conducted under paragraph (2) not later than the expiration of 240 days after the date of the enactment of this Act to the Committee on Agriculture, Nutrition,

and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives.

TITLE V—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

Subtitle A—Foreign Corrupt Practices Act Amendments; Review of Certain Acquisitions

PART I—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

Foreign Corrupt Practices Act Amendments of 1988.
15 USC 78a note.

SEC. 5001. SHORT TITLE.

This part may be cited as the "Foreign Corrupt Practices Act Amendments of 1988".

SEC. 5002. PENALTIES FOR VIOLATIONS OF ACCOUNTING STANDARDS.

Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by adding at the end thereof the following:

"(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.

"(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).

"(6) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such circumstances include the relative degree of the issuer's ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of paragraph (2).

"(7) For the purpose of paragraph (2) of this subsection, the terms 'reasonable assurances' and 'reasonable detail' mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.".

SEC. 5003. FOREIGN CORRUPT PRACTICES ACT AMENDMENTS.

(a) PROHIBITED TRADE PRACTICES BY ISSUERS.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY ISSUERS

"SEC. 30A. (a) PROHIBITION.—It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of

Mail.
Gifts and property.

this title or which is required to file reports under section 15(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) GUIDELINES BY THE ATTORNEY GENERAL.—Not later than one year after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and Contracts.

"(2) general precautionary procedures which issuers may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(e) OPINIONS OF THE ATTORNEY GENERAL.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by issuers concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in

a request by an issuer and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

Courts, U.S.

Classified information.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by an issuer under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the issuer, be made publicly available, regardless of whether the Attorney General responds to such a request or the issuer withdraws such request before receiving a response.

"(3) Any issuer who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

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

"(1) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(2)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(3)(A) The term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decisionmaking process to encourage a decision to award new business to or continue business with a particular party.".

(b) VIOLATIONS.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended to read as follows:

"(c)(1)(A) Any issuer that violates section 30A(a) shall be fined not more than $2,000,000.

"(B) Any issuer that violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(2)(A) Any officer or director of an issuer, or stockholder acting on behalf of such issuer, who willfully violates section 30A(a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of an issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such issuer), and who willfully violates section 30A(a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of an issuer, such fine may not be paid, directly or indirectly, by such issuer.".

(c) PROHIBITED TRADE PRACTICES BY DOMESTIC CONCERNS.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY DOMESTIC CONCERNS

"SEC. 104. (a) PROHIBITION.—It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, or for any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails

Mail.
Gifts and property.

or any means or instrumentality of interstate commerce curruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) INJUNCTIVE RELIEF.—(1) When it appears to the Attorney General that any domestic concern to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond. Courts, U.S.

"(2) For the purpose of any civil investigation which, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(e) GUIDELINES BY THE ATTORNEY GENERAL.—Not later than 6 months after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Securities and Exchange Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

Contracts.

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which domestic concerns may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(f) OPINIONS OF THE ATTORNEY GENERAL.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by domestic concerns concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in a request by a domestic concern and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

Courts, U.S.

Classified information.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by a domestic concern under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the domestic concern, be made publicly available, regardless of whether the Attorney General responds to such a request or the domestic concern withdraws such request before receiving a response.

"(3) Any domestic concern who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(g) PENALTIES.—(1)(A) Any domestic concern that violates subsection (a) shall be fined not more than $2,000,000.

"(B) Any domestic concern that violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(2)(A) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of a domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully violates subsection (a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a domestic concern, such fine may not be paid, directly or indirectly, by such domestic concern.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'domestic concern' means—

"(A) any individual who is a citizen, national, or resident of the United States; and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

"(2) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(3)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(4)(A) For purposes of paragraph (1), the term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

"(5) The term 'interstate commerce' means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

"(A) a telephone or other interstate means of communication, or

"(B) any other interstate instrumentality.".

15 USC 78dd-1 note.

(d) INTERNATIONAL AGREEMENT.—

(1) NEGOTIATIONS.—It is the sense of the Congress that the President should pursue the negotiation of an international agreement, among the members of the Organization of Economic Cooperation and Development, to govern persons from those countries concerning acts prohibited with respect to issuers and domestic concerns by the amendments made by this section. Such international agreement should include a process by which problems and conflicts associated with such acts could be resolved.

(2) REPORT TO CONGRESS.—(A) Within 1 year after the date of the enactment of this Act, the President shall submit to the Congress a report on—

(i) the progress of the negotiations referred to in paragraph (1),

(ii) those steps which the executive branch and the Congress should consider taking in the event that these

negotiations do not successfully eliminate any competitive disadvantage of United States businesses that results when persons from other countries commit the acts described in paragraph (1); and

(iii) possible actions that could be taken to promote cooperation by other countries in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries.

(B) The President shall include in the report submitted under subparagraph (A)— President of U.S.

(i) any legislative recommendations necessary to give the President the authority to take appropriate action to carry out clauses (ii) and (iii) of subparagraph (A);

(ii) an analysis of the potential effect on the interests of the United States, including United States national security, when persons from other countries commit the acts described in paragraph (1); and

(iii) an assessment of the current and future role of private initiatives in curtailing such acts.

PART II—REVIEW OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

SEC. 5021. AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2158 et seq.) is amended by adding at the end thereof the following:

"AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

"SEC. 721. (a) INVESTIGATIONS.—The President or the President's designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of this section by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. If it is determined that an investigation should be undertaken, it shall commence no later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover as prescribed by regulations promulgated pursuant to this section. Such investigation shall be completed no later than 45 days after such determination. Defense and national security. 50 USC app. 2170.

"(b) CONFIDENTIALITY OF INFORMATION.—Any information or documentary material filed with the President or the President's designee pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subsection shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

"(c) ACTION BY THE PRESIDENT.—Subject to subsection (d), the President may take such action for such time as the President considers appropriate to suspend or prohibit any acquisition, merger, or takeover, of a person engaged in interstate commerce in

the United States proposed or pending on or after the date of enactment of this section by or with foreign persons so that such control will not threaten to impair the national security. The President shall announce the decision to take action pursuant to this subsection not later than 15 days after the investigation described in subsection (a) is completed. The President may direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce this section.

President of U.S.

"(d) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by subsection (c) only if the President finds that—

"(1) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security, and

"(2) provisions of law, other than this section and the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), do not in the President's judgment provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

The provisions of subsection (d) of this section shall not be subject to judicial review.

"(e) FACTORS TO BE CONSIDERED.—For purposes of this section, the President or the President's designee may, taking into account the requirements of national security, consider among other factors—

"(1) domestic production needed for projected national defense requirements,

"(2) the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services, and

"(3) the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

President of U.S.

"(f) REPORT TO THE CONGRESS.—If the President determines to take action under subsection (c), the President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the action which the President intends to take, including a detailed explanation of the findings made under subsection (d).

President of U.S.

"(g) REGULATIONS.—The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.

"(h) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to alter or affect any existing power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.".

Subtitle B—Technology

PART I—TECHNOLOGY COMPETITIVENESS

Technology Competitiveness Act.
Research and development.
15 USC 271 note.

SEC. 5101. SHORT TITLE.

This part may be cited as the "Technology Competitiveness Act".

Subpart A—National Institute of Standards and Technology

SEC. 5111. FINDINGS AND PURPOSES.

Section 1 of the Act of March 3, 1901 (15 U.S.C. 271) is amended to read as follows:

"FINDINGS AND PURPOSES

"SECTION 1. (a) The Congress finds and declares the following:

"(1) The future well-being of the United States economy depends on a strong manufacturing base and requires continual improvements in manufacturing technology, quality control, and techniques for ensuring product reliability and cost-effectiveness.

"(2) Precise measurements, calibrations, and standards help United States industry and manufacturing concerns compete strongly in world markets.

"(3) Improvements in manufacturing and product technology depend on fundamental scientific and engineering research to develop (A) the precise and accurate measurement methods and measurement standards needed to improve quality and reliability, and (B) new technological processes by which such improved methods may be used in practice to improve manufacturing and to assist industry to transfer important laboratory discoveries into commercial products.

"(4) Scientific progress, public safety, and product compatibility and standardization also depend on the development of precise measurement methods, standards, and related basic technologies.

"(5) The National Bureau of Standards since its establishment has served as the Federal focal point in developing basic measurement standards and related technologies, has taken a lead role in stimulating cooperative work among private industrial organizations in efforts to surmount technological hurdles, and otherwise has been responsible for assisting in the improvement of industrial technology.

"(6) The Federal Government should maintain a national science, engineering, and technology laboratory which provides measurement methods, standards, and associated technologies and which aids United States companies in using new technologies to improve products and manufacturing processes.

"(7) Such national laboratory also should serve industry, trade associations, State technology programs, labor organizations, professional societies, and educational institutions by disseminating information on new basic technologies including automated manufacturing processes.

"(b) It is the purpose of this Act—

"(1) to rename the National Bureau of Standards as the National Institute of Standards and Technology and to modernize and restructure that agency to augment its unique ability to enhance the competitiveness of American industry while maintaining its traditional function as lead national laboratory for providing the measurements, calibrations, and quality assurance techniques which underpin United States commerce, technological progress, improved product reliability and manufacturing processes, and public safety;

"(2) to assist private sector initiatives to capitalize on advanced technology;

"(3) to advance, through cooperative efforts among industries, universities, and government laboratories, promising research and development projects, which can be optimized by the private sector for commercial and industrial applications; and

"(4) to promote shared risks, accelerated development, and pooling of skills which will be necessary to strengthen America's manufacturing industries.".

SEC. 5112. ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES.

(a) ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES OF THE INSTITUTE.—Section 2 of the Act of March 3, 1901 (15 U.S.C. 272) is amended to read as follows:

"ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES

"SEC. 2. (a) There is established within the Department of Commerce a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology (hereafter in this Act referred to as the 'Institute').

"(b) The Secretary of Commerce (hereafter in this Act referred to as the 'Secretary') acting through the Director of the Institute (hereafter in this Act referred to as the 'Director') and, if appropriate, through other officials, is authorized to take all actions necessary and appropriate to accomplish the purposes of this Act, including the following functions of the Institute—

"(1) to assist industry in the development of technology and procedures needed to improve quality, to modernize manufacturing processes, to ensure product reliability, manufacturability, functionality, and cost-effectiveness, and to facilitate the more rapid commercialization, especially by small- and medium-sized companies throughout the United States, of products based on new scientific discoveries in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies;

"(2) to develop, maintain, and retain custody of the national standards of measurement, and provide the means and methods for making measurements consistent with those standards, including comparing standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government;

Contracts.

"(3) to enter into contracts, including cooperative research and development arrangements, in furtherance of the purposes of this Act;

"(4) to provide United States industry, Government, and educational institutions with a national clearinghouse of current information, techniques, and advice for the achievement of higher quality and productivity based on current domestic and international scientific and technical development;

"(5) to assist industry in the development of measurements, measurement methods, and basic measurement technology;

"(6) to determine, compile, evaluate, and disseminate physical constants and the properties and performance of conventional and advanced materials when they are important to science,

engineering, manufacturing, education, commerce, and industry and are not available with sufficient accuracy elsewhere;

"(7) to develop a fundamental basis and methods for testing materials, mechanisms, structures, equipment, and systems, including those used by the Federal Government;

"(8) to assure the compatibility of United States national measurement standards with those of other nations;

"(9) to cooperate with other departments and agencies of the Federal Government, with industry, with State and local governments, with the governments of other nations and international organizations, and with private organizations in establishing standard practices, codes, specifications, and voluntary consensus standards;

"(10) to advise government and industry on scientific and technical problems; and

"(11) to invent, develop, and (when appropriate) promote transfer to the private sector of measurement devices to serve special national needs.

"(c) In carrying out the functions specified in subsection (b), the Secretary, acting through the Director and, if appropriate, through other appropriate officials, may, among other things—

"(1) construct physical standards;

"(2) test, calibrate, and certify standards and standard measuring apparatus;

"(3) study and improve instruments, measurement methods, and industrial process control and quality assurance techniques;

"(4) cooperate with the States in securing uniformity in weights and measures laws and methods of inspection;

"(5) cooperate with foreign scientific and technical institutions to understand technological developments in other countries better;

"(6) prepare, certify, and sell standard reference materials for use in ensuring the accuracy of chemical analyses and measurements of physical and other properties of materials;

"(7) in furtherance of the purposes of this Act, accept research associates, cash donations, and donated equipment from industry, and also engage with industry in research to develop new basic and generic technologies for traditional and new products and for improved production and manufacturing;

"(8) study and develop fundamental scientific understanding and improved measurement, analysis, synthesis, processing, and fabrication methods for chemical substances and compounds, ferrous and nonferrous metals, and all traditional and advanced materials, including processes of degradation;

"(9) investigate ionizing and nonionizing radiation and radioactive substances, their uses, and ways to protect people, structures, and equipment from their harmful effects;

"(10) determine the atomic and molecular structure of matter, through analysis of spectra and other methods, to provide a basis for predicting chemical and physical structures and reactions and for designing new materials and chemical substances, including biologically active macromolecules;

"(11) perform research on electromagnetic waves, including optical waves, and on properties and performance of electrical, electronic, and electromagnetic devices and systems and their essential materials, develop and maintain related standards,

and disseminate standard signals through broadcast and other means;

"(12) develop and test standard interfaces, communication protocols, and data structures for computer and related telecommunications systems;

"(13) study computer systems (as that term is defined in section 20(d) of this Act) and their use to control machinery and processes;

"(14) perform research to develop standards and test methods to advance the effective use of computers and related systems and to protect the information stored, processed, and transmitted by such systems and to provide advice in support of policies affecting Federal computer and related telecommunications systems;

"(15) determine properties of building materials and structural elements, and encourage their standardization and most effective use, including investigation of fire-resisting properties of building materials and conditions under which they may be most efficiently used, and the standardization of types of appliances for fire prevention;

"(16) undertake such research in engineering, pure and applied mathematics, statistics, computer science, materials science, and the physical sciences as may be necessary to carry out and support the functions specified in this section;

"(17) compile, evaluate, publish, and otherwise disseminate general, specific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere;

"(18) collect, create, analyze, and maintain specimens of scientific value;

"(19) operate national user facilities;

"(20) evaluate promising inventions and other novel technical concepts submitted by inventors and small companies and work with other Federal agencies, States, and localities to provide appropriate technical assistance and support for those inventions which are found in the evaluation process to have commercial promise;

"(21) demonstrate the results of the Institute's activities by exhibits or other methods of technology transfer, including the use of scientific or technical personnel of the Institute for part-time or intermittent teaching and training activities at educational institutions of higher learning as part of and incidental to their official duties; and

"(22) undertake such other activities similar to those specified in this subsection as the Director determines appropriate.".

15 USC 1532.

(b) OTHER FUNCTIONS OF SECRETARY.—The Secretary of Commerce is authorized to—

(1) conduct research on all of the telecommunications sciences, including wave propagation and reception, the conditions which affect electromagnetic wave propagation and reception, electromagnetic noise and interference, radio system characteristics, operating techniques affecting the use of the electromagnetic spectrum, and methods for improving the use of the electromagnetic spectrum for telecommunications purposes;

(2) prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in such conditions;

(3) investigate conditions which affect the transmission of radio waves from their source to a receiver and the compilation and distribution of information on such transmission of radio waves as a basis for choice of frequencies to be used in radio operations;

(4) conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies;

(5) investigate nonionizing electromagnetic radiation and its uses, as well as methods and procedures for measuring and assessing electromagnetic environments, for the purpose of developing and coordinating policies and procedures affecting Federal Government use of the electromagnetic spectrum for telecommunications purposes;

(6) compile, evaluate, publish, and otherwise disseminate general scientific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere; and

(7) undertake such other activities similar to those specified in this subsection as the Secretary of Commerce determines appropriate.

(c) DIRECTOR OF INSTITUTE.—(1) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274) is amended to read as follows:

"SEC. 5. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have the general supervision of the Institute, its equipment, and the exercise of its functions. The Director shall make an annual report to the Secretary of Commerce. The Director may issue, when necessary, bulletins for public distribution, containing such information as may be of value to the public or facilitate the exercise of the functions of the Institute. The Director shall be compensated at the rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code. Until such time as the Director assumes office under this section, the most recent Director of the National Bureau of Standards shall serve as Director.".

President of U.S.

Reports.

(2) Section 5315 of title 5, United States Code, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology".

(d) ORGANIZATION PLAN.—(1) At least 60 days before its effective date and within 120 days after the date of the enactment of this Act, an initial organization plan for the National Institute of Standards and Technology (hereafter in this part referred to as the "Institute") shall be submitted by the Director of the Institute (hereafter in this part referred to as the "Director") after consultation with the Visiting Committee on Advanced Technology, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such plan shall—

15 USC 272 note.

(A) establish the major operating units of the Institute;

(B) assign each of the activities listed in section 2(c) of the Act of March 3, 1901, and all other functions and activities of the

Institute, to at least one of the major operating units established under subparagraph (A);

(C) provide details of a 2-year program for the Institute, including the Advanced Technology Program;

(D) provide details regarding how the Institute will expand and fund the Inventions program in accordance with section 27 of the Act of March 3, 1901; and

(E) make no changes in the Center for Building Technology or the Center for Fire Research.

(2) The Director may revise the organization plan. Any revision of the organization plan submitted under paragraph (1) shall be submitted to the appropriate committees of the House of Representatives and the Senate at least 60 days before the effective date of such revision.

(3) Until the effective date of the organization plan, the major operating units of the Institute shall be the major operating units of the National Bureau of Standards that were in existence on the date of the enactment of this Act and the Advanced Technology Program.

SEC. 5113. REPEAL OF PROVISIONS.

The second paragraph of the material relating to the Bureau of Standards in the first section of the Act of July 16, 1914 (15 U.S.C. 280), the last paragraph of the material relating to Contingent and Miscellaneous Expenses in the first section of the Act of March 4, 1913 (15 U.S.C. 281), and the first section of the Act of May 14, 1930 (15 U.S.C. 282) are repealed.

SEC. 5114. REPORTS TO CONGRESS; STUDIES BY THE NATIONAL ACADEMIES OF ENGINEERING AND SCIENCES.

15 USC 271 note.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating section 23 as section 31; and

(2) by adding after section 22 the following new sections:

"REPORTS TO CONGRESS

15 USC 278i.

"SEC. 23. (a) The Director shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all of the activities of the Institute.

"(b) The Director shall justify in writing all changes in policies regarding fees for standard reference materials and calibration services occurring after June 30, 1987, including a description of the anticipated impact of any proposed changes on demand for and anticipated revenues from the materials and services. Changes in policy and fees shall not be effective unless and until the Director has submitted the proposed schedule and justification to the Congress and 30 days on which both Houses of Congress are in session have elapsed since such submission, except that the requirement of this sentence shall not apply with respect to adjustments which are based solely on changes in the costs of raw materials or of producing and delivering standard reference materials or calibration services.

"STUDIES BY THE NATIONAL RESEARCH COUNCIL

Contracts.
15 USC 278j.

"SEC. 24. The Director may periodically contract with the National Research Council for advice and studies to assist the Institute

to serve United States industry and science. The subjects of such advice and studies may include—

"(1) the competitive position of the United States in key areas of manufacturing and emerging technologies and research activities which would enhance that competitiveness;

"(2) potential activities of the Institute, in cooperation with industry and the States, to assist in the transfer and dissemination of new technologies for manufacturing and quality assurance; and

"(3) identification and assessment of likely barriers to widespread use of advanced manufacturing technology by the United States workforce, including training and other initiatives which could lead to a higher percentage of manufacturing jobs of United States companies being located within the borders of our country.".

SEC. 5115. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO ORGANIC ACT.—(1) Except as provided in paragraph (2), the Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended by striking "National Bureau of Standards", "Bureau" and "bureau" wherever they appear and inserting in lieu thereof "Institute".

(2) Section 31 of such Act, as so redesignated by section 5114(1) of this part, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology".

(b) AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—(1) Section 8(b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122 of this part, is amended by striking "Director" and inserting in lieu thereof "Assistant Secretary". 15 USC 3706.

(2) Sections 11(e) and 17(d) and (e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, are amended— 15 USC 3710, 3711a.

(A) by striking "National Bureau of Standards" wherever it appears and inserting in lieu thereof "National Institute of Standards and Technology"; and

(B) by striking "Bureau" wherever it appears and inserting in lieu thereof "Institute".

(c) AMENDMENTS TO OTHER LAWS.—References in any other Federal law to the National Bureau of Standards shall be deemed to refer to the National Institute of Standards and Technology. 15 USC 271 note.

Subpart B—Technology Extension Activities and Clearinghouse on State and Local Initiatives

SEC. 5121. TECHNOLOGY EXTENSION ACTIVITIES.

(a) TECHNOLOGY CENTERS AND TECHNICAL ASSISTANCE.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 24 the following new sections:

"REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY

"SEC. 25. (a) The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of Regional Centers for the Transfer of Manu- 15 USC 278k.

facturing Technology (hereafter in this Act referred to as the 'Centers'). Such centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section in accordance with the description published by the Secretary in the Federal Register under subsection (c)(2). Individual awards shall be decided on the basis of merit review. The objective of the Centers is to enhance productivity and technological performance in United States manufacturing through—

"(1) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;

Schools and colleges.

"(2) the participation of individuals from industry, universities, State governments, other Federal agencies, and, when appropriate, the Institute in cooperative technology transfer activities;

"(3) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;

"(4) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies; and

"(5) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute.

"(b) The activities of the Centers shall include—

"(1) the establishment of automated manufacturing systems and other advanced production technologies, based on research by the Institute, for the purpose of demonstrations and technology transfer;

"(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

"(3) loans, on a selective, short-term basis, of items of advanced manufacturing equipment to small manufacturing firms with less than 100 employees.

"(c)(1) The Secretary may provide financial support to any Center created under subsection (a) for a period not to exceed six years. The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

Federal Register, publication.

"(2) The Secretary shall publish in the Federal Register, within 90 days after the date of the enactment of this section, a draft description of a program for establishing Centers, including—

"(A) a description of the program;

"(B) procedures to be followed by applicants;

"(C) criteria for determining qualified applicants;

"(D) criteria, including those listed under paragraph (4), for choosing recipients of financial assistance under this section from among the qualified applicants; and

"(E) maximum support levels expected to be available to Centers under the program in the fourth through sixth years of assistance under this section.

The Secretary shall publish a final description under this paragraph after the expiration of a 30-day comment period.

"(3) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on the date of the enactment of this section, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2). In order to receive assistance under this section, an applicant shall provide adequate assurances that it will contribute 50 percent or more of the proposed Center's capital and annual operating and maintenance costs for the first three years and an increasing share for each of the last three years. Each applicant shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.

"(4) The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this subsection, the Secretary shall consider at a minimum (A) the merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors, (B) the quality of service to be provided, (C) geographical diversity and extent of service area, and (D) the percentage of funding and amount of in-kind commitment from other sources.

"(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center's operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels, which are designed to ensure that the Center no longer needs financial support from the Institute by the seventh year. In no event shall funding for a Center be provided by the Department of Commerce after the sixth year of the operation of a Center.

"(6) The provisions of chapter 18 of title 35, United States Code, shall (to the extent not inconsistent with this section) apply to the promotion of technology from research by Centers under this section.

"(d) There are authorized to be appropriated for the purposes of carrying out this section, a combined total of not to exceed $40,000,000 for fiscal years 1989 and 1990. Such sums shall remain available until expended. Appropriation authorization.

"ASSISTANCE TO STATE TECHNOLOGY PROGRAMS

"SEC. 26. (a) In addition to the Centers program created under section 25, the Secretary, through the Director and, if appropriate, through other officials, shall provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology. 15 USC 278l.

"(b) Such assistance from the Institute to State technology programs shall include, but not be limited to—

"(1) technical information and advice from Institute personnel;

"(2) workshops and seminars for State officials interested in transferring Federal technology to businesses; and

Contracts.

"(3) entering into cooperative agreements when authorized to do so under this or any other Act.".

15 USC 278*l* note.

(b) TECHNOLOGY EXTENSION SERVICES.—(1) The Secretary shall conduct a nationwide study of current State technology extension services. The study shall include—

(A) a thorough description of each State program, including its duration, its annual budget, and the number and types of businesses it has aided;

(B) a description of any anticipated expansion of each State program and its associated costs;

(C) an evaluation of the success of the services in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;

(D) an assessment of the degree to which State services make use of Federal programs, including the Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

(E) a survey of what additional Federal information and technical assistance the services could utilize; and

(F) an assessment of how the services could be more effective agents for the transfer of Federal scientific and technical information, including the results and application of Federal and federally funded research.

The Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the time of submission of the organization plan for the Institute under section 5112(d)(1), the results of the study and an initial implementation plan for the programs under section 26 of the Act of March 3, 1901, and under this section. The implementation plan shall include methods of providing technical assistance to States and criteria for awarding financial assistance under this section. The Secretary may make use of contractors and experts for any or all of the studies and findings called for in this section.

Contracts.

(2)(A) The Institute shall enter into cooperative agreements with State technology extension services to—

(i) demonstrate methods by which the States can, in cooperation with Federal agencies, increase the use of Federal technology by businesses within their States to improve industrial competitiveness; or

(ii) help businesses in their States take advantage of the services and information offered by the Regional Centers for the Transfer of Manufacturing Technology created under section 25 of the Act of March 3, 1901.

(B) Any State, for itself or for a consortium of States, may submit to the Secretary an application for a cooperative agreement under this subsection, in accordance with procedures established by the Secretary. To qualify for a cooperative agreement under this subsec-

tion, a State shall provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of Federal assistance.

(C) In evaluating each application, the Secretary shall consider—

(i) the number and types of additional businesses that will be assisted under the cooperative agreement;

(ii) the extent to which the State extension service will demonstrate new methods to increase the use of Federal technology;

(iii) geographic diversity; and

(iv) the ability of the State to maintain the extension service after the cooperative agreement has expired.

(D) States which are party to cooperative agreements under this subsection may provide services directly or may arrange for the provision of any or all of such services by institutions of higher education or other non-profit institutions or organizations.

(3) In carrying out section 26 of the Act of March 3, 1901, and this subsection, the Secretary shall coordinate the activities with the Federal Laboratory Consortium; the National Technical Information Service; the National Science Foundation; the Office of Productivity, Technology, and Innovation; the Small Business Administration; and other appropriate Federal agencies.

(4) There are authorized to be appropriated for the purposes of this subsection $2,000,000 for each of the fiscal years 1989, 1990, and 1991. Appropriation authorization.

(5) Cooperative agreements entered into under paragraph (2) shall terminate no later than September 30, 1991. Contracts. Termination date

(c) FEDERAL TECHNOLOGY TRANSFER ACT OF 1986.—Nothing in sections 25 or 26 of the Act of March 3, 1901, or in subsection (b) of this section shall be construed as limiting the authorities contained in the Federal Technology Transfer Act of 1986 (Public Law 99-502). 15 USC 278l note.

(d) NON-ENERGY INVENTIONS PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 26 the following new section:

"NON-ENERGY INVENTIONS PROGRAM

"SEC. 27. In conjunction with the initial organization of the Institute, the Director shall establish a program for the evaluation of inventions that are not energy-related to complement but not replace the Energy-Related Inventions Program established under section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577). The Director shall submit an initial implementation plan for this program to accompany the organization plan for the Institute. The implementation plan shall include specific cost estimates, implementation schedules, and mechanisms to help finance the development of technologies the program has determined to have potential. In the preparation of the plan, the Director shall consult with appropriate Federal agencies, including the Small Business Administration and the Department of Energy, State and local government organizations, university officials, and private sector organizations in order to obtain advice on how those agencies and organizations might cooperate with the expansion of this program of the Institute.". 15 USC 278m.

SEC. 5122. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

(a) CLEARINGHOUSE.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

15 USC 3705–3708, 3710–3710d, 3711, 3711a, 3712–3714.

(1) by redesignating sections 6 through 19 as sections 7 through 20, respectively; and

(2) by inserting after section 5 the following new section:

15 USC 3704a.

"SEC. 6. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

"(a) ESTABLISHMENT.—There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

"(b) RESPONSIBILITIES.—The Clearinghouse may—

"(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

"(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such governments, businesses, and the public throughout the United States;

"(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

"(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

"(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments, to enhance the competitiveness of American business;

"(6) make periodic recommendations to the Secretary, and to other Federal agencies upon their request, concerning modifications in Federal policies and programs which would improve Federal assistance to State and local technology and business assistance programs;

"(7) develop methodologies to evaluate State and local programs, and, when requested, advise State and local governments, and regional and multistate organizations of such governments, as to which programs are most effective in enhancing the competitiveness of American business through the stimulation of productivity, technology, and innovation; and

"(8) make use of, and disseminate, the nationwide study of State industrial extension programs conducted by the Secretary.

"(c) CONTRACTS.—In carrying out subsection (b), the Secretary may enter into contracts for the purpose of collecting information on the nature, extent, and effects of initiatives.

"(d) TRIENNIAL REPORT.—The Secretary shall prepare and transmit to the Congress once each 3 years a report on initiatives by State and local governments to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation. The report shall include recommendations to the Presi-

dent, the Congress, and to Federal agencies on the appropriate Federal role in stimulating State and local efforts in this area. The first of these reports shall be transmitted to the Congress before January 1, 1989.".

(b) DEFINITION.—Section 4 of such Act is amended by adding at the end thereof the following new paragraph: 15 USC 3703.

"(13) 'Clearinghouse' means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 6.".

(c) CONFORMING AMENDMENT.—Section 10(d) of such Act, as so redesignated by section 5122(a)(1) of this part, is amended by striking "6, 8, 10, 14, 16, or 17" and inserting in lieu thereof "7, 9, 11, 15, 17, or 18". 15 USC 3708.

Subpart C—Advanced Technology Program

SEC. 5131. ADVANCED TECHNOLOGY.

(a) ADVANCED TECHNOLOGY PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 27 the following new section:

"ADVANCED TECHNOLOGY PROGRAM

"SEC. 28. (a) There is established in the Institute an Advanced Technology Program (hereafter in this Act referred to as the 'Program') for the purpose of assisting United States businesses in creating and applying the generic technology and research results necessary to— 15 USC 278n.

"(1) commercialize significant new scientific discoveries and technologies rapidly; and

"(2) refine manufacturing technologies.

The Secretary, acting through the Director, shall assure that the Program focuses on improving the competitive position of the United States and its businesses, gives preference to discoveries and to technologies that have great economic potential, and avoids providing undue advantage to specific companies.

"(b) Under the Program established in subsection (a), and consistent with the mission and policies of the Institute, the Secretary, acting through the Director, and subject to subsections (c) and (d), may—

"(1) aid United States joint research and development ventures (hereafter in this section referred to as 'joint ventures') (which may also include universities and independent research organizations), including those involving collaborative technology demonstration projects which develop and test prototype equipment and processes, through—

"(A) provision of organizational and technical advice; and

"(B) participation in such joint ventures, if the Secretary, acting through the Director, determines participation to be appropriate, which may include (i) partial start-up funding, (ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii) making available equipment, facilities, and personnel,

provided that emphasis is placed on areas where the Institute has scientific or technological expertise, on solving generic problems of specific industries, and on making those industries more competitive in world markets;

Contracts.

"(2) enter into contracts and cooperative agreements with United States businesses, especially small businesses, and with independent research organizations, provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;

"(3) involve the Federal laboratories in the Program, where appropriate, using among other authorities the cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980; and

"(4) carry out, in a manner consistent with the provisions of this section, such other cooperative research activities with joint ventures as may be authorized by law or assigned to the Program by the Secretary.

"(c) The Secretary, acting through the Director, is authorized to take all actions necessary and appropriate to establish and operate the Program, including—

Federal Register, publication.

"(1) publishing in the Federal Register draft criteria and, no later than six months after the date of the enactment of this section, following a public comment period, final criteria, for the selection of recipients of assistance under subsection (b) (1) and (2);

Reports.

"(2) monitoring how technologies developed in its research program are used, and reporting annually to the Congress on the extent of any overseas transfer of these technologies;

Contracts.

"(3) establishing procedures regarding financial reporting and auditing to ensure that contracts and awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding existing or planned research programs that would be conducted in the same time period in the absence of financial assistance under the Program;

"(4) assuring that the advice of the Committee established under section 10 is considered routinely in carrying out the responsibilities of the Institute; and

"(5) providing for appropriate dissemination of Program research results.

Contracts.

"(d) When entering into contracts or making awards under subsection (b), the following shall apply:

"(1) No contract or award may be made until the research project in question has been subject to a merit review, and has, in the opinion of the reviewers appointed by the Director and the Secretary, acting through the Director, been shown to have scientific and technical merit.

"(2) In the case of joint ventures, the Program shall not make an award unless, in the judgment of the Secretary, acting through the Director, Federal aid is needed if the industry in question is to form a joint venture quickly.

"(3) No Federal contract or cooperative agreement under subsection (b)(2) shall exceed $2,000,000 over 3 years, or be for more than 3 years unless a full and complete explanation of such proposed award, including reasons for exceeding these limits, is submitted in writing by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The proposed contract or cooperative agreement may be executed only after 30 calendar days on which both Houses of Congress are in session have elapsed since such submission. Federal funds made available under subsec-

tion (b)(2) shall be used only for direct costs and not for indirect costs, profits, or management fees of the contractor.

"(4) In determining whether to make an award to a particular joint venture, the Program shall consider whether the members of the joint venture have made provisions for the appropriate participation of small United States businesses in such joint venture.

Classified information.

"(5) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of any business or any joint venture receiving funding under the Program—

"(A) information on the business operation of any member of the business or joint venture; and

"(B) trade secrets possessed by any business or any member of the joint venture.

Copyrights. Patents and trademarks. Classified information.

"(6) Intellectual property owned and developed by any business or joint venture receiving funding or by any member of such a joint venture may not be disclosed by any officer or employee of the Federal Government except in accordance with a written agreement between the owner or developer and the Program.

"(7) The Federal Government shall be entitled to a share of the licensing fees and royalty payments made to and retained by any business or joint venture to which it contributes under this section in an amount proportional to the Federal share of the costs incurred by the business or joint venture as determined by independent audit.

"(8) If a business or joint venture fails before the completion of the period for which a contract or award has been made, after all allowable costs have been paid and appropriate audits conducted, the unspent balance of the Federal funds shall be returned by the recipient to the Program.

"(9) Upon dissolution of any joint venture or at the time otherwise agreed upon, the Federal Government shall be entitled to a share of the residual assets of the joint venture proportional to the Federal share of the costs of the joint venture as determined by independent audit.

"(e) As used in this section, the term 'joint research and development venture' has the meaning given to such term in section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)).".

(b) VISITING COMMITTEE ON ADVANCED TECHNOLOGY.—Section 10 of the Act of March 3, 1901, is amended to read as follows:

"VISITING COMMITTEE ON ADVANCED TECHNOLOGY

Establishment. 15 USC 278.

"SEC. 10. (a) There is established within the Institute a Visiting Committee on Advanced Technology (hereafter in this Act referred to as the 'Committee'). The Committee shall consist of nine members appointed by the Director, at least five of whom shall be from United States industry. The Director shall appoint as original members of the Committee any final members of the National Bureau of Standards Visiting Committee who wish to serve in such capacity. In addition to any powers and functions otherwise granted to it by this Act, the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its

budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress.

"(b) The persons appointed as members of the Committee—

"(1) shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations;

"(2) shall be selected solely on the basis of established records of distinguished service;

"(3) shall not be employees of the Federal Government; and

"(4) shall be so selected as to provide representation of a cross-section of the traditional and emerging United States industries.

The Director is requested, in making appointments of persons as members of the Committee, to give due consideration to any recommendations which may be submitted to the Director by the National Academies, professional societies, business associations, labor associations, and other appropriate organizations.

"(c)(1) The term of office of each member of the Committee, other than the original members, shall be 3 years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person who has completed two consecutive full terms of service on the Committee shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

"(2) The original members of the Committee shall be elected to three classes of three members each; one class shall have a term of one year, one a term of two years, and the other a term of three years.

"(d) The Committee shall meet at least quarterly at the call of the Chairman or whenever one-third of the members so request in writing. A majority of the members of the Committee not having a conflict of interest in the matter being considered by the Committee shall constitute a quorum. Each member shall be given appropriate notice, whenever possible, not less than 15 days prior to any meeting, of the call of such meeting.

"(e) The Committee shall have an executive committee, and may delegate to it or to the Secretary such of the powers and functions granted to the Committee by this Act as it deems appropriate. The Committee is authorized to appoint from among its members such other committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Committee deems appropriate to assist it in exercising its powers and functions under this Act.

"(f) The election of the Chairman and Vice Chairman of the Committee shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Committee shall elect a member to fill such vacancy.

"(g) The Committee may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than four professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consultation with the Chairman of the Committee, and assigned at the direction of the Committee. The professional members of such staff may be appointed without regard to the

provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 of title 5 of such Code relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332 of title 5 of such Code, as may be necessary to provide for the performance of such duties as may be prescribed by the Committee in connection with the exercise of its powers and functions under this Act.

"(h)(1) The Committee shall render an annual report to the Secretary for submission to the Congress on or before January 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, including the Program established under section 28, or with which the Committee in its official role as the private sector policy advisor of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, in which the Institute possesses special competence, which could be used to assist United States enterprises and United States industrial joint research and development ventures. Reports.

"(2) The Committee shall render to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.". Reports.

(c) NATIONAL ACADEMIES OF SCIENCES AND ENGINEERING STUDY OF GOVERNMENT-INDUSTRY COOPERATION IN CIVILIAN TECHNOLOGY.—(1) Within 90 days after the date of enactment of this Act, the Secretary of Commerce shall enter into contracts with the National Academies of Sciences and Engineering for a thorough review of the various types of arrangements under which the private sector in the United States and the Federal Government cooperate in civilian research and technology transfer, including activities to create or apply generic, nonproprietary technologies. The purpose of the review is to provide the Secretary and Congress with objective information regarding the uses, strengths, and limitations of the various types of cooperative technology arrangements that have been used in the United States. The review is to provide both an analysis of the ways in which these arrangements can help improve the technological performance and international competitiveness of United States industry, and also to provide the Academies' recommendations regarding ways to improve the effectiveness and efficiency of these types of cooperative arrangements. A special emphasis shall be placed on discussions of these subjects among industry leaders, labor leaders, and officials of the executive branch and Congress. The Secretary is authorized to seek and accept funding for this study from both Federal agencies and private industry. Contracts. 15 USC 278n note.

(2) The members of the review panel shall be drawn from among industry and labor leaders, entrepreneurs, former government officials with great experience in civilian research and technology, and scientific and technical experts, including experts with experience with Federal laboratories.

(3) The review shall analyze the strengths and weaknesses of different types of Federal-industry cooperative arrangements in civilian technology, including but not limited to—

(A) Federal programs which provide technical services and information to United States companies;

(B) cooperation between Federal laboratories and United States companies, including activities under the Technology Share Program created by Executive Order 12591;

(C) Federal research and technology transfer arrangements with selected business sectors;

(D) Federal encouragement of, and assistance to, private joint research and development ventures; and

(E) such other mechanisms of Federal-industry cooperation as may be identified by the Secretary.

Reports.

(4) A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contracts with the National Academies of Sciences and Engineering.

Subpart D—Technology Reviews

SEC. 5141. REPORT OF PRESIDENT.

The President shall, at the time of submission of the budget request for fiscal year 1990 to Congress, also submit to the Congress a report on—

(1) the President's policies and budget proposals regarding Federal research in semiconductors and semiconductor manufacturing technology, including a discussion of the respective roles of the various Federal departments and agencies in such research;

(2) the President's policies and budget proposals regarding Federal research and acquisition policies for fiber optics and optical-electronic technologies generally;

(3) the President's policies and budget proposals, identified by agency, regarding superconducting materials, including descriptions of research priorities, the scientific and technical barriers to commercialization which such research is designed to overcome, steps taken to ensure coordination among Federal agencies conducting research on superconducting materials, and steps taken to consult with private United States industry and to ensure that no unnecessary duplication of research exists and that all important scientific and technical barriers to the commercialization of superconducting materials will be addressed; and

(4) the President's policies and budget proposals, identified by agency, regarding Federal research to assist United States industry to develop and apply advanced manufacturing technologies for the production of durable and nondurable goods.

SEC. 5142. SEMICONDUCTOR RESEARCH AND DEVELOPMENT.

National Advisory Committee on Semiconductor Research and Development Act of 1988.
15 USC 4632.

(a) SHORT TITLE.—This section may be cited as the "National Advisory Committee on Semiconductor Research and Development Act of 1988".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds and declares that—

(A) semiconductor technology is playing an ever-increasing role in United States industrial and commercial products and processes, making secure domestic sources of state-of-the-art semiconductors highly desirable;

(B) modern weapons systems are highly dependent on leading edge semiconductor devices, and it is counter to the national

security interest to be heavily dependent upon foreign sources for this technology;

(C) governmental responsibilities related to the semiconductor industry are divided among many Federal departments and agencies; and

(D) joint industry-government consideration of semiconductor industry problems is needed at this time.

(2) The purposes of this section are—

(A) to establish the National Advisory Committee on Semiconductors; and

(B) to assign to such Committee the responsibility for devising and promulgating a national semiconductor strategy, including research and development, the implementation of which will assure the continued leadership of the United States in semiconductor technology.

(c) CREATION OF COMMITTEE.—There is hereby created in the executive branch of the Government an independent advisory body to be known as the National Advisory Committee on Semiconductors (hereafter in this section referred to as the "Committee").

(d) FUNCTIONS.—(1) The Committee shall—

(A) collect and analyze information on the needs and capabilities of industry, the Federal Government, and the scientific and research communities related to semiconductor technology;

(B) identify the components of a successful national semiconductor strategy in accordance with subsection (b)(2)(B);

(C) analyze options, establish priorities, and recommend roles for participants in the national strategy;

(D) assess the roles for government and national laboratories and other laboratories supported largely for government purposes in contributing to the semiconductor technology base of the Nation, as well as to access the effective use of the resources of United States private industry, United States universities, and private-public research and development efforts; and

(E) provide results and recommendations to agencies of the Federal Government involved in legislative, policymaking, administrative, management, planning, and technology activities that affect or are part of a national semiconductor strategy, and to the industry and other nongovernmental groups or organizations affected by or contributing to that strategy.

(2) In fulfilling this responsibility, the Committee shall—

(A) monitor the competitiveness of the United States semiconductor technology base;

(B) determine technical areas where United States semiconductor technology is deficient relative to international competition;

(C) identify new or emerging semiconductor technologies that will impact the national defense or United States competitiveness or both;

(D) develop research and development strategies, tactics, and plans whose execution will assure United States semiconductor competitiveness; and

(E) recommend appropriate actions that support the national semiconductor strategy.

(e) MEMBERSHIP AND PROCEDURES.—(1)(A) The Committee shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of the Office of Science and

Technology Policy, and the Director of the National Science Foundation, or their designees, shall serve as members of the Committee.

President of U.S.

(C) The President, acting through the Director of the Office of Science and Technology Policy, shall appoint, as additional members of the Committee, 4 members from outside the Federal Government who are eminent in the semiconductor industry, and 4 members from outside the Federal Government who are eminent in the fields of technology, defense, and economic development.

(D) One of the members appointed under subparagraph (C), as designated by the President at the time of appointment, shall be chairman of the Committee.

(2) Funding and administrative support for the Committee shall be provided to the Office of Science and Technology Policy through an arrangement with an appropriate agency or organization designated by the Committee, in accordance with a memorandum of understanding entered into between them.

(3) Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties at the request of the Chairman while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(4) The Chairman shall call the first meeting of the Committee not later than 90 days after the date of the enactment of this Act.

Reports.

(5) At the close of each fiscal year the Committee shall submit to the President and the Congress a report on its activities conducted during such year and its planned activities for the coming year, including specific findings and recommendations with respect to the national semiconductor strategy devised and promulgated under subsection (b)(2)(B). The first report shall include an analysis of those technical areas, including manufacturing, which are of importance to the United States semiconductor industry, and shall make specific recommendations regarding the appropriate Federal role in correcting any deficiencies identified by the analysis. Each report shall include an estimate of the length of time the Committee must continue before the achievement of its purposes and the issuance of its final report.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for the fiscal years 1988, 1989, and 1990.

30 USC 1803 note.

SEC. 5143. REVIEW OF RESEARCH AND DEVELOPMENT PRIORITIES IN SUPERCONDUCTORS.

President of U.S.

(a) NATIONAL COMMISSION ON SUPERCONDUCTIVITY.—The President shall appoint a National Commission on Superconductivity to review all major policy issues regarding United States applications of recent research advances in superconductors in order to assist the Congress in devising a national strategy, including research and development priorities, the development of which will assure United States leadership in the development and application of superconducting technologies.

(b) MEMBERSHIP.—The membership of the National Commission on Superconductivity shall include representatives of—

(1) the National Critical Materials Council, the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Depart-

ment of Justice, the Department of Commerce (including the National Institute of Standards and Technology), the Department of Transportation, the Department of the Treasury, and the Department of Defense;

(2) organizations whose membership is comprised of physicists, engineers, chemical scientists, or material scientists; and

(3) industries, universities, and national laboratories engaged in superconductivity research.

(c) CHAIRMAN.—A representative of the private sector shall be designated as chairman of the Commission.

(d) COORDINATION.—The National Critical Materials Council shall be the coordinating body of the National Commission on Superconductivity and shall provide staff support for the Commission.

(e) REPORT.—Within 6 months after the date of the enactment of this Act, the National Commission on Superconductivity shall submit a report to the President and the Congress with recommendations regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications.

(f) SCOPE OF REVIEW.—In preparing the report required by subsection (e), the Commission shall consider addressing, but need not limit, its review to—

(1) the state of United States competitiveness in the development of improved superconductors;

(2) methods to improve and coordinate the collection and dissemination of research data relating to superconductivity;

(3) methods to improve and coordinate funding of research and development of improved superconductors;

(4) methods to improve and coordinate the development of viable commercial and military applications of improved superconductors;

(5) foreign government activities designed to promote research, development, and commercial application of improved superconductors;

(6) the need to provide increased Federal funding of research and development of improved superconductors;

(7) the impact on the United States national security if the United States must rely on foreign producers of superconductors;

(8) the benefit, if any, of granting private companies partial exemptions from United States antitrust laws to allow them to coordinate research, development, and products containing improved superconductors;

(9) options for providing income tax incentives for encouraging research, development, and production in the United States of products containing improved superconductors; and

(10) methods to strengthen domestic patent and trademark laws to ensure that qualified superconductivity discoveries receive the fullest protection from infringement.

(g) SUNSET.—The Commission shall disband within a year of its establishment. Thereafter the National Critical Materials Council may review and update the report required by subsection (e) and make further recommendations as it deems appropriate.

Subpart E—Authorization of Appropriations

SEC. 5151. AUTHORIZATION OF APPROPRIATIONS FOR TECHNOLOGY ACTIVITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1988 to the Secretary of Commerce to carry out activities performed by the Institute the sums set forth in the following line items:

(1) Measurement Research and Technology: $41,939,000.

(2) Engineering Measurements and Manufacturing: $40,287,000.

(3) Materials Science and Engineering: $23,521,000.

(4) Computer Science and Technology: $7,941,000.

(5) Research Support Activities: $19,595,000.

(6) Cold Neutron Source Facility: $6,500,000 (for a total authorization of $13,000,000).

(7) Programs established under sections 25, 26, and 27 of the Act of March 3, 1901 and section 5121 of this part: $5,000,000.

(b) LIMITATIONS.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (1) of subsection (a) of this section, $3,550,000 is authorized only for the purpose of research in process and quality control;

(3) of the amount authorized under paragraph (2) of subsection (a) of this section, $3,710,000 is authorized only for the Center for Building Technology, $5,662,000 is authorized only for the Center for Fire Research, and the two Centers shall not be merged;

(4) of the amount authorized under paragraph (3) of subsection (a) of this section, $1,500,000 is authorized only for the purpose of research to improve high-performance composites; and

(5) of the amount authorized under paragraph (5) of subsection (a) of this section, $7,371,000 is authorized only for technical competence fund projects in new areas of high technical importance, and $1,091,000 is authorized only for the Postdoctoral Research Associates Program and related new personnel.

(c) TRANSFER.—(1) Funds may be transferred among the line items listed in subsection (a) of this section so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary of Commerce may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a) of this section, but a full and complete explanation of any such proposed transfer and the reason for such transfer must be transmitted in writing to the President of the Senate, the Speaker of the House of Representatives, and the appropriate authorizing committees of the Senate and House of Representatives. The proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

(d) COLD NEUTRON SOURCE FACILITY.—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal years 1988, 1989, and 1990 such sums as were authorized but not appropriated for the Cold Neutron Source Facility for fiscal year 1987. Furthermore, the Secretary may accept contributions for funds, to remain available until expended, for the design, construction, and equipment of the Cold Neutron Source Facility, notwithstanding the limitations of section 14 of the Act of March 3, 1901 (15 U.S.C. 278d). Gifts and property.

(e) EMPLOYEE BENEFIT ADJUSTMENTS.—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1988 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

(f) AVAILABILITY.—Appropriations made under the authority provided in this section shall remain available for obligation, for expenditure, or for obligations and expenditure for periods specified in the Acts making such appropriations.

SEC. 5152. STEVENSON-WYDLER ACT AUTHORIZATIONS. 15 USC 3713.

Section 19 (a) and (b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended to read as follows:

"(a)(1) There is authorized to be appropriated to the Secretary for the purposes of carrying out sections 5, 11(g), and 16 of this Act not to exceed $3,400,000 for the fiscal year ending September 30, 1988.

"(2) Of the amount authorized under paragraph (1) of this subsection, $2,400,000 is authorized only for the Office of Productivity, Technology, and Innovation; $500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 5(d) of this Act; and $500,000 is authorized only for the patent licensing activities of the National Technical Information Service.

"(b) In addition to the authorization of appropriations provided under subsection (a) of this section, there is authorized to be appropriated to the Secretary for the purposes of carrying out section 6 of this Act not to exceed $500,000 for the fiscal year ending September 30, 1988, $1,000,000 for the fiscal year ending September 30, 1989, and $1,500,000 for the fiscal year ending September 30, 1990.".

Subpart F—Miscellaneous Technology and Commerce Provisions

SEC. 5161. SAVINGS PROVISION AND USER FEES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.), as amended by this part, is further amended by adding after section 28 the following new sections:

"SAVINGS PROVISION

"SEC. 29. All rules and regulations, determinations, standards, contracts, certifications, authorizations, delegations, results and findings of investigations, or other actions duly issued, made, or taken by or pursuant to this Act, or under the authority of any other statutes which resulted in the assignment of functions or activities to the Secretary, the Department, the Director, or the Institute, as Contracts. 15 USC 271 note.

are in effect immediately before the date of enactment of this section, and not suspended by the Secretary, the Director, the Institute or the courts, shall continue in full force and effect after the date of enactment of this section until modified or rescinded.

"USER FEES

15 USC 278o.

"SEC. 30. The Institute shall not implement a policy of charging fees with respect to the use of Institute research facilities by research associates in the absence of express statutory authority to charge such fees.".

SEC. 5162. MISCELLANEOUS AMENDMENTS TO THE STEVENSON-WYDLER ACT.

(a) INVENTION MANAGEMENT SERVICES.—The first sentence of section 14(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710c) is amended by striking out "shall" and inserting in lieu thereof "may", and by striking out "such invention performed at the request of the other agency or laboratory" and inserting in lieu thereof "any invention of the other agency".

(b) FEDERAL LABORATORY CONSORTIUM.—Section 11(e)(7)(A) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710) is amended by striking out "0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by" and inserting in lieu thereof "0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of".

SEC. 5163. MISCELLANEOUS TECHNOLOGY AND COMMERCE PROVISIONS.

15 USC 282a.

(a) ASSESSMENT OF EMERGING TECHNOLOGIES.—The Board of Assessment of the National Institute of Standards and Technology shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Institute abreast of its mission, including process and quality control, engineering databases, advanced materials, electronics and fiber optics, bioprocess engineering, and advanced computing concepts. Such review shall include estimates of the cost of the required effort, required staffing levels, appropriate interaction with industry, including technology transfer, and the period over which the research will be required.

15 USC 272 note.

(b) SMALL BUSINESS PLAN.—The Director of the National Institute of Standards and Technology shall prepare a plan detailing the manner in which the Institute will make small businesses more aware of the Institute's activities and research, and the manner in which the Institute will seek to increase the application by small businesses of the Institute's research, particularly in manufacturing. The plan shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—(1) Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended by inserting at the end the following new subsection:

15 USC 3710.

"(h) None of the activities or functions of the National Technical Information Service which are not performed by contractors as of September 30, 1987, shall be contracted out or otherwise transferred from the Federal Government unless such transfer is expressly authorized by statute, or unless the value of all work performed under the contract and related contracts in each fiscal year does not exceed $250,000.". Contracts.

(2) The Secretary of Commerce shall report the Secretary's recommendations for improvements in the National Technical Information Service (including methods for automating document distribution and inventory control), and any statutory changes required to make such improvements, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives by January 31, 1989. Reports.

(3) Section 11(d) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended— 15 USC 3710.

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.".

(d) FELLOWSHIP PROGRAM.—There is established within the Department of Commerce a Commerce, Science, and Technology Fellowship Program with the stated purpose of providing a select group of employees of the executive branch of the Government with the opportunity of learning how the legislative branch and other parts of the executive branch function through work experiences of up to one year. The Secretary of Commerce shall report to the Congress within six months after the date of enactment of this Act on the Department of Commerce's plans for implementing such Program by March 31, 1989. 15 USC 1533. Reports.

SEC. 5164. METRIC USAGE.

(a) FINDINGS.—Section 2 of the Metric Conversion Act of 1975 is amended by adding at the end thereof the following new paragraphs: 15 USC 205a.

"(3) World trade is increasingly geared towards the metric system of measurement.

"(4) Industry in the United States is often at a competitive disadvantage when dealing in international markets because of its nonstandard measurement system, and is sometimes excluded when it is unable to deliver goods which are measured in metric terms.

"(5) The inherent simplicity of the metric system of measurement and standardization of weights and measures has led to major cost savings in certain industries which have converted to that system.

"(6) The Federal Government has a responsibility to develop procedures and techniques to assist industry, especially small business, as it voluntarily converts to the metric system of measurement.

"(7) The metric system of measurement can provide substantial advantages to the Federal Government in its own operations.".

15 USC 205b.

(b) POLICY.—Section 3 of the Metric Conversion Act of 1975 is amended to read as follows:

"SEC. 3. It is therefore the declared policy of the United States—

"(1) to designate the metric system of measurement as the preferred system of weights and measures for United States trade and commerce;

"(2) to require that each Federal agency, by a date certain and to the extent economically feasible by the end of the fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units;

"(3) to seek out ways to increase understanding of the metric system of measurement through educational information and guidance and in Government publications; and

"(4) to permit the continued use of traditional systems of weights and measures in nonbusiness activities.".

15 USC 205k.

(c) IMPLEMENTATION.—The Metric Conversion Act of 1975 is further amended by redesignating section 12 as section 13, and by inserting after section 11 the following new section:

Reports.
15 USC 205j-1.

"SEC. 12. (a) As soon as possible after the date of the enactment of this section, each agency of the Federal Government shall establish guidelines to carry out the policy set forth in section 3 (with particular emphasis upon the policy set forth in paragraph (2) of that section), and as part of its annual budget submission for each fiscal year beginning after such date shall report to the Congress on the actions which it has taken during the previous fiscal year, as well as the actions which it plans for the fiscal year involved, to implement fully the metric system of measurement in accordance with that policy. Such reporting shall cease for an agency in the fiscal year after it has fully implemented its efforts under section 3(2). As used in this section, the term 'agency of the Federal Government' means an Executive agency or military department as those terms as defined in chapter 1 of title 5, United States Code.

"(b) At the end of the fiscal year 1992, the Comptroller General shall review the implementation of this Act, and upon completion of such review shall report his findings to the Congress along with any legislative recommendations he may have.".

PART II—SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

SEC. 5171. SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH.

(a) Section 502 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656b) is amended by adding at the end the following new paragraph:

"(5) Federally supported international science and technology agreements should be negotiated to ensure that—

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Patents and trademarks.

"(A) intellectual property rights are properly protected; and

"(B) access to research and development opportunities and facilities, and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.".

(b) Section 503(b) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c(b)) is amended—

(1) by striking "Congress" and inserting in lieu thereof "the Speaker of the House of Representatives and the Committees on Foreign Relations and Governmental Affairs of the Senate";

(2) by inserting "information and" before "recommendations";

(3) by striking "and" at the end of paragraph (1);

(4) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(5) by adding at the end the following new paragraph:

"(3) equity of access by United States public and private entities to public (and publicly supported private) research and development opportunities and facilities in each country which is a major trading partner of the United States.".

(c) Section 503 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c) is amended by adding at the end the following new subsection:

"(d)(1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

"(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees as he may consider necessary.". President of U.S.

(d) Section 504(a) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656d(a)) is amended to read as follows:

"(a)(1) In order to implement the policies set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

"(2) In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade linkages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

"(3) Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

"(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

"(B) national security policies; Defense and national security.

"(C) United States trade policies; and

"(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.".

PART III—NATIONAL CRITICAL MATERIALS COUNCIL

30 USC 1804 note.

SEC. 5181. THE NATIONAL FEDERAL PROGRAM PLAN FOR ADVANCED MATERIALS RESEARCH AND DEVELOPMENT.

The National Critical Materials Council shall prepare the national Federal program plan for advanced materials research and development under section 205(a)(1)(A) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1251) and shall submit such plan to Congress not later than 180 days after the date of the enactment of this Act. The plan shall be submitted to the Committee on Science, Space, and Technology, as well as other appropriate committees, of the House of Representatives, and to the Committee on Governmental Affairs, as well as other appropriate committees, of the Senate.

30 USC 1807 note.

SEC. 5182. PERSONNEL MATTERS.

(a) REQUIREMENT TO INCREASE STAFF.—Not later than 30 days after the date of the enactment of this Act, the Executive Director of the National Critical Materials Council shall increase the number of employees of the Council by the equivalent of 5 full-time employees over the number of employees of the Council on the date of the enactment of this Act.

(b) QUALIFICATIONS OF STAFF.—Not less than the equivalent of 4 full-time employees appointed pursuant to subsection (a) shall be permanent professional employees who have expertise in technical fields that are relevant to the responsibilities of the National Critical Materials Council, such as materials science and engineering, environmental matters, minerals and natural resources, ceramic or composite engineering, metallurgy, and geology.

SEC. 5183. AUTHORITY TO ACCEPT SERVICES AND PERSONNEL FROM OTHER FEDERAL AGENCIES.

30 USC 1809.

Section 210(4) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "reimbursable" and inserting in lieu thereof "nonreimbursable".

SEC. 5184. AUTHORIZATION OF APPROPRIATIONS.

30 USC 1810.

Section 211 of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "1990" and inserting in lieu thereof "1992".

Competitiveness Policy Council Act.

Subtitle C—Competitiveness Policy Council Act

15 USC 4801 note.

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Competitiveness Policy Council Act".

SEC. 5202. FINDINGS AND PURPOSES.

15 USC 4801.

(a) FINDINGS.—The Congress finds that—

(1) efforts to reverse the decline of United States industry has been hindered by—

(A) a serious erosion in the institutions and policies which foster United States competitiveness including a lack of high quality domestic and international economic and scientific data needed to—

(i) reveal sectoral strengths and weaknesses;

(ii) identify potential new markets and future technological and economic trends; and

(iii) provide necessary information regarding the competitive strategies of foreign competitors;

(B) the lack of a coherent and consistent government competitiveness policy, including policies with respect to—

(i) international trade, finance, and investment,

(ii) research, science, and technology,

(iii) education, labor retraining, and adjustment,

(iv) macroeconomic and budgetary issues,

(v) antitrust and regulation, and

(vi) government procurement;

(2) the United States economy benefits when business, labor, government, academia, and public interest groups work together cooperatively;

(3) the decline of United States economic competitiveness endangers the ability of the United States to maintain the defense industrial base which is necessary to the national security of the United States;

(4) the world is moving rapidly toward the creation of an integrated and interdependent economy, a world economy in which the policies of one nation have a major impact on other nations;

(5) integrated solutions to such issues as trade and investment research, science, and technology, education, and labor retraining and adjustments help the United States compete more effectively in the world economy; and

(6) government, business, labor, academia, and public interest groups shall cooperate to develop and coordinate long-range strategies to help assure the international competitiveness of the United States economy.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to develop recommendations for long-range strategies for promoting the international competitiveness of the United States industries; and

(2) to establish the Competitiveness Policy Council which shall—

(A) analyze information regarding the competitiveness of United States industries and business and trade policy;

(B) create an institutional forum where national leaders with experience and background in business, labor, government, academia, and public interest activities shall—

(i) identify economic problems inhibiting the competitiveness of United States agriculture, business, and industry;

Agriculture and agricultural commodities.

(ii) develop long-term strategies to address such problem; and

(C) make recommendations on issues crucial to the development of coordinated competitiveness strategies;

(D) publish analysis in the form of periodic reports and recommendations concerning the United States business and trade policy.

15 USC 4802.

SEC. 5203. COUNCIL ESTABLISHED.

There is established the Competitiveness Policy Council (hereafter in this subtitle referred to as the "Council"), an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

15 USC 4803.

SEC. 5204. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of United States industries;

(2) provide comments, when appropriate, and through any existing comment procedure, on—

(A) private sector requests for governmental assistance or relief, specifically as to whether the applicant is likely, by receiving the assistance or relief, to become internationally competitive; and

(B) what actions should be taken by the applicant as a condition of such assistance or relief to ensure that the applicant is likely to become internationally competitive;

(3) analyze information concerning current and future United States economic competitiveness useful to decision making in government and industry;

(4) create a forum where national leaders with experience and background in business, labor, academia, public interest activities, and government shall identify and develop recommendations to address problems affecting the economic competitiveness of the United States;

(5) evaluate Federal policies, regulations, and unclassified international agreement on trade, science, and technology to which the United States is a party with respect to the impact on United States competitiveness;

(6) provide policy recommendations to the Congress, the President, and the Federal departments and agencies regarding specific issues concerning competitiveness strategies;

(7) monitor the changing nature of research, science, and technology in the United States and the changing nature of the United States economy and its capacity—

(A) to provide marketable, high quality goods and services in domestic and international markets; and

(B) to respond to international competition;

(8) identify—

(A) Federal and private sector resources devoted to increased competitiveness; and

(B) State and local government programs devised to enhance competitiveness, including joint ventures between universities and corporations;

(9) establish, when appropriate, subcouncils of public and private leaders to develop recommendations on long-term strategies for sectors of the economy and for specific competitiveness issues;

(10) review policy recommendations developed by the subcouncils and transmit such recommendations to the Federal agencies responsible for the implementation of such recommendations;

(11) prepare, publish, and distribute reports containing the recommendations of the Council; and

(12) publish their analysis and recommendations in the form of an annual report to the President and the Congress which also comments on the overall competitiveness of the American economy. Reports.

SEC. 5205. MEMBERSHIP. 15 USC 4804.

(a) COMPOSITION AND REPRESENTATION.—

(1) The Council shall consist of 12 members, of whom—

(A) four members shall be appointed by the President, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader who has been active in public interest activities; and

(iv) one shall be a head of a Federal department or agency;

(B) four members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly, of whom—

(i) one shall be a national leader with experience or background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government; and

(C) four members shall be appointed by the Speaker, the minority leader of the House of Representatives, acting jointly, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government.

(2) In addition to the head of a Federal department or agency appointed in accordance with subsection (a)(1)(A)(iv), other Federal officials may participate on an ex-officio basis as requested by the Council.

(3) All members of the Council shall be individuals who have a broad understanding of the United States economy and the United States competitive position internationally.

(4) Not more than 6 members of the Council shall be members of the same political party.

(b) INITIAL APPOINTMENTS.—The initial members of the Council shall be appointed within 30 days after January 21, 1989.

(c) VACANCIES.—

(1) A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy on the Council occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(3) A member of the Council may serve after the expiration of the term of such member until the successor of such member has taken office.

(d) REMOVAL.—Members of the Council may be removed only for malfeasance in office.

(e) CONFLICT OF INTEREST.—

(1) A member of the Council may not serve as an agent for a foreign principal.

(2) Members of the Council shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (Public Law 95–521), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(3) Members of the Council shall be deemed to be special Government employees, as defined in section 202 of title 18, United States Code, for purposes of sections 201, 202, 203, 205, and 208 of such title.

(f) COMPENSATION.—

(1) Each member of the Council who is not employed by the Federal Government or any State or local government—

(A) shall be compensated at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day such member is engaged in duties as a member of the Council; and

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of such title.

(2) Each member of the Council who is employed by the Federal Government or any State or local government shall serve on the Council without additional compensation, but while engaged in duties as a member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(g) QUORUM.—

(1) IN GENERAL.—Seven members of the Council constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Council.

(2) INITIAL ORGANIZATION.—The Council shall not commence its duties until all the nongovernmental members have been appointed and have qualified.

(h) CHAIRPERSON.—The Council shall elect, by a two-thirds vote of the entire Council, a chairperson from among the nongovernmental members.

(i) MEETINGS.—The Council shall meet at the call of the chairperson or a majority of the members.

(j) POLICY ACTIONS.—Except as provided in subsection (g), no action establishing policy shall be taken by the Council unless approved by two-thirds of the entire membership of the Council.

(k) ALTERNATE MEMBERS.—

(1) Each member of the Council shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Council for all purposes, except for voting.

(l) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

(m) DETAILS.—Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subtitle.

SEC. 5206. EXECUTIVE DIRECTOR AND STAFF. 15 USC 4805.

(a) EXECUTIVE DIRECTOR.—

(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council and who shall be paid at a rate not to exceed GS-18 of the General Schedule.

(2) The Executive Director shall serve on a full-time basis.

(b) STAFF.—(1) Within the limitations of appropriations to the Council, the Executive Director may appoint a staff for the Council in accordance with the Federal civil service and classification laws.

(2) The staff of the Council shall be deemed to be special government employees as defined in section 202 of title 18, United States Code, for purposes of title II of the Ethics in Government Act of 1978 and sections 201, 202, 203, 205, 207, and 208 of title 18, United States Code.

SEC. 5207. POWERS OF THE COUNCIL. 15 USC 4806.

(a) HEARINGS.—The Council may, for the purpose of carrying out the provisions of this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before the Council.

(b) INFORMATION.—

(1)(A) Except as provided in subparagraph (B), the Council may secure directly from any Federal agency information necessary to enable the Council to carry out the provisions of this subtitle. Upon request of the chairman of the Council, the head of such agency shall promptly furnish such information to the Council.

(B) Subparagraph (A) does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order. Classified information. Defense and national security.

(2) In any case in which the Council receives any information from a Federal agency, the Council shall not disclose such

information to the public unless such agency is authorized to disclose such information pursuant to Federal law.

Reports.

(d) CONSULTATION WITH THE PRESIDENT AND THE CONGRESS.—No later than 60 days after the initial members are appointed to the Council, the Council shall submit a report to the President, the Senate Governmental Affairs Committee, and the appropriate committees of the House of Representatives and of the Senate, that proposes the type and scope of activities the Council shall undertake, including the extent to which the Council will coordinate activities with other advisory committees relating to trade and competitiveness in order to maximize the effectiveness of the Council.

(e) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(f) USE OF THE MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative and support services as the Council may request.

(h) SUBCOUNCILS.—

(1) The Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitive issues.

(2) Any such subcouncil shall include representatives of business, labor, government, and other individuals or representatives of groups whose participation is considered by the Council to be important to developing a full understanding of the subject with which the subcouncil is concerned.

(3) Any such subcouncil shall include a representative of the Federal Government.

(4) Any such subcouncil shall assess the actual or potential competitiveness problems facing the industry or the specific policy issues with which the subcouncil is concerned and shall formulate specific recommendations for responses by business, government, and labor—

(A) to encourage adjustment and modernization of the industry involved;

(B) to monitor and facilitate industry responsiveness to opportunities identified under section 5208(b)(1)(B);

(C) to encourage the ability of the industry involved to compete in markets identified under section 5208(b)(1)(C); or

(D) to alleviate the problems in a specific policy area facing more than one industry.

(5) Any discussion held by any subcouncil shall not be considered to violate any Federal or State antitrust law.

(6) Any discussion held by any subcouncil shall not be subject to the provisions of the Federal Advisory Committee Act, except that a Federal representative shall attend all subcouncil meetings.

Termination date.

(7) Any subcouncil shall terminate 30 days after making recommendations, unless the Council specifically requests that the subcouncil continue in operation.

(i) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The provisions of subsections (e) and (f) of section 10, of the Federal Advisory Committee Act shall not apply to the Council.

SEC. 5208. ANNUAL REPORT. 15 USC 4807.

(a) SUBMISSION OF REPORT.—The Council shall annually prepare and submit to the President, the Senate Governmental Affairs Committee, and the appropriate Committees of the House of Representatives and the Senate a report setting forth—

(1) the goals to achieve a more competitive United States economy;

(2) the policies needed to meet such goals;

(3) a summary of existing policies of the Federal Government or State and local governments significantly affecting the competitiveness of the United States economy; and

(4) a summary of significant economic and technological developments, in the United States and abroad, affecting the competitive position of United States industries.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall—

(1) identify and describe actual or foreseeable developments, in the United States and abroad, which—

(A) create a significant likelihood of a competitive challenge to, or of substantial dislocation in, an established United States industry;

(B) present significant opportunities for United States industries to compete in new geographical markets or product markets, or to expand the position of such industries in established markets; or

(C) create a significant risk that United States industries shall be unable to compete successfully in significant markets;

(2) specify the industry sectors affected by the developments described in the report under paragraph (1); and

(3) contain a statement of the findings and recommendations of the Council during the previous fiscal year, including any recommendations of the Council for (a) such legislative or administrative actions as the Council considers appropriate, and (b) including the elimination, consolidation, reorganization of government agencies especially such agencies that specifically deal with research, science, technology, and international trade.

(c) REPORT BY CONGRESSIONAL COMMITTEES.—The Council shall consult with each committee to which a report is submitted under this section and after such consultation, each such committee shall submit to its respective House a report setting forth the views and recommendations of such committee with respect to the report of the Council.

SEC. 5209. AUTHORIZATION OF APPROPRIATIONS. 15 USC 4808.

There are authorized to be appropriated for each of the fiscal years 1989 and 1990 such sums as may be necessary not to exceed $5,000,000 to carry out the provisions of this subtitle.

SEC. 5210. DEFINITIONS. 15 USC 4809.

For purposes of this subtitle—

(1) the term "Council" means the Competitiveness Policy Council established under section 5203;

(2) the term "member" means a member of the Competitiveness Policy Council;

(3) the term "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States; and

(4) the term "agent of a foreign principal" is defined as such term is defined under subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611) subject to the provisions of section 3 of such Act (22 U.S.C. 613).

Subtitle D—Federal Budget Competitiveness Impact Statement

SEC. 5301. PRESIDENT'S ANNUAL BUDGET SUBMISSION.

Subsection (a) of section 1105 of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(26) an analysis, prepared by the Office of Management and Budget after consultation with the chairman of the Council of Economic Advisers, of the budget's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year for which the budget is submitted—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;

"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5302. ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.

Subsection (e) of section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632(e)) is amended by "and" at the end of paragraph (8), by striking out the period and by inserting "; and" at the end of paragraph (9), and by inserting at the end thereof the following new paragraph:

"(10) an analysis, prepared after consultation with the Director of the Congressional Budget Office, of the concurrent resolution's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year covered by the concurrent resolution—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;
"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and
"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5303. EFFECTIVE DATE. 31 USC 1105 note.

The amendment made by section 5301 shall be effective for fiscal years 1989, 1990, 1991, and 1992, and shall be fully reflected in the budgets submitted by the President as required by section 1105(a) of title 31, United States Code, for each such fiscal year, and the amendment made by section 5302 shall be effective for fiscal years 1989, 1990, 1991, and 1992.

Subtitle E—Trade Data and Studies

PART I—NATIONAL TRADE DATA BANK

SEC. 5401. DEFINITIONS. 15 USC 4901.

For purposes of this subtitle—
(1) the term "Committee" means the Interagency Trade Data Advisory Committee;
(2) the term "Data Bank" means the National Trade Data Bank;
(3) the term "Executive agency" has the same meaning as in section 105 of title 5, United States Code;
(4) the term "export promotion data system" means the data system known as the Commercial Information Management System which is maintained and operated by the United States and Foreign Commercial Service and is established as part of the Data Bank under section 3816;
(5) the term "international economic data system" means the data system established as part of the Data Bank under section 5406 which contains data useful to policymakers and analysis concerned with international economics; and
(6) the term "Secretary" means the Secretary of Commerce.

SEC. 5402. INTERAGENCY TRADE DATA ADVISORY COMMITTEE. 15 USC 4902.

(a) ESTABLISHMENT.—There is established the Interagency Trade Data Advisory Committee.
(b) MEMBERSHIP.—The Committee shall consist of—
(1) the United States Trade Representative;
(2) the Secretary of Agriculture;
(3) the Secretary of Defense;
(4) the Secretary of Commerce;
(5) the Secretary of Labor;
(6) the Secretary of the Treasury;
(7) the Secretary of State;
(8) the Director of the Office of Management and Budget;
(9) the Director of Central Intelligence;
(10) the Chairman of the Federal Reserve Board;
(11) the Chairman of the International Trade Commission;
(12) the President of the Export-Import Bank;

(13) the President of the Overseas Private Investment Corporation; and

(14) such other members as may be appointed by the President from full-time officers or employees of the Federal Government.

(c) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Committee.

(d) DESIGNEES.—Any member of the Committee may appoint a designee to serve in place of such member on the Committee.

15 USC 4903.

SEC. 5403. FUNCTIONS OF THE COMMITTEE.

The Committee shall advise the Secretary of Commerce, as appropriate, on the establishment, structure, contents, and operation of a National Trade Data Bank in accordance with section 5406 in order to assure the timely collection of accurate data and to provide the private sector and government officials efficient access to economic and trade data collected by the Federal Government for purposes of policymaking and export promotion.

15 USC 4904.

SEC. 5404. CONSULTATION WITH THE PRIVATE SECTOR AND GOVERNMENT OFFICIALS.

The Secretary shall regularly consult with representatives of the private sector and officials of State and local governments to assess the adequacy of United States trade information. The Secretary shall seek recommendations on how trade information can be made more accessible, understandable, and relevant. The Secretary shall seek recommendations as to what data should be included in the export promotion data system in the Data Bank.

15 USC 4905.

SEC. 5405. COOPERATION AMONG EXECUTIVE AGENCIES.

Each executive agency shall furnish to the Secretary such information for inclusion in the National Trade Data Bank as the Secretary, in consultation with the Advisory Committee, considers necessary to the operation of the Data Bank.

15 USC 4906.

SEC. 5406. ESTABLISHMENT OF THE DATA BANK.

(a) ESTABLISHMENT.—Within 2 years after the date of the enactment of this Act, the Secretary of Commerce shall establish the Data Bank. The Secretary shall manage the Data Bank. The Data Bank shall consist of two data systems, to be designated the International Economic Data System, as described in subsection (b) and the Export Promotion Data System, as described in subsection (c).

(b) INTERNATIONAL ECONOMIC DATA SYSTEM.—The International Economic Data System shall include current and historical information determined by the Secretary to be useful (after the consultation required by section 5404) to policymakers and analysts concerned with international economics and trade and which shall include data compiled or obtained by appropriate executive agencies. Such information shall not identify parties to transactions. Such information may include data for the United States and countries with which the United States has important economic relations including—

Classified information.

(1) data on imports and exports, including—

(A) aggregate import and export data for the United States and for each foreign country;

(B) industry-specific import and export data for each foreign country;

(C) product and service specific import and export data for the United States;
(D) market penetration information; and
(E) foreign destinations for exports of the United States;
(2) data on international service transactions;
(3) information on international capital markets, including—
(A) interest rates; and
(B) average exchange rates;
(4) information on foreign direct investment in the United States economy;
(5) international labor market information, including—
(A) wage rates for major industries;
(B) international unemployment rates; and
(C) trends in international labor productivity;
(6) information on foreign government policies affecting trade, including—
(A) trade barriers; and
(B) export financing policies;
(7) import and export data for the United States on a State-by-State basis aggregated at the product level including—
(A) data concerning the country shipping the import, the State of first destination, and the original part of entry for imports of goods and, to the extent possible, services; and
(B) data concerning the State of the exporter, the port of departure, and the country of first destination for export of goods and, to the extent possible, services; and
(8) any other economic and trade data collected by the Federal Government that the Secretary determines to be useful in carrying out the purposes of this subtitle.

(c) EXPORT PROMOTION DATA SYSTEM.—The export promotion data system shall include data and information collected by the Federal Government on the industrial sectors and markets of foreign countries which are determined by the Secretary (after consultation required by section 5404) to be of the greatest interest to United States business firms that are engaged in export-related activities and to Federal and State agencies that promote exports, while providing for the confidentiality of proprietary business information, and shall be designed to use the most effective means of disseminating data and information electronically through the Department, or Department-designated offices, or through other available data bases in an accurate and timely manner. Such data system shall monitor, organize, and disseminate selected information on— Classified information.

(1) specific business opportunities in foreign countries;
(2) specific industrial sectors within foreign countries with high export potential such as—
(A) size of the market;
(B) distribution of products;
(C) competition;
(D) significant applicable laws, regulations, specifications, and standards;
(E) appropriate government officials; and
(F) trade associations and other contact points; and
(3) foreign countries generally, such as—
(A) the general economic conditions;
(B) common business practices;
(C) significant tariff and trade barriers; and

(D) other significant laws and regulations regarding imports, licensing, and the protection of intellectual property;

(4) export financing information, including the availability, through public sources of funds for United States exporters and foreign competitors;

(5) transactions involving barter and countertrade; and

(6) any other similar information, that the Secretary determines to be useful in carrying out the purposes of this subtitle.

15 USC 4907.

SEC. 5407. OPERATION OF THE DATA BANK.

The Secretary shall manage the Data Bank to provide the most appropriate data retrieval system or systems possible. Such system or systems shall—

(1) be designed to utilize data processing and retrieval technology in monitoring, organizing, analyzing, and disseminating the data and information contained in the Data Bank;

(2) use the most effective and meaningful means of organizing and making such information available to—

(A) United States Government policymakers;

(B) United States business firms;

(C) United States workers;

(D) United States industry associations;

(E) United States agricultural interests;

(F) State and local economic development agencies; and

(G) other interested United States persons who could benefit from such information;

(3) be of such quality and timeliness and in such form as to assist coordinated trade strategies for the United States; and

(4) facilitate dissemination of information through nonprofit organizations with significant outreach programs which complement the regional outreach programs of the United States and Foreign Commercial Service.

15 USC 4908.

SEC. 5408. INFORMATION ON THE SERVICE SECTOR.

(a) SERVICE SECTOR INFORMATION.—The Secretary shall ensure that, to the extent possible, there is included in the Data Bank information on service sector economic activity that is as complete and timely as information on economic activity in the merchandise sector.

(b) SURVEY.—The Secretary shall undertake a new benchmark survey of service transactions, including transactions with respect to—

(1) banking services;

(2) information services, including computer software services;

(3) brokerage services;

(4) transportation services;

(5) travel services;

(6) engineering services;

(7) construction services; and

(8) health services.

(c) GENERAL INFORMATION AND INDEX OF LEADING INDICATORS.—The Secretary shall provide—

(1) not less than once a year, comprehensive information on the service sector of the economy; and

(2) an index of leading indicators which includes the measurement of service sector activity in direct proportion to the con-

tribution of the service sector to the gross national product of the United States.

SEC. 5409. EXCLUSION OF INFORMATION. 15 USC 4909.

The Data Bank shall not include any information—

(1) the disclosure of which to the public is prohibited under any other provision of law or otherwise authorized to be withheld under other provision of law; or

(2) that is specifically authorized under criteria established by statute or an Executive order not to be disclosed in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

SEC. 5410. NONDUPLICATION. 15 USC 4910.

The Secretary shall ensure that information systems created or developed pursuant to this subtitle do not unnecessarily duplicate information systems available from other Federal agencies or from the private sector.

SEC. 5411. COLLECTION OF DATA. 15 USC 4911.

Except as provided in section 5408, nothing in this subtitle shall be considered to grant independent authority to the Federal Government to collect any data or information from individuals or entities outside of the Federal Government.

SEC. 5412. FEES AND ACCESS. 15 USC 4912.

The Secretary shall provide reasonable public services and access (including electronic access) to any information maintained as part of the Data Bank and may charge reasonable fees consistent with section 552 of title 5, United States Code.

SEC. 5413. REPORT TO CONGRESS. 15 USC 4913.

(a) INTERIM REPORT.—Not more than 1 year after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives describing actions taken pursuant to this subtitle, particularly—

(1) actions taken to provide the information on services described in section 5408; and

(2) actions taken to provide State-by-State information as described in section 5406(b)(7).

(b) FINAL REPORT.—Not more than 3 years after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives—

(1) assessing the current quality and comprehensiveness of, and the ability of the public and of private entities to obtain access to trade data;

(2) describing all other actions taken and planned to be taken pursuant to this subtitle;

(3) including comments by the private sector and by State agencies that promote exports on the implementation of the Data Bank;

(4) describing the extent to which the systems within the Data Bank are being used and any recommendations with regard to the operation of the system; and

(5) describing the extent to which United States citizens and firms have access to the data banks of foreign countries that is similar to the access provided to foreign citizens and firms.

PART II—STUDIES

2 USC 194b.

SEC. 5421. COMPETITIVENESS IMPACT STATEMENTS.

(a) The President or the head of the appropriate department or agency of the Federal Government shall include in every recommendation or report made to the Congress on legislation which may affect the ability of United States firms to compete in domestic and international commerce a statement of the impact of such legislation on—

(1) the international trade and public interest of the United States, and

(2) the ability of United States firms engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign or domestic markets.

(b) This section provides no private right of action as to the need for or adequacy of the statement required by subsection (a).

Termination date.

(c) This section shall cease to be effective six years from the date of enactment.

15 USC 4603a.

SEC. 5422. STUDY AND REPORT BY THE ADVISORY COUNCIL ON FEDERAL PARTICIPATION IN SEMATECH.

(a) STUDY AND REPORT.—Not later than February 1, 1989, and annually thereafter for each fiscal year in which appropriated funds are expended for Sematech the Advisory Council on Federal Participation in Sematech established under section 273(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (15 U.S.C. 4603(a); Public Law 100-180) shall conduct a study and submit a report to the Governmental Affairs Committee and the Armed Services Committee of the Senate and to appropriate committees of the House of Representatives concerning Federal participation in Sematech. The study and report shall be conducted under the direction of the Under Secretary of Commerce for Economic Affairs.

(b) COUNCIL RECOMMENDATIONS AND REPORT.—The Council shall include in the report submitted under subsection (a) the following:

(1) identification of potential sources of Federal funding from department and agency budgets for Sematech and recommendations concerning methods and terms of Federal financial participation in Sematech, including grants, loans, loan guarantees, and contributions in kind. The feasibility of methods of Federal recoupment shall also be considered;

(2) definition and assessment of continued Federal participation in Sematech including, but not limited to, issues of technology research and development, civilian and defense industrial base objectives and initiatives, and commercialization. The report shall include a summary of the most recent plans, milestones, and cost estimates for Sematech, including any changes and alterations, and shall comment on Sematech's accomplishments and shortfalls in the preceding fiscal year;

(3) coordination of inter-agency participation, including all matters pertaining to Federal funding and decisionmaking, and other issues regarding Federal participation in Sematech; and

(4) any other issues and questions the Council deems appropriate shall be considered.

SEC. 5423. IMPACT OF NATIONAL DEFENSE EXPENDITURES ON INTERNATIONAL COMPETITIVENESS.

(a) FINDINGS.—The Congress finds that the ability of United States industries to compete in world markets may be adversely affected by the following factors:

(1) The allocation of intellectual resources between the private and public sectors.

(2) The distribution of innovative research and development between commercial and noncommercial applications.

(3) The number of scientific advances which are ultimately commercialized.

(4) The cost of capital which is affected by many factors including the budget deficit and defense spending.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should evaluate the impact on United States competitiveness of—

(1) the defense spending by foreign countries, particularly Japan's expenditure of 1 percent of its gross national product for defense compared to the expenditure of the United States of 6 percent of its gross national product, and

(2) the other factors listed in subsection (a).

TITLE VI—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

Education and Training for a Competitive America Act of 1988.
Disadvantaged persons.
Employment and unemployment.
Schools and colleges.
20 USC 5001.
20 USC 5002.

SEC. 6001. SHORT TITLE.

This title may be cited as the "Education and Training for a Competitive America Act of 1988".

SEC. 6002. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the relationship between a strong and vibrant educational system and a healthy national economy is inseparable in an era in which economic growth is dependent on technology and is imperiled by increased foreign competition;

(2) our Nation's once undisputed pre-eminence in international commerce is facing unprecedented challenges from competitor nations who have given priority to the relationship between education and economic growth in areas such as high technology industries;

(3) our standing in the international marketplace is being further eroded by the presence in the workforce of millions of Americans who are functionally or technologically illiterate or who lack the mathematics, science, foreign language, or vocational skills needed to adapt to the structural changes occurring in the global economy;

(4) our competitive position is also being eroded by declines in the number of students taking advanced courses in mathematics, science, and foreign languages and by the lack of

modern technical and laboratory equipment in our educational institutions;

(5) restoring our competitiveness and enhancing our productivity will require that all workers possess basic educational skills and that many others possess highly specific skills in mathematics, science, foreign languages, and vocational areas; and

(6) our Nation must recognize the substantial impact that an investment in human capital will have on increasing productivity.

(b) PURPOSE.—It is therefore the purpose of this title to establish programs designed—

(1) to enhance ongoing efforts in elementary and secondary education;

(2) to improve our productivity and competitive position by investing in human capital;

Disadvantaged persons.

(3) to assist out-of-school youth and adults who are functionally illiterate in obtaining the basic skills needed for them to become productive workers in a competitive economy;

Schools and colleges.

(4) to help educational institutions prepare those engaged in work relating to mathematics, science, and foreign languages by improving and expanding instruction in those areas and by modernizing laboratory and technical equipment;

Employment and unemployment.

(5) to enhance the skills of workers affected, or about to be affected, by economic change, in order to prevent dislocation within existing industries and to strengthen emerging domestic industries; and

(6) to accomplish such purposes without impairing the availability of funds to carry out existing programs that address the needs of dislocated workers, such as previously authorized education programs.

20 USC 5003.

SEC. 6003. DEFINITIONS.

As used in this title—

(1) The term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(2) The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

(3) The terms "local educational agency" and "State educational agency" have the same meaning given such terms under section 198 of the Elementary and Secondary Education Act of 1965.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

20 USC 5004.

SEC. 6004. GENERAL PROVISIONS.

(a) GRANT REQUIREMENTS.—The Secretary shall ensure, with respect to grants provided under subtitles A and B, that—

Women. Minorities. Handicapped persons.

(1) services assisted by funds received under such grants shall be made available to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited English proficiency, and migrant students;

(2) the terms "training" and "instruction" are interpreted to include training and instruction through telecommunications technologies, including the full range of current and new technologies that can be used for educational purposes, such as television broadcasts, closed circuit television systems, cable television, satellite transmissions, computers, VHS, laser discs, and audio by discs, tapes, or broadcast, and such other video and telecommunications technologies that alone or in combination can assist in teaching and learning; and

(3) where appropriate, programs funded under subtitles A and B shall be coordinated with other federally funded education and training programs.

(b) ADDITIONAL ELIGIBLE INSTITUTIONS.—For purposes of any program authorized by subtitle A or B, institutions eligible to participate shall include any accredited proprietary institution providing a program of less than six months duration that is otherwise eligible to participate in any program under subtitle A or B.

(c) BUDGET LIMITATION.—The Secretary may not make grants or enter into contracts under subtitle A, B, or C except to such extent, or in such amounts, as may be provided in appropriation Acts.

State and local governments.

Subtitle A—Elementary and Secondary Education

CHAPTER 1—MATHEMATICS AND SCIENCE

SEC. 6005. MATHEMATICS AND SCIENCE EDUCATION REAUTHORIZED.

Section 203(b) of the Education for Economic Security Act is amended to read as follows: 20 USC 3963.

"(b) There are authorized to be appropriated $175,000,000 for the fiscal year 1988 to carry out the provisions of this title.". Appropriation authorization.

CHAPTER 2—ADULT LITERACY

SEC. 6011. WORKPLACE LITERACY PARTNERSHIPS GRANTS

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Adult Education Act is amended by inserting after section 315 the following new section:

"BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY

"SEC. 316. (a) GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.—(1) Subject to subsection (b), the Secretary may make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

Children and youth.

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 306 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under subsection (e) if it—

"(A) includes in a State plan submitted to the Secretary under section 306 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3), shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and Territories, U.S.

"(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the

fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) Amounts appropriated under this subsection shall remain available until expended.".

20 USC 1202.

(b) DEFINITIONS.—Section 303 of the Adult Education Act is amended by adding at the end the following new subsections:

"(k) The term 'community-based organization' has the meaning given such term in section 4(5) of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).

"(l) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).".

SEC. 6012. ENGLISH LITERACY GRANTS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Adult Education Act is amended by inserting after section 316 (as added by section 6011) the following new section:

"ENGLISH LITERACY PROGRAM GRANTS

Minorities. Community development.

"SEC. 317. (a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 306 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

Children and youth. Transportation.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 306 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

"(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program— Contracts.

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

"(2) to designate the Center for Applicable Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with manpower training and other education programs.

"(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section shall be used to carry out the purposes of subsection (d).".

(b) DEFINITIONS.—Section 303 of the Adult Education Act (20 U.S.C. 1201 et seq.) (as amended by section 6011) is amended by adding at the end the following new subsections:

"(m) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(1) whose native language is a language other than English; or

"(2) who lives in a family or community environment where a language other than English is the dominant language.

"(n) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(o) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(p) The term 'community-based organization' means a private organization which is representative of a community or significant segments of a community and which provides education, vocational education, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related

organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.".

SEC. 6013. LITERACY COORDINATION.

(a) FEDERAL LITERACY OFFICE.—The Adult Education Act is amended by inserting after section 317 (as added by section 6012) the following new section:

"COORDINATION OF LITERACY PROGRAMS

"SEC. 318. (a) FEDERAL LITERACY COORDINATION OFFICE.—The Adult Education Division shall serve as the Federal literacy coordination office.

"(b) DUTIES.—The Secretary, through the Division, shall—

"(1) coordinate Federal literacy programs, including grant programs administered under this chapter and other grant programs funded under the Adult Education Act (20 U.S.C. 1201 et seq.); and

"(2) provide information and guidance to States with respect to the establishment of State and local volunteer programs relating to literacy.

"(c) STATE LITERACY COORDINATION.—To the extent practicable, each State agency designated under section 306(b)(2) that receives funds under section 316 or section 317 shall—

"(1) designate area offices for coordination of literacy programs, distributed throughout the State so that persons in all areas of the State have access to literacy programs;

"(2) train personnel who will operate the area offices;

"(3) determine curricula and materials for literacy programs;

"(4) oversee area offices;

"(5) provide assistance to area offices;

"(6) conduct programs to recruit volunteers and participants;

"(7) coordinate the programs described in paragraph (6) with existing literacy programs; and

"(8) allocate funds to area offices.".

SEC. 6014. APPLICABILITY PROVISION.

The amendments made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 3—FOREIGN LANGUAGES

Subchapter A—Foreign Language Assistance

Foreign Language Assistance Act of 1988.

SEC. 6021. SHORT TITLE.

20 USC 5011.

This subchapter may be cited as the "Foreign Language Assistance Act of 1988".

20 USC 5012.

SEC. 6022. FINDINGS.

The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this subchapter.

SEC. 6023. PROGRAM AUTHORIZED.

20 USC 5013.

Grants.

(a) GENERAL AUTHORITY.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students.

(b) APPLICATION.—Any State educational agency desiring to receive a grant under this subchapter shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

(1) contains a description of model programs which—

(A) are designed by local educational agencies and are available without regard to whether students attend the schools operated by such agency and if the local educational agency determines to do so, are available to residents of the community,

(B) represents a variety of alternative and innovative approaches to foreign language instruction, and

(C) are selected on a competitive basis by the State educational agency;

(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

(c) FEDERAL SHARE.—(1) The Federal share for each fiscal year shall be 50 percent.

(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

(d) PARTICIPATION OF PRIVATE SCHOOLS.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

Children and youth.

(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

20 USC 5014.

SEC. 6024. ALLOTMENT.

Territories, U.S.

(a) GENERAL RULE.—(1) From the sums appropriated to carry out this subchapter in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

(b) AVAILABILITY OF FUNDS.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

20 USC 5015.

SEC. 6025. DEFINITIONS.

(a) GENERAL RULE.—For the purpose of this subchapter, the term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(b) SPECIAL RULE.—For the purpose of section 6024—

(1) the term "school age population" means the population aged 5 through 17; and

(2) the term "States" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 5016.

SEC. 6026. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for the fiscal year 1988 to carry out this subchapter.

Subchapter B—Presidential Award for Languages

20 USC 5021.

SEC. 6027. PRESIDENTIAL AWARDS.

(a) GENERAL AUTHORITY.—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

District of Columbia. Puerto Rico.

(b) SELECTION PROCEDURES.—The President is authorized to make 104 awards under subsection (a) of this section. In selecting ele-

mentary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 6028. ADMINISTRATIVE PROVISIONS. 20 USC 5022.

The President shall carry out the provisions of section 6027, including the establishment of the selection procedures, after consultation with the Secretary of Education, other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

SEC. 6029. AUTHORIZATION OF APPROPRIATIONS. 20 USC 5023.

(a) AUTHORIZATION.—There are authorized to be appropriated $1,000,000 for fiscal year 1988 to carry out the provisions of this subchapter.

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available for making awards under section 6027, for administrative expenses, for necessary travel by teachers selected under section 6027, and for special activities related to carrying out the provisions of this subchapter.

CHAPTER 4—SCIENCE AND MATHEMATICS ELEMENTARY AND SECONDARY BUSINESS PARTNERSHIPS

SEC. 6031. PROGRAM AUTHORIZED.

(a) ESTABLISHMENT OF PROGRAM.—Title III of the Education for Economic Security Act (20 U.S.C. 3981 et seq.) is amended—

(1) by inserting after the title heading the following:

"PART A—HIGHER EDUCATION PARTNERSHIPS"; and

(2) by adding at the end the following new part:

"PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS Grants.

"PURPOSE

"SEC. 321. It is the purpose of this part to supplement State and local resources to— 20 USC 3991.

"(1) improve the quality of instruction in the fields of mathematics and science in elementary and secondary schools;

"(2) furnish additional resources and support for the acquisition of equipment, and instructional and reference materials and improvement of laboratory facilities in elementary and secondary schools; and

"(3) encourage partnerships in science and mathematics education between the business community, museums, libraries, professional mathematics and scientific associations, private nonprofit organizations, appropriate State agencies and elementary and secondary schools.

"PROGRAMS AUTHORIZED

20 USC 3992.

"SEC. 322. (a) GRANTS.—The Secretary may make grants to States to pay the Federal share of the cost of the programs described in section 324.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this chapter $20,000,000 for fiscal year 1988.

"AMENDMENT TO STATE APPLICATION

20 USC 3993.

"SEC. 323. (a) APPLICATION.—A State shall be eligible to receive a grant under this part if—

"(1) the State submits to the Secretary as part of its application under section 209 such information and assurances as the Secretary may require at such time as the Secretary shall establish; and

"(2) the Secretary approves such application.

"(b) APPLICATION REQUIREMENTS.—The Secretary shall require each application to include—

"(1) a description of the State's procedures relating to the use of funds from grants received under this part, including the approval process for local applications;

"(2) an assurance that not more than 1 percent of the amount received shall be used for administrative expenses; and

"(3) an assurance that the State will, to the extent possible, assist local school districts in economically depressed areas to obtain matching funds from business concerns.

"ELIGIBLE PROGRAMS

20 USC 3994.

"SEC. 324. (a) IN GENERAL.—A State may use funds from grants received in any fiscal year under this part for elementary and secondary programs described in this section. The State educational agency shall administer such funds, which shall be awarded to such programs on a competitive basis.

"(b) USE OF FUNDS.—Funds from grants received under this part may be used for the following:

"(1) IMPROVEMENT OF ELEMENTARY AND SECONDARY RESOURCES.—Such funds may be used for acquisition of equipment, instructional and reference materials, and partnership in education programs designed to—

"(A) improve instruction in mathematics and science education at the elementary and secondary level;

"(B) improve laboratory facilities, classroom and library resources in elementary and secondary mathematics and science education; and

"(C) attract matching dollars and in kind contributions of equipment, learning resources or shared time from business concerns, libraries, museums, nonprofit private organizations, professional mathematics and scientific associations, and appropriate State agencies.

"(2) ADVANCED PLACEMENT PROGRAMS.—(A) Such funds may be used for advanced placement programs operated by local educational agencies that are designed to allow qualified secondary students to attend college preparatory schools, colleges, or universities on a part-time or full-time basis with respect to science and mathematics instruction.

"(B) A local educational agency that receives funds from a grant under this part for an advanced placement program described in subparagraph (A) shall allocate to such program a percentage of funds received from the State on a per student basis according to—

"(i) the number of students participating in the program; and

"(ii) the instruction time such students receive under the program.

"LOCAL APPLICATIONS

"SEC. 325. (a) ELIGIBILITY.—An applicant that desires to receive a grant under this part shall submit an application to the State educational agency, at such time, and in such manner, as the State may require. Such application may take the form of an amendment to an assessment submitted by the local educational agency under section 210, if appropriate. 20 USC 3995.

"(b) REQUIREMENTS FOR APPLICATION.—The State shall require each application to include—

"(1) a description of the activities for which assistance under this part is sought;

"(2) assurances that not more than 5 percent of the amount received by the applicant in any fiscal year shall be expended on administrative expenses;

"(3) if the funds are to be used for improvement of elementary and secondary resources as described in subsection (b)(1)—

"(A) an estimate of the amount to be spent on equipment, facilities improvement, library resources, and classroom instructional material;

"(B) an estimate of the number of elementary and secondary students who will be aided by activities and expenditures under the grant;

"(C) assurances that—

"(i) except as provided in subsection (c), a minimum of 25 percent of the funds for each project will be supplied by business concerns within the community;

"(ii) no stipend shall be paid directly to employees of a profitmaking business concern;

"(iii) provision shall be made for the equitable participation in the project of children who are enrolled in private elementary and secondary schools; and

"(iv) consideration will be given to programs and activities designed to meet the needs of educationally disadvantaged and other traditionally underserved populations; and

"(4) if the funds are to be used for advanced placement programs as described in subsection (b)(2), a commitment as to the percentage of funds received from the State on a per student basis that shall be used by the local educational agency to defray costs of the advanced placement program.

"(c) WAIVER.—The State may waive or reduce the amount of matching funds required under subsection (b)(3)(C)(i) if the State determines that—

"(1) substantial need exists in the area served by the applicant for a grant under this part; and

"(2) the required amount of matching funds cannot be made available.

"(d) JOINT APPLICATIONS.—A regional consortium of applicants in 2 or more local school districts may file a joint application under subsection (a).

"SUBMISSION OF APPLICATIONS

20 USC 3996.

"SEC. 326. An applicant within a State that desires to receive a grant under this chapter shall submit an application prepared in accordance with section 325 to the State educational agency for approval. Each application with respect to funds for improvement of elementary and secondary resources under section 324(b)(1) shall be submitted jointly by the local educational agency and each business concern or other party that is to participate in the activities for which assistance is sought.

"APPROVAL OF APPLICATIONS

20 USC 3997.

"SEC. 327. (a) CRITERIA.—The State shall establish criteria for approval of applications under this section. Such criteria shall include—

"(1) consideration of the local district's need for, and inability to locally provide for, the activities, equipment, library and instructional materials requested;

"(2) the number and nature of elementary and secondary students who will benefit from the planned program; and

"(3) the expressed level of financial and in-kind commitment from other parties to the program.

"(b) APPROVAL PROCEDURES.—The State shall adopt approval procedures designed to ensure that grants are equitably distributed among—

Rural areas.
Urban areas.
Suburban areas.

"(1) rural, urban, and suburban areas; and

"(2) small, medium, and large local educational agencies.

"COMPUTATION OF GRANT AMOUNTS

20 USC 3998.

"SEC. 328. (a) PAYMENTS TO GRANTEES.—

"(1) PAYMENT BY STATE.—The State shall pay to the extent of amounts received by it from the Secretary under this part, to each applicant having an application approved under section 327, the Federal share of the cost of the program described in the application.

"(2) AMOUNT.—(A) Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

"(B) In the case of an applicant that receives a waiver under section 325(c), the Federal share for each fiscal year may be as much as 100 percent.

"(3) NON-FEDERAL SHARE.—The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(b) PAYMENTS TO STATES.—Except as provided in subsection (c), each State shall receive under this part the greater of—

"(1) an amount equal to its share of funds appropriated under chapter 1 of the Education Consolidation and Improvement Act; or

"(2) $225,000.

"(c) REDUCTION FOR INSUFFICIENT FUNDING.—If sums appropriated to carry out this part are not sufficient to permit the Secretary to pay in full the grants which States may receive under subsection (b), the amount of such grants shall be ratably reduced.".

(b) CONFORMING AMENDMENTS.—

(1) TITLE HEADING.—The title heading of such title is amended to read as follows:

"TITLE III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING".

(2) REFERENCES.—Part A of such title (as redesignated by subsection (a)) is amended by striking out "title" each place such term appears and inserting in lieu thereof "part". 20 USC 3981 *et seq.*

CHAPTER 5—EDUCATIONAL PARTNERSHIPS

Educational Partnerships Act of 1988.

SEC. 6041. SHORT TITLE. 20 USC 5031.

This chapter may be cited as the "Educational Partnerships Act of 1988"

SEC. 6042. PURPOSE. 20 USC 5032.

It is the purpose of this chapter to encourage the creation of alliances between public elementary and secondary schools or institutions of higher education and the private sector in order to—

(1) apply the resources of the private and nonprofit sectors of the community to the needs of the elementary and secondary schools or institutions of higher education, as the case may be, in that community designed to encourage excellence in education;

(2) encourage business to work with educationally disadvantaged students and with gifted students;

(3) apply the resources of communities for the improvement of elementary and secondary education or higher education, as the case may be; and

(4) enrich the career awareness of secondary or postsecondary school students to exposures to the private sector and their work.

SEC. 6043. PROGRAM AUTHORIZED. 20 USC 5033.

(a) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary may make grants to eligible partnerships to pay the Federal share of the costs of the activities described in section 6144.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

SEC. 6044. AUTHORIZED ACTIVITIES. 20 USC 5034.

An eligible partnership may use payments received under this chapter in any fiscal year for—

(1) model cooperative programs designed to apply the resources of the private and nonprofit sectors of the community to

the elementary and secondary schools of the local educational agency or institutions of higher education in that community;

(2) projects designed to encourage business concerns and other participants in the eligible partnership, to work with educationally disadvantaged students and with gifted students in the elementary and secondary schools of local educational agencies or institutions of higher education;

(3) projects designed to apply the resources of the community to the elementary and secondary schools of the local educational agency or institutions of higher education in that community to improve the education of students in such schools;

(4) projects which are designed to address the special educational needs of gifted and talented children in the elementary and secondary schools of such agencies which are conducted with the support of the private sector;

(5) projects designed to enrich the career awareness of secondary or postsecondary school students through exposure to officers and employees of business concerns and other agencies and organizations participating in the eligible partnership for education;

(6) projects for statewide activities designed to carry out the purpose of this chapter, including the development of model State statutes for the support of cooperative arrangements between the private sector and the elementary and secondary schools or institutions of higher education within the State;

(7) special training projects for staff designed to develop skills necessary to facilitate cooperative arrangements between the private and nonprofit sectors and the elementary and secondary schools of local educational agencies or institutions of higher education;

(8) academic internship programs, including where possible academic credit, involving activities designed to carry out the purpose of this chapter; and

(9) projects encouraging tutorial and volunteer work in the elementary and secondary schools of local education agencies or institutions of higher education by personnel assigned from business concerns and other participants in the eligible partnership.

20 USC 5035.

SEC. 6045. APPLICATION.

Grants.

(a) IN GENERAL.—An eligible partnership which desires to receive a grant under this chapter shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this chapter is sought;

(2) provide assurances that the eligible partnership will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources;

(3) provide assurances that the eligible partnership will take such steps as may be available to it to continue the activities for which the eligible partnership is making application after the period for which assistance is sought;

(4) provide assurances—

(A) that the educational partnership will disseminate information on the model program for which assistance is sought; and

(B) that not more than 1 percent of the grant in any fiscal year may be expended for the purpose described in subparagraph (A); and

(5) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this chapter.

(b) JOINT APPLICATION.—A consortium of eligible alliances may file a joint application under the provisions of subsection (a) of this section.

SEC. 6046. APPROVAL OF APPLICATION. 20 USC 5036.

(a) IN GENERAL.—The Secretary shall approve applications in accordance with uniform criteria established by the Secretary.

(b) RESTRICTION.—The Secretary may not approve an application if the State educational agency for the State in which the institution is located, or, in the case of a consortium of institutions, in which any institution in the consortium is located, notifies the Secretary that the application is inconsistent with State plans for elementary and secondary education in the State.

SEC. 6047. COMPUTATION OF GRANT AMOUNTS. 20 USC 5037.

(a) COMPUTATION.—

(1) IN GENERAL.—The Secretary shall pay to each eligible partnership having an application approved under section 6046 the Federal share of the cost of the activities described in the application.

(2) FEDERAL SHARE.—The Federal share shall be—

(A) 90 percent for the first year for which an eligible partnership receives assistance under this chapter;

(B) 75 percent for the second such year;

(C) 50 percent for the third such year; and

(D) 33⅓ percent for the fourth such year.

(3) NON-FEDERAL SHARE.—The non-Federal share of payments under this chapter may be in cash or in kind fairly evaluated, including planned equipment or services.

(b) RESTRICTION.—The total amount of funds paid under this chapter during any fiscal year to eligible partnerships in any single State may not be greater than the greater of—

(1) an amount equal to 15 percent of the funds appropriated under this chapter for that fiscal year; or

(2) $1,000,000.

SEC. 6048. EVALUATION AND DISSEMINATION. 20 USC 5038.

(a) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of grants made under this chapter to determine—

(1) the type of activities assisted under this chapter;

(2) the impact upon the educational characteristics of the elementary and secondary schools and institutions of higher education from activities assisted under this chapter;

(3) the extent to which activities assisted under this chapter have improved or expanded the nature of support for elementary and secondary education in the community or in the State; and

(4) a list of specific activities assisted under this chapter which show promise as model programs to carry out the purpose of this chapter.

(b) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate to State and local educational agencies and other participants in the eligible alliance program information relating to the activities assisted under this chapter.

20 USC 5039.

SEC. 6049. DEFINITIONS.

As used in this chapter—

(1) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(2) The term "eligible partnership" means—

(A) a local educational agency or an institution of higher education, or both, and

(B) business concerns, community-based organizations, nonprofit private organizations, museums, libraries, educational television and radio stations, and if the State agrees to participate, appropriate State agencies.

(3) The term "institution of higher education" has the same meaning given that term by section 481(a)(1) of the Higher Education Act of 1965.

(4) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

CHAPTER 6—STAR SCHOOLS PROGRAM

Grants.

SEC. 6051. PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

Star Schools Program Assistance Act.

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

"SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

"SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of tele-

communications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $37,500,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

"(3) Not less than 50 percent of the funds available in any fiscal year under this Act shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of this Act.

"(d) FEDERAL SHARE.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of—

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of this Act; or

"(2) a partnership which includes 3 or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of this Act or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of this Act, Indians.

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,
"(D) a teacher training center which—
"(i) provides teacher preservice and inservice training, and
"(ii) receives Federal financial assistance or has been approved by a State agency, or
"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,
"(ii) a private organization with such experience, or
"(iii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—
"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—
"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;
"(B) microwave, fiber optics, cable, and satellite transmission equipment;
"(C) reception facilities;
"(D) satellite time;
"(E) production facilities;
"(F) other telecommunications equipment capable of serving a wide geographic area;
"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of this Act in using the facilities and equipment for which assistance is sought; and
"(H) the development of educational programming for use on a telecommunications network;
"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;
"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;
"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;
"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of this Act;

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this Act;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of this Act, programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this Act shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

"SEC. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 6052. APPLICABILITY PROVISION.

The amendment made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 7—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

Grants.

Subchapter A—Assistance to Address School Dropout Problems

School Dropout Demonstration Assistance Act of 1988.

SEC. 6061. SHORT TITLE.

20 USC 5051.

This subchapter may be cited as the "School Dropout Demonstration Assistance Act of 1988".

SEC. 6062. PURPOSE.

20 USC 5052.

The purpose of this subchapter is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

(1) effective programs to identify potential student dropouts and prevent them from dropping out;

(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

SEC. 6063. AUTHORIZATION OF APPROPRIATIONS.

20 USC 5053.

There are authorized to be appropriated to carry out this subchapter $50,000,000 for the fiscal year 1988.

SEC. 6064. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

20 USC 5054.

(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 6063 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and con-

sortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

(2) Educational partnerships under this subsection shall include—

(A) a local educational agency; and

(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6065 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this subchapter.

(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of

amounts from one category to another is made to a category in which there is the greatest need for funds.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(f) FEDERAL SHARE.—(1) The Federal share of a grant under this subchapter may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this subchapter, and

(B) 75 percent of such cost for the second such year.

(2) The remaining cost of a project that receives assistance under this subchapter may be paid from any source other than funds made available under this subchapter, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this subchapter.

(3) The share of payments from sources other than funds made available under this subchapter may be in cash or in kind fairly evaluated, including plant, equipment or services.

SEC. 6065. APPLICATION. 20 USC 5055.

(a) IN GENERAL.—(1) A grant under this subchapter may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

(2) Applications shall be for a 1-year period.

(b) CONTENTS OF APPLICATION.—Each such application shall—

(1) provide documentation of—

(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 4141(b)(5) of the Drug-Free Schools and Communities Act of 1986; and

(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

(4) include a plan for the development and implementation of a project including activities designed to carry out the purposes of this subchapter, such as—

(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

(B) addressing the special needs of school-age parents;

(C) disseminating information to students, parents, and the community related to the dropout problem;

(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

(G) establishing annual procedures for—

(i) evaluating the effectiveness of the project; and

(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6064(a).

(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

(2) provisions for significant parental involvement.

20 USC 5056.

SEC. 6066. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Grants under this subchapter shall be used to carry out plans set forth in applications approved under section 6065. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

(3) the establishment or expansion of work-study, apprentice, or internship programs;

Contracts.

(4) the use of resources of the community, including contracting with public or private entities or community-based organiza-

tions of demonstrated performance, to provide services to the grant recipient or the target population;

(5) the evaluation and revision of program placement of students at risk;

(6) the evaluation of program effectiveness of dropout programs;

(7) the development and implementation of programs for traditionally underserved groups of students;

(8) the implementation of activities which will improve student motivation and the school learning environment;

(9) the provision of training for school staff on strategies and techniques designed to—

(A) identify children at risk of dropping out;

(B) intervene in the instructional program with support and remedial services;

(C) develop realistic expectations for student performance; and

(D) improve student-staff interactions;

(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs; Drugs and drug abuse.

(11) the study of the relationship between handicapping conditions and student dropouts;

(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and Communications and telecommunications.

(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this subchapter.

(b) ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.—Grants under this subchapter may be used by educational partnerships for—

(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

(2) internship, work study, or apprenticeship programs;

(3) summer employment programs;

(4) occupational training programs;

(5) career opportunity and skills counseling;

(6) job placement services;

(7) the development of skill employment competency testing programs;

(8) special school staff training projects; and

(9) any other activity described in subsection (a).

SEC. 6067. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS. 20 USC 5057.

(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this subchapter—

(1) grants are equitably distributed on a geographic basis within each category set forth in section 6064(a);

(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this subchapter may be used for administrative costs.

Subchapter B—Assistance to Provide Basic Skills Improvement

Secondary Schools Basic Skills Demonstration Assistance Act of 1988.
Grants.
Disadvantaged persons.
20 USC 5061.
20 USC 5062.

SEC. 6071. SHORT TITLE.

This subchapter may be cited as the "Secondary Schools Basic Skills Demonstration Assistance Act of 1988".

SEC. 6072. PURPOSE.

It is the purpose of this subchapter to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

20 USC 5063.

SEC. 6073. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $200,000,000 for fiscal year 1988.

20 USC 5064.

SEC. 6074. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) GENERAL AUTHORITY.—From the amount appropriated under section 6073 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this subchapter.

(b) COMMUNITY-BASED ORGANIZATIONS RULE.—Each local educational agency may carry out the activities described in section 6075 in cooperation with community-based organizations.

(c) ELIGIBLE STUDENTS.—Secondary school students who meet the requirements of part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this subchapter.

20 USC 5065.

SEC. 6075. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Funds made available under this subchapter may be used—

(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

(2) to develop innovative approaches—

(A) for surmounting barriers that make secondary school programs under this subchapter difficult for certain stu-

dents to attend and difficult for secondary schools to administer, such as scheduling problems; and

(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

(5) to use the resources of the community to assist in providing services to the target population;

(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subchapter and under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

(b) LIMITATION.—Not more than 25 percent of amounts available to a local educational agency under this subchapter may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

SEC. 6076. APPLICATION.

20 USC 5066.

(a) IN GENERAL.—(1) A grant under this subchapter may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

(2) Applications shall be for a 1-year period.

(b) CONTENTS OF APPLICATION.—Each such application shall include—

(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this subchapter);

(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this subchapter;

(6) a statement of the methods which will be used—

(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this subchapter; and

(B) an assurance that services will be provided under this subchapter to special populations, such as individuals with limited English proficiency and individuals with handicaps;

(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

(8) a description of the manner in which the agency will provide for equitable participation of private school students under provisions applicable to chapter 1 of title I of the Elementary and Secondary Education Act of 1965, relating to participation of children enrolled in private schools;

(9) a description of the methods by which the applicant will coordinate programs under this subchapter with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

(c) APPROVAL OF APPLICATIONS.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

(A) demonstrate the greatest need for services assisted under this subchapter on their numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

Urban areas. Rural areas.

(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant under this subchapter may be used for administrative costs.

Subchapter C—General Provisions

20 USC 5071.

SEC. 6081. GENERAL PROVISIONS.

(a) DEFINITION OF SCHOOL DROPOUT.—The Secretary shall, not later than 60 days after the date of the enactment of this chapter, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups.

(b) TIMELY AWARD OF GRANTS.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational

agencies and educational partnerships under this subchapter not later than June 30 preceding such fiscal year.

(c) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency receiving Federal funds under this chapter shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this chapter for activities described in subchapter A or subchapter B of this chapter, as the case may be.

(d) EVALUATION.—The Secretary shall evaluate programs operated with funds received under this chapter, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991. Reports.

(e) COORDINATION AND DISSEMINATION.—The Secretary shall require local educational agencies receiving grants under this chapter to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

(f) AUDIT.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this chapter that are pertinent to the sums received and disbursed under this chapter. Records.

(g) WITHHOLDING PAYMENTS.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6075 or section 6076, the Secretary shall withhold payments under this chapter in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

SEC. 6082. DEFINITIONS. 20 USC 5072.

(a) As used in this title—

(1) The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

(2) The term "basic skills" includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

CHAPTER 8—MISCELLANEOUS

SEC. 6091. DRUG-FREE SCHOOLS PROGRAM.

(a) WITHIN STATE ALLOCATIONS.—The second sentence of section 4124 of the Drug-Free Schools and Communities Act of 1986 is amended to read as follows: "From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private, nonprofit schools within such areas.". 20 USC 4624.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) of the Act shall take effect October 27, 1986. 20 USC 4624 note.

(2) Notwithstanding paragraph (1), a State educational agency may allot fiscal year 1987 funds to local and intermediate edu-

cational agencies and consortia under section 4124(a) of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-aged population.

Subtitle B—Technology and Training

CHAPTER 1—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

Training Technology Transfer Act of 1988.
20 USC 5091.

SEC. 6101. SHORT TITLE.

This chapter may be cited as the "Training Technology Transfer Act of 1988".

20 USC 5092.

SEC. 6102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) Federal agencies, particularly the Department of Defense, have made extensive investments of public funds in the development of education and training software;

(2) much knowledge and education and training software, especially computer programs and videodisc systems, is directly transferable to the private sector or could be transferable to the private sector after conversion;

(3) the transfer of education and training software to the public and private sector could properly augment existing Federal programs for the training of new industrial workers or the retraining of workers whose jobs have been disrupted because of technological developments, foreign trade, and changes in consumer requirements; and

(4) the transfer of education and training software to the public and private sector would be especially beneficial to small business concerns which lack the resources to develop such software independently.

(b) PURPOSE.—Therefore, it is the purpose of this chapter to facilitate the transfer of education and training software from Federal agencies to the public and private sector and to State and local governments and agencies thereof, including educational systems and educational institutions, in order to support the education, training, and retraining of industrial workers, especially workers in small business concerns.

20 USC 5093.

SEC. 6103. OFFICE OF TRAINING TECHNOLOGY TRANSFER.

(a) OFFICE ESTABLISHED.—There is established in the Office of Educational Research and Improvement of the Department of Education an Office of Training Technology Transfer. The Office shall be headed by a Director, who shall be appointed by the Secretary of Education. The Director shall be compensated at the rate provided for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(b) PERSONNEL.—To carry out this chapter, the Director may appoint personnel in accordance with the civil service laws, and may compensate such personnel in accordance with the General Schedule under section 5332 of title 5, United States Code.

20 USC 5094.

SEC. 6104. FUNCTIONS OF THE OFFICE.

(a) CLEARINGHOUSE REQUIRED.—(1) The Director shall compile and maintain a current and comprehensive clearinghouse of all knowl-

edge and education and training software developed or scheduled for development by or under the supervision of Federal agencies. The clearinghouse shall include, with respect to each item of education and training software listed in the clearinghouse—

(A) a complete description of such software, including the purpose, content, intended academic level or competency level, date of development, imbedded learning and instructional strategies, and mode of presentation of such software;

(B) a description of each type of computer hardware which is compatible with such software and of any other equipment required to use such software;

(C) a specification of any patent, copyright, or proprietary interest affecting the copying, conversion, or transfer of such software; and

(D) information with respect to any conversion or transfer of such software pursuant to this chapter.

(2) In compiling the clearinghouse required by this subsection, the Director shall—

(A) consult with and utilize fully the resources of all Federal agencies engaged in the collection and dissemination of information concerning education and training software; and

(B) request the participation and cooperation of entities in the legislative and judicial branches of Government.

(b) DISSEMINATION REQUIRED.—(1) The Director shall disseminate widely and on a regular basis the clearinghouse required by subsection (a) and any revisions thereof in order to enable all potential commercial users and public interest users of education and training software to receive ample notice that Federal agencies have developed such software, or have scheduled such software for development. In carrying out the preceding sentence, the Director shall—

(A) utilize all interagency and intergovernmental communication mechanisms, including the National Center for Research in Vocational Education, the National Occupational Information Committee, State educational agencies, State occupational information coordinating committees, State job training coordinating councils, private industry councils, State economic development agencies, regional educational laboratories, and the Small Business Administration; and

(B) encourage the participation of independent private sector organizations, including organizations representing State and local educational agencies, educational institutions, technical and professional organizations, and trade associations.

(2) The Director shall develop and distribute, in conjunction with the dissemination of the clearinghouse required under subsection (a), detailed instructions and procedures for securing copies, including such rights thereto as may be required, of education and training software listed in such clearinghouse and guidelines for cooperative agreements between commercial users and public interest users under subsection (d).

(c) CONSULTATION; PUBLIC INTEREST USER.—(1) The Director shall advise, consult with, and may provide grants to any prospective public interest user of an education and training software listed in the clearinghouse required under subsection (a) and shall assist such user in securing the transfer of such software from the Federal agency which developed such software at a cost to the public interest user based upon the ability of such user to pay for such transfer. In providing such assistance, the Director shall encourage Grants.

such public interest user to obtain such software by working with the Training Technology Transfer Officer of such agency. If an agency has not established procedures for the transfer of education and training software, the Director shall negotiate the transfer of such software upon application by such user.

Contracts.

(2) The Director, to such extent and in such amounts as provided in advance by appropriation Acts, may enter into contracts with any qualified agency having expertise in the field of education and qualified private sector business concerns for the conversion of education and training software in order to adapt such software to the requirements of a public interest user.

Contracts.

(d) CONSULTATION; COMMERCIAL USER.—(1) The Director shall advise and consult with any prospective commercial user of an education and training software listed in the clearinghouse required under subsection (a)(1). The Director may sell or lease such training software, including exclusive or nonexclusive rights in copyrights or patents pertaining thereto, to a commercial user for a price or fee which reflects a reasonable return to the Government.

(2) The Director may waive purchase prices or lease fees for a commercial user of training software, may negotiate reduced purchase prices or lease fees for such commercial user, or may negotiate exclusive sale or lease agreements or other terms favorable to such commercial user if such commercial user agrees to enter into a cooperative agreement with a public interest user or a group of public interest users in accordance with this section. Under the preceding sentence, the Director may not waive such prices or fees, negotiate reduced prices or fees, or negotiate exclusive agreements or favorable terms for a commercial user unless such cooperative agreement—

(A) provides for the conversion of the education and training software by the commercial user in order to meet the specific needs of the public interest user or group of public interest users;

(B) provides that such conversion will be performed without charge to the public interest user or group of users; and

(C) is acceptable to the Director.

(3) In negotiating terms for the sale or lease of education and training software pursuant to subsection (b), the Director shall give preferential consideration to cooperative agreements which—

(A) will result in enhancing the employment potential and potential earnings of the maximum number of individuals;

(B) encourage and promote multiple uses of education and training software converted pursuant to this section by users with similar education needs; and

(C) provide beneficial uses of education and training software for businesses.

(4) Any education and training software converted pursuant to subsection (b) shall be listed in the clearinghouse required by subsection (a)(1) and shall be available for transfer to any other public interest user.

(e) STUDY REQUIRED.—(1) The Director shall study the effectiveness of transfers and conversions of education and training software pursuant to this chapter, and shall analyze national needs for methods to convert education and training software which are in addition to the method provided in subsection (d)(2).

Reports.

(2) The Director shall submit to the Congress a report that—

(A) describes the study and analysis conducted as required by paragraph (1); and

(B) contains recommendations of the Director concerning whether the public interest is served through the program of grants and contracts to public interest users to support conversion of education and training software.

(3) The Director shall submit the report required by subparagraph (A) before the expiration of the two-year period beginning on the date of enactment of this Act. Reports.

SEC. 6105. ADMINISTRATIVE PROVISIONS. 20 USC 5095.

(a) IN GENERAL.—In carrying out this chapter, the Director is authorized—

(1) to promulgate such rules, regulations, procedures, and forms as may be necessary to carry out the functions of the Office, and delegate authority for the performance of any function to any officer or employee of the Office under the direction and supervision of the Director;

(2) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal agencies and of State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(3) to enter into agreements with other Federal agencies as may be appropriate;

(4) to accept voluntary and uncompensated services, without regard to the provisions of section 1342 of title 31, United States Code;

(5) to request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced consistent with other law; and

(6) to use the facilities of the Office of Educational Research and Improvement.

(b) SPECIFIC DELEGATION OF CLEARINGHOUSE AND DISSEMINATION FUNCTIONS.—The Director shall enter into interagency agreements with the National Technical Information Service of the Department of Commerce to perform on a reimbursable basis the functions specified in sections 6104(a) and 6104(b) of this Act. Contracts.

SEC. 6106. COORDINATION WITH FEDERAL AGENCIES. 20 USC 5096.

(a) USE OF FEDERAL PROGRAMS.—In carrying out this chapter, the Director shall utilize, to the fullest possible extent, all existing Federal programs to promote the identification, conversion, and transfer of knowledge and education and training software in accordance with this chapter.

(b) EDUCATION AND TRAINING SOFTWARE TRANSFER OFFICER.—The head of each Federal agency which develops knowledge for or uses education and training software shall designate, from the officers and employees of the agency, an education and training software transfer officer. The education and training software transfer officer of an agency shall—

(1) supply information to the Office of Education Software Transfer for inclusion in the clearinghouse;

(2) receive and process inquiries and requests from prospective users of knowledge and education and training software employed by such agency;

(3) promote direct contact between prospective users of knowledge and education and training software and personnel of the agency;

(4) facilitate the prompt transfer for knowledge and education and training software to public interest users; and

(5) refer requests for education and training software from commercial users to the Office of Training Software Transfer for the negotiation of the purchase or lease of such software.

(c) COOPERATION OF FEDERAL AGENCIES.—

Reports.

(1) IN GENERAL.—All Federal agencies shall cooperate with the Director in the implementation of this chapter. If the head of a Federal agency finds that such agency is unable to cooperate with the Director for reasons of national security, or for any other reason, such agency head shall report such finding to the Secretary. The Secretary shall report to the Congress by July 1 of each year all such findings received by the Secretary during the preceding 12-month period.

(2) COOPERATION WITH EXCHANGE CENTER.—The Director shall cooperate with the Federal Software Exchange Center of the National Technical Information Service to facilitate the transfer of education and training software between Federal agencies.

(3) AVAILABILITY OF FEDERAL SERVICES, EQUIPMENT, PERSONNEL, AND FACILITIES.—Upon request of the Director, the head of each Federal agency shall promptly make the services, equipment, personnel, facilities, and information of the agency (including suggestions, estimates, and statistics) available to the Office to the greatest extent practicable.

(d) EQUITY RULE.—In carrying out the purposes of this chapter, the Director shall consider special equity concerns, including psychological, physiological, sociological, and socioeconomic factors, which could prevent some persons from benefiting from new technological developments, and shall, to the extent possible, ensure that such persons benefit from software transfer activities under this chapter.

20 USC 5097.

SEC. 6107. DEFINITIONS.

For the purpose of this chapter—

(1) the term "commercial user" means any individual, corporation, partnership, or other legal entity which operates for profit and which uses or intends to use the education and training software of a Federal agency;

(2) the term "community-based organizations" has the same meaning as in section 2704(5) of the Job Training Partnership Act;

(3) the term "conversion" means the process whereby education and training software is modified and revised to meet the needs of a commercial user or a public interest user;

(4) the term "Director" means the Director of the Office of Training Technology Transfer established pursuant to section 6103;

(5) the term "Federal agency" has the meaning given to the term "agency" in section 551(1) of title 5, United States Code;

(6) the term "National Occupational Information Coordinating Committee" means the National Occupational Information Coordinating Committee established under section 422(a) of the Carl D. Perkins Vocational Education Act;

(7) the term "Office" means the Office of Training Technology Transfer established pursuant to section 6103;

(8) the term "private industry council" means a private industry council established under section 102 of the Job Training Partnership Act;

(9) the term "public interest user" means—

(A) any nonprofit entity which—

(i) provides job training, vocational education or other educational services, including public school systems, vocational schools, private preparatory schools, colleges, universities, community colleges, private industry councils, community-based organizations, and State and local governments and agencies thereof; and

(ii) which uses or intends to use the education and training software of a Federal agency; or

(B) any Federal agency which uses or intends to use the education and training software of another Federal agency;

(10) the term "small business concern" has the same meaning as in section 3 of the Small Business Act;

(11) the term "State job training coordinating council" means a State job training coordinating council established under section 122 of the Job Training Partnership Act;

(12) the term "State occupational information coordinating committee" means a State occupational information coordinating committee established under section 422(b) of the Carl D. Perkins Vocational Education Act;

(13) the term "education and training software" means computer software which is developed by a Federal agency to educate and train employees of the agency and which may be transferred to or converted for use by a public interest user or a commercial user and includes software for computer based instructional systems, interactive video disc systems, microcomputer education devices, audiovisual devices, and programmed learning kits, and associated manuals and devices if such manuals and devices are integrally related to a software program;

(14) the term "transfer" means the process whereby education and training software is made available to a commercial user or a public interest user for the training of the employees of such user, with or without the conversion of such software.

CHAPTER 2—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

SEC. 6111. PURPOSE. 20 USC 5101.

It is the purpose of this chapter to assist educational agencies and institutions in developing a technologically literate population through instructional programs in technology education.

SEC. 6112. TECHNOLOGY EDUCATION DEMONSTRATION PROGRAM. Grants. 20 USC 5102.

(a) ESTABLISHMENT.—Subject to the availability of funds for purposes of this chapter, the Secretary of Education shall establish a program of grants to local educational agencies, State educational agencies, consortia of public and private agencies, organizations and institutions, and institutions of higher education to establish not more than 10 demonstration programs in technology education for

secondary schools, vocational educational centers and community colleges.

(b) USES OF GRANT FUNDS.—(1)(A) Funds made available under this chapter may be used to develop a model demonstration program for technology education which, to the extent practicable, address the components described in paragraphs (2) through (12).

(B) To the extent feasible, the Secretary shall give priority under subparagraph (A) to model demonstration programs which address the largest number of components described in paragraphs (2) through (12).

(2) Educational course content based on—

(A) an organized set of concepts, processes, and systems that is uniquely technological and relevant to the changing needs of the workplace; and

(B) fundamental knowledge about the development of technology and its effect on people, the environment, and culture.

(3) Instructional content drawn from introduction to technology education courses in 1 or more of the following areas—

(A) communication—efficiently using resources to transfer information to extend human potential;

(B) construction—efficiently using resources to build structures on a site;

(C) manufacturing—efficiently using resources to extract and convert raw or recycled materials into industrial and consumer goods; and

(D) transportation—efficiently using resources to obtain time and place utility and to attain and maintain direct physical contact and exchange among individuals and societal units through the movement of materials, goods, and people.

(4) Assisting students in developing insight, understanding, and application of technological concepts, processes, and systems.

(5) Educating students in the safe and efficient use of tools, materials, machines, processes, and technical concepts.

(6) Developing student skills, creative abilities, confidence, and individual potential in using technology.

(7) Developing student problem solving and decisionmaking abilities involving technological systems.

(8) Preparing students for lifelong learning in a technological society.

(9) Activity oriented laboratory instruction which reinforces abstract concepts with concrete experiences.

(10) An institute for the purpose of developing teacher capability in the area of technology education.

(11) Research and development of curriculum materials for use in technology education programs.

(12) Multidisciplinary teacher workshops for the interfacing of mathematics, science, and technology education.

(13) Optional employment of a curriculum specialist to provide technical assistance for the program.

(14) Stressing basic remedial skills in conjunction with training and automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology.

(15) A combined emphasis on "know-how" and "ability-to-do" in carrying out technological work.

(c) LIMITATION ON FEDERAL ASSISTANCE.—Federal assistance to any program or project under this chapter shall not exceed 65 percent of the cost of such program in any fiscal year. Not less than

10 percent of the cost of such program shall be in the form of private sector contributions. Non-Federal contributions may be in cash or in kind, fairly evaluated, including facilities, overhead, personnel, and equipment.

SEC. 6113. APPLICATIONS FOR GRANTS. 20 USC 5103.

(a) IN GENERAL.—A local educational agency, a State educational agency, a consortium of public and private agencies, organizations, and institutions, or an institution of higher education which desires to receive a grant under this chapter shall submit an application to the Secretary. Applications shall be submitted at such time, in such form, and containing such information as the Secretary shall prescribe.

(b) CONTENTS OF APPLICATION.—An application shall include—

(1) a description of a demonstration program designed to carry out the purpose described in section 6111;

(2) an estimate of the cost for the establishment and operation of the program;

(3) a description of policies and procedures for the program that will ensure adequate evaluation of the activities intended to be carried out under the application;

(4) assurances that Federal funds made available under this chapter will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would be in the absence of such Federal funds be made available for the uses specified in this chapter, and in no case supplant such State or local funds;

(5) a provision for making such reports, in such form and containing such information, as the Secretary may require; and

(6) a description of the manner in which programs under this chapter will be coordinated, to the extent practicable, with programs under the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, and other Acts related to the purposes of this chapter.

(c) GEOGRAPHIC DISTRIBUTION.—In making grants under this chapter, the Secretary shall consider the equitable geographic distribution of such grants.

SEC. 6114. NATIONAL DISSEMINATION OF INFORMATION. 20 USC 5104.

The Secretary shall disseminate the results of the programs and projects assisted under this chapter in a manner designed to improve the training of teachers, other instructional personnel, counselors, and administrators.

SEC. 6115. AUTHORIZATION OF APPROPRIATIONS. 20 USC 5105.

There are authorized to be appropriated $2,000,000 for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

SEC. 6116. DEFINITIONS. 20 USC 5106.

As used in this chapter, the term "technology education" means a comprehensive educational process designed to develop a population that is knowledgeable about technology, its evolution, systems, techniques, utilization in industry and other fields, and social and cultural significance.

CHAPTER 3—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

20 USC 5111.

SEC. 6121. REPLICATION MODELS FOR TECHNICAL EDUCATION PROGRAMS DESIGNED TO IMPROVE THE QUALITY OF EDUCATION FOR AMERICA'S TECHNICALLY TRAINED WORKFORCE.

(a) IN GENERAL.—The Secretary, through the National Diffusion Network established under section 583(c) of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3851), in addition to its duties under such Act—

(1) shall gather, organize, and disseminate information on innovative programs at institutions of postsecondary education and secondary schools designed to—

(A) enhance the development of technical skills needed to improve the competitiveness of American industry;

(B) encourage the development of higher skills among individuals facing or likely to face job dislocation;

(C) encourage the acquisition of basic literacy skills among youth as well as adults; or

(D) involve the business community in the planning and offering of employment opportunities to the trained workforce;

(2) shall gather, organize, and disseminate information on consultative and collaborative efforts by elementary education, secondary education, postsecondary education, business, labor, local, State and Federal governments designed to—

(A) improve the efficiency, productivity, and competitiveness of American business; or

(B) enhance the international competitiveness of American business (such as international trade education and foreign language training for business);

(3) in carrying out the activities described in paragraphs (1) and (2), shall produce a catalog of exemplary consultative and collaborative efforts which have the highest probability of being replicated; and

(4) may provide technical assistance to any institution or entity to facilitate the gathering of information for replication models.

(b) CONFORMING RULE.—Any program of replication shall conform to the provisions of subsection (a) if such program—

(1) is being conducted by the National Diffusion Network on the date of the enactment of this chapter; and

(2) has the same purpose as the programs described in such subsection.

CHAPTER 4—VOCATIONAL EDUCATION PROGRAMS

SEC. 6131. ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT.

(a) IN GENERAL.—Part C of title III of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2371 et seq.) is amended—

(1) by inserting after the part heading the following:

"Subpart 1—Basic Program";

(2) by striking out "this part" each place such term appears in sections 321 through 324 and inserting in lieu thereof "this subpart"; and

(3) by adding at the end the following new subpart:

"Subpart 2—Special Program

State and local governments.

"FINDINGS AND PURPOSE

"SEC. 326. (a) FINDINGS.—The Congress finds that— 20 USC 2376.

"(1) technological change, international competition, and the demographics of the Nation's workforce have resulted in increases in the numbers of experienced adult workers who are unemployed, who have been dislocated, or who require training, retraining, or upgrading of skills,

"(2) the individuals who are entering and reentering the labor market are less educated, trained, or skilled and are disproportionately employed in low-wage occupations and require additional training, and

"(3) these needs can be met by education and training programs, especially vocational programs, that are responsive to the needs of individuals and the demands of the labor market.

"(b) PURPOSE.—It is the purpose of this part to (1) provide financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training, retraining, and employment development of adults who have completed or left high school and are preparing to enter or have entered the labor market, including workers who are 55 years of age and older, in order to equip adults with the competencies and skills required for productive employment, and (2) to ensure that programs are available which are relevant to the labor market needs and accessible to all segments of the population.

"AUTHORIZATION OF GRANTS AND USES OF FUNDS

"SEC. 327. (a) GRANTS TO STATES.—The Secretary shall make grants in proportion to the amount received under section 101 to States for programs, services, and activities authorized by this part. 20 USC 2377.

"(b) STATE ADMINISTRATION.—(1) Grants to States under this part shall be made to the board established under section 111 to serve as the grant recipient and catalyst to public-private training partnerships.

"(2)(A) Such board shall make awards on the basis of application from educational institutions (e.g. community colleges, vocational schools, service providers under the Job Training Partnership Act (29 U.S.C. 49 et seq.), four-year colleges, universities, and community based organizations) which link up with one or more private companies in order to train people for jobs in high growth fields.

"(B) The board shall establish criteria for application, application content and criteria, and procedures for the awarding of grants under this section.

"(3) Business must be actively involved in the planning, designing, operating, and monitoring of the education and training programs so that they will meet their needs.

"(4) Training can include entry level training, employee upgrading, retraining, and customized training.

"(5) Grants shall not be awarded for more than 50 percent of the costs. The remainder must come from the private sector in either cash or related equipment and services which would be at least equivalent to the Federal grant portion.

"(c) ELIGIBLE PROGRAMS.—Programs eligible for funding by the State, and designed cooperatively between education institutions and one or more businesses, may include—

"(1) institutional and worksite programs tailored to meet the needs of an industry or group of industries for skilled workers, technicians or managers, or to assist their existing workforce to adjust to changes in technology or work requirements;

"(2) quick-start, customized training for workers in new and expanding industries, or for workers for placement in jobs that are difficult to fill because of a shortage of workers with the requisite skills;

"(3) shared programs between educational institutions and businesses, where a work experience is provided by the business subsequent to the classroom training to reinforce the classroom or workshop training;

"(4) cooperative education programs with public and private sector employers and economic development agencies, including seminars in institutional or worksite settings, designed to improve management and increase productivity;

"(5) entrepreneurship training programs which assist individuals in the establishment, management, and operation of small business enterprises;

Women. Aged persons. Handicapped persons. Disadvantaged persons.

"(6) recruitment, job search assistance, counseling, remedial services, and information and outreach programs designed to encourage and assist males and females to take advantage of vocational education programs and services, with particular attention to reaching women, older workers, individuals with limited English proficiency, the handicapped, and the disadvantaged; and

"(7) related instruction for apprentices in apprenticeship training programs.

"(d) REQUIREMENTS.—In making grants under this part, the Secretary shall require each State, in its State plan (or an amendment to such plan), to assure that programs—

"(1) are designed with the active participation of the State council established pursuant to section 112;

"(2) make maximum effective use of existing institutions, are planned to avoid duplication of programs or institutional capabilities, and to the fullest extent practicable are designed to strengthen institutional capacity to meet the education and training needs addressed by this part;

"(3) assure the active participation by public and private sector employers and public and private agencies working with programs of employment and training and economic development; and

"(4) where appropriate, involve coordination with programs under the Rehabilitation Act of 1973 and the Education of the Handicapped Act.

"COORDINATION WITH THE JOB TRAINING PARTNERSHIP ACT

20 USC 2378.

"SEC. 328. (a) REQUIREMENTS FOR INCLUSION IN STATE PLAN.—Each State receiving grants under this part shall include in the State plan

methods and procedures for coordinating vocational education programs, services, and activities funded under this part to provide programs of assistance for dislocated workers funded under title III of the Job Training Partnership Act.

"(b) CONSULTATION WITH STATE JOB TRAINING COORDINATING COUNCIL.—(1) The State board shall consult with the State job training coordinating council (established under section 122 of the Job Training Partnership Act) in order that programs assisted under this part may be taken into account by such council in formulating recommendations to the Governor for the Governor's coordination and special services plan required by section 121 of such Act.

"(2) The State board shall also adopt such procedures as it considers necessary to encourage coordination between eligible recipients receiving funds under this part and the appropriate administrative entity established under the Job Training Partnership Act in the conduct of their respective programs, in order to achieve the most effective use of all Federal funds through programs that complement and supplement each other, and, to the extent feasible, provide an ongoing and integrated program of training and services for workers in need of such assistance.".

(2) The table of contents at the beginning of such Act is amended—

(1) by inserting after the item relating to part C the following:

"Subpart 1—Basic Program"; and

(2) by inserting after the item relating to section 323 the following:

"Subpart 2—Special Program

"Sec. 326. Findings and purpose.
"Sec. 327. Authorization of grants and uses of funds.
"Sec. 328. Coordination with the Job Training Partnership Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Subparagraph (A) of section 3(b)(3) of the Carl D. Perkins Vocational Education Act is amended to read as follows: 20 USC 2302.

"(3)(A)(i) There are authorized to be appropriated $35,000 for the fiscal year 1985, such sums as may be necessary for each of the fiscal years 1986 and 1987, and $25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 1 of part C of title III, relating to the basic program for adult training, retraining, and employment development.

"(ii) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 2 of such part, relating to the special program for adult training, retraining, and employment development.".

(2) Subparagraph (B) of such section is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A)(i)".

SEC. 6132. AUTHORIZATION OF ADDITIONAL USES OF VOCATIONAL EDUCATION FUNDS.

Section 251(a) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2341) is amended—

(1) by striking out "and" at the end of paragraph (23);

(2) by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(25) pre-employment skills training; and
"(26) school-to-work transition programs.".

20 USC 2411 note.

SEC. 6133. EDUCATION FOR EMPLOYMENT DEMONSTRATION PROGRAM.

From the sums available to the Secretary for national programs under the Carl D. Perkins Vocational Education Act, the Secretary shall conduct a demonstration program with secondary school students designed to provide participating students with the skills needed for employment or further education by forming partnerships with business and industry for purpose of incorporating into school curriculums—

(1) practical applications of academic subjects;
(2) career exploration;
(3) instruction relating to job seeking skills, career choices, and use of information relating to the labor market; and
(4) a school monitored work experience program, designed to equip each high school graduate with a resume as well as a diploma.

20 USC 2393.

SEC. 6134. INDUSTRY-EDUCATION PARTNERSHIP AUTHORIZATION.

(a) PROGRAM AUTHORIZED.—Section 343 of the Carl D. Perkins Vocational Education Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Funds made available pursuant to section 3(b)(5)(B) of this Act may be used, in accordance with this part, to provide vocational education to individuals in order to assist their entry into, or advancement in, high technology occupations or to meet the technological needs of other industries or businesses.

"(2) Special consideration shall be given to individuals described in paragraph (1) who have attained 55 years of age.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(b)(5) of such Act is amended— 20 USC 2302.

(1) by inserting "(A)" after the paragraph designation; and
(2) by adding at the end thereof the following new subparagraph:

"(B) There are authorized to be appropriated an additional $10,000,000 for each of the fiscal years 1988 and 1989 to carry out part E of title III, for workers described in section 343(d).

20 USC 2411 note.

SEC. 6135. DEMONSTRATION PROGRAM FOR TECHNOLOGICAL LITERACY.

(a) ESTABLISHMENT.—The Secretary shall establish demonstration programs in vocational training centers and community colleges for purposes of providing modular training in basic skills with the objective of rendering participants technologically literate. Such programs shall—

(1) stress techniques and methods that offer basic remedial skills in conjunction with training in automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology; and
(2) be designed to foster flexibility and assist workers in meeting the challenge of a changing workplace.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

CHAPTER 5—ACCESS DEMONSTRATION PROGRAMS

Rural areas.

SEC. 6141. PURPOSE. 20 USC 5121.

It is the purpose of this chapter to support training programs for secondary school personnel, including guidance counselors, in order to increase the opportunities of secondary school students in rural sections of the Nation for continued education.

SEC. 6142. PROGRAM AUTHORIZED. 20 USC 5122.

(a) GRANTS TO ELIGIBLE ENTITIES.—The Secretary may make grants to institutions of higher education, private nonprofit agencies and organizations, including regional educational laboratories, public agenices, State educational agencies, or combinations thereof within particular regions of the United States to support the development of training programs for secondary school personnel, including guidance counselors. The Secretary may not make a grant under the preceding sentence to any nonpublic agency unless such agency has extensive experience in providing educational assistance to State and local educational agencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1988 for purposes of carrying out this chapter.

SEC. 6143. APPLICATIONS. 20 USC 5123.

(a) SUBMISSION OF APPLICATIONS.—An eligible entity which desires to develop and operate a program described in section 6142(a) shall submit an application to the Secretary.

(b) REVIEW OF APPLICATIONS.—Each application submitted under subsection (a) shall be reviewed by peers, including educators and researchers, to determine the quality of the proposed program and its relationship to the demonstrated needs of the region to be served.

(c) SOLICITATION OF ALTERNATIVE PROPOSALS.—If, based upon a review under subsection (b), the Secretary determines that a proposed program would not best serve the needs of the students of the region to be served, the Secretary may solicit proposals from other eligible entities located in the region.

(d) CONTENT OF APPLICATIONS.—Each application for assistance under this section shall—

(1) contain assurances that—

(A) the eligible entity shall provide technical assistance to appropriate educational agencies; and

(B) information developed as a result of the applicant's research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

(C) all rural students in all States within the region will have access to and information about the access program;

(2) contain a description of—

(A) the rural secondary school population within the region served by the eligible entity, including estimates of the number of high school graduates who—

(i) attend institutions of higher education, including an estimate of the number who attend out-of-state institutions;

(ii) attend trade schools;

(iii) enter military service;

(B) services available within each of the States in the region that exist to provide secondary school students with information and training relating to higher education and self-employment; and

(C) activities provided—

(i) to train designated school personnel to advise and establish community partnership programs; and

(ii) to provide technical assistance; and

(3) demonstrate that—

(A) the eligible entity has engaged in sufficient study and analysis to ensure that the services to be offered by the proposed program will increase the number of secondary school students entering institutions of higher education and increase their awareness of and opportunities for financial assistance;

(B) In the case of an eligible entity other than a State educational agency or local educational agency, State and local educational agencies were involved in planning the proposed programs and that services available from such agencies are incorporated into the proposed program; and

(C) the program will probably be funded by State or other sources after the expiration of funding under this chapter.

(e) REPORT.—

(1) PROGRAM EFFECT.—The Office of Educational Research and Improvement shall submit a report to the Congress on the effect of programs funded under this chapter, including recommendations of the eligible entities.

(2) The report required by paragraph (1) shall be submitted not later than November 30, 1989.

20 USC 5124.

SEC. 6144. DEFINITIONS.

As used in this chapter:

(1) The term "regional educational laboratory" means a regional educational laboratory supported by the Secretary under section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i)).

(2) The term "eligible entity" means any entity or combination of entities described in section 6142(a).

Subtitle C—Higher Education

CHAPTER 1—STUDENT LITERACY CORPS

SEC. 6201. STUDENT LITERACY CORPS.

Title I of the Higher Education Act of 1965 is amended by adding the following new part at the end thereof:

Grants.
Loans.

"PART D—STUDENT LITERACY CORPS

20 USC 1018.

"SEC. 141. PURPOSE.

"It is the purpose of this part to provide financial assistance to institutions of higher education to promote the development of literacy corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

"SEC. 142. LITERACY CORPS PROGRAM. 20 USC 1018a.

"From the amount appropriated pursuant to section 146 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this part, to make grants to institutions of higher education for not to exceed 2 years to carry out literacy corps programs.

"SEC. 143. USES OF FUNDS. 20 USC 1018b.

"(a) IN GENERAL.—Funds made available under this part may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 145.

"(b) LIMITATIONS.—(1) No grant under this part to an institution of higher education may exceed $50,000.

"(2) No institution of higher education may expend more than $25,000 of a grant made under this part in the first year in which the institution receives such a grant.

"SEC. 144. APPLICATIONS. 20 USC 1018c.

"(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this part shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) contain assurances that the institution will use the grant in accordance with section 143;

"(2) contain adequate assurances that—

"(A) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

"(B) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 6 hours of voluntary, uncompensated service each week of the academic term in a public community agency as a tutor in such agency's educational or literacy program;

"(C) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

"(D) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals; and

"(3) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subtitle, in community service activities, including—

"(A) the use of a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for work study

for community service learning under section 443(b)(2)(A); or

"(B) the conduct of a cooperative education program; and

"(4) contain such other assurances as the Secretary may reasonably require.

"(c) WAIVER.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of clause (3) of subsection (b), grant a waiver of the requirement under such clause if the institution of higher education provides assurances that—

"(1)(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

"(B) its failure to engage in community service related programs or activities prior to making application under this part will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this part; and

"(2) the institution will use a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for community service learning programs pursuant to section 443(b)(2)(A) of that Act if the institution receives an allotment under such part C.

An institution of higher education may apply for a waiver as part of the application described in subsection (b).

20 USC 1018d.

"SEC. 145. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

"To the extent that funds are available therefor pursuant to section 146, the Secretary may, directly or by way of grant, contract, or other arrangement—

"(1) provide technical assistance to grant recipients under this part;

"(2) collect and disseminate information with respect to programs assisted under this part; and

Reports.

"(3) evaluate such programs and issue reports on the results of such evaluations.

20 USC 1018e.

"SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this part $10,000,000 for fiscal year 1988, and $10,000,000 for each succeeding fiscal year thereafter ending prior to October 1, 1991, except that no funds are authorized to be appropriated for this part for more than 2 fiscal years.

20 USC 1018f.

"SEC. 147. DEFINITIONS.

"For the purpose of this part—

"(1) the term 'public community agency' means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving the handicapped, including disabled veterans;

"(2) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

"(3) the term 'Secretary' means the Secretary of Education."

CHAPTER 2—SPECIAL RESEARCH FACILITIES

SEC. 6211. AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY, AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM.

Title VII of the Higher Education Act of 1965 is amended by adding new part J:

"PART J—AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM

"PROGRAM AUTHORITY

"SEC. 795. (a) PURPOSE.—It is the purpose of this section to help revitalize college and university academic research programs that specialize in agricultural, strategic metals and minerals, energy, forestry and wood products, and oceanic research by assisting colleges and universities in repair and renovation of their research laboratories and other research facilities and upgrading or replacing outmoded research equipment and instrumentation currently in use at such facilities for agricultural, strategic metals, minerals, energy, forestry, and oceans research. 20 USC 1132j.

"(b) FINANCIAL ASSISTANCE AUTHORIZED.—The Secretary shall, from the sums available to carry out this section in any fiscal year, establish and carry out a new College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceanic research that will provide assistance for the replacement, repair, or renovation of such institutions' obsolete laboratories, other research facilities, and outmoded equipment and instrumentation. No funds made available under this section may be used for the construction of new facilities.

"(c) PROGRAM REQUIREMENTS.—The College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceans shall be carried out through projects which involve the replacement, repair, or renovation of specific research facilities and research equipment or instrumentation at colleges and universities. Funds shall be awarded competitively, on the basis of specific proposals submitted by colleges and universities, in accordance with regulations prescribed by the Secretary. The Secretary shall consult with the Secretaries of Agriculture, Interior, Energy, and Commerce and shall obtain their recommendations regarding final proposal funding should they wish to provide such. In no case should this language be construed as granting these Secretaries final authority over funding or the right to hold up funding of acceptable projects. Regulations.

"(d) MATCHING REQUIREMENTS.—Any participating college or university must provide an amount not exceeding 50 percent of the costs involved from other non-Federal public or private sources.

"(e) SELECTION CRITERIA.—The criteria for making an award to any college or university under this part, shall include—

"(1) the quality of the research and training to be carried out in the facility or facilities involved;

"(2) the congruence of the institution's research activities to be supported with funds awarded under this part with the

future research needs of the Nation, especially as they relate to improving the Nation's trade and competitiveness position;

"(3) the contribution which the project will make toward meeting national, regional, and State research and related training needs, especially as those needs are related to improving the Nation's trade and competitiveness position; and

"(4) an analysis of the age and condition of existing research facilities and equipment.

"(f) SET-ASIDE.—At least 20 percent of the amount available under this section in any fiscal year shall be available only for awards to colleges and universities that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the university research laboratory modernization program) in each of the two preceding fiscal years.

"(g) CONSULTATIONS FOR RULEMAKING.—In prescribing regulations and conducting the program under this section, the Secretary shall consult with other agencies of the Federal Government concerned with research, including the Departments of Energy, Agriculture, Interior, and Commerce.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to carry out this section.".

CHAPTER 3—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT

SEC. 6221. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT.

20 USC 1135d-6.

Section 1047 of title X of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(c) ADDITIONAL AUTHORIZATION.—In addition, there are authorized to be appropriated $7,500,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years for the purpose of funding new activities, consistent with the purposes of sections 1021 and 1031, which are specifically aimed at increasing the participation of minority students in scientific and engineering research careers.".

CHAPTER 4—TECHNOLOGY TRANSFER CENTERS

SEC. 6231. TECHNOLOGY TRANSFER CENTERS.

Title XII of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"TECHNOLOGY TRANSFER CENTERS

Appropriation authorization.
20 USC 1145f.

"SEC. 1211. (a)(1)(A) Except as provided in subparagraph (B), there are authorized to be appropriated $15,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to develop, construct, and operate regional technology transfer centers. The Secretary shall establish such regional centers—

"(i) to promote the study and development of programs and depositories necessary to further the transfer of technology relevant to a respective region's economy;

"(ii) to assist in developing incubator facilities to encourage new economic initiatives;

"(iii) to provide technical assistance linking university expertise and private sector resources to solve technical, marketing, and manufacturing problems associated with technology-transfer and start-up businesses; and Marketing.

"(iv) to ensure consideration of the economic development needs of rural as well as urban areas within the region. Rural areas. Urban areas.

"(B) The Secretary shall reserve not less than $3,000,000 of amounts appropriated pursuant to subparagraph (A) for the purpose of carrying out the Training Technology Transfer Act of 1988.

"(2) In carrying out the requirements of this section, regional technology-transfer centers are authorized—

"(A) to build on or, where needed, develop telecommunications systems to link the centers and their affiliates with industrial users; Communications and telecommunications.

"(B) to build on or develop necessary computer networks and data bases; and

"(C) to utilize or help develop regional and national libraries. Libraries.

"(b) Financial assistance to each center shall be awarded competitively. Such financial assistance shall be awarded for the establishment or operation of such centers.

"(c) Each regional center established shall be operated by an appropriately qualified college or university within the region, a consortium of such schools within the region, or a university-related research park or center, and such regional center shall, where deemed necessary, establish one or more affiliate centers at colleges and universities based in other States within the region.

"(d) In establishing such centers, the institutions applying shall show in their application—

"(1) how the center will facilitate the economy of the region;

"(2) that the center's mission is compatible with the economic development plans of States in the region; and

"(3) that appropriate consultation with the relevant State agencies concerned with economic development has taken place.

"(e)(1) Such center also may be operated by a consortium composed of an entity or entities described in subsection (c), and an existing campus-based research entity, or other State and local agencies, nonprofit agencies, interstate higher education organizations, or, where appropriate, for-profit agencies. The Secretary, through regulation, shall determine a mechanism for assessing the percentage of operating costs paid by other members of a technology transfer consortium arrangements. Regulations.

"(2) For purpose of paragraph (1), the term 'existing campus-based research facilities includes agricultural research facilities, mining and minerals research facilities; forestry and wood-products research facilities, solar renewable energy research facilities, high technology facilities, and manufacturing technology research facilities.

"(f) Each such center shall establish a Board to advise the center on policy. Such board shall be—

"(1) representative of the States involved in the region; and

"(2) consist of representatives for urban areas, rural areas, ethnic concerns, business, labor, and education.

"(g)(1) Grants for each center shall be awarded for a 5-year period. Before the end of such period, the Secretary shall conduct a competition for the award of grants for the succeeding 5-year period. Grants.

"(2) For the fourth and fifth year of each such 5-year period, and during any renewal of the grant for succeeding 5-year periods, 50 percent of the cost of the activities for which assistance is awarded shall be provided from non-Federal sources.

Contracts.

"(h) Funding for affiliate centers authorized in subsection (c) shall be provided by the regional center and the college or university operating the affiliate center, with funding levels to be reached by the 2 entities in a scope-of-work agreement negotiated between the 2 entities. Should the affiliate center wish, its operations and funding support can be a consortia, as specified in subsection (e).

Public information.

"(i)(1) The Secretary, after consultation with the Departments of Agriculture, Energy, Commerce, and Interior shall publish, for public comment, a proposed list of priorities for the establishment of regional technology transfer centers and shall propose the regional composition of such centers, keeping in mind that satellite and telecommunications technology enables regions to contain non-contiguous States.

"(2) The Secretary shall publish the final list of regions and priorities along with the public's comments. In establishing such regions, the Secretary may designate a State or a portion of a State as a region.".

CHAPTER 5—LIBRARY TECHNOLOGY ENHANCEMENT

SEC. 6241. LIBRARY TECHNOLOGY ENHANCEMENT.

20 USC 1021.

Section 201(b) of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

Appropriation authorization.

"(5) There are authorized to be appropriated to carry out the purposes of part D an additional $2,500,000 for fiscal year 1988 and such additional sums as may be necessary for each of the 3 succeeding fiscal years. Activities supported by funds appropriated pursuant to this paragraph shall be activities that will enable libraries to participate more fully in the initiative funded under the Education and Training for American Competitiveness Act of 1987.".

CHAPTER 6—INTERNATIONAL BUSINESS EDUCATION PROGRAM

SEC. 6261. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION AUTHORIZED.

Title VI of the Higher Education Act of 1965 is further amended—

20 USC 1130a, 1130b.

(1) by redesignating sections 612 and 613 as sections 613 and 614, respectively; and

(2) by inserting after section 611 the following new section:

"CENTERS FOR INTERNATIONAL BUSINESS EDUCATION

Grants. 20 USC 1130-1.

"SEC. 612. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

"(1) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted,

"(2) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners, and Cultural programs.

"(3) will provide research and training in the international aspects of trade, commerce, and other fields of study.

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses.

"(b) Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

"(1) faculty and staff travel in foreign areas, regions, or countries,

"(2) teaching and research materials,

"(3) curriculum planning and development,

"(4) bringing visiting scholars and faculty to the center to teach or to conduct research, and

"(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(c)(1) Programs and activities to be conducted by centers assisted under this section shall include—

"(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

"(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and advanced degree candidates;

"(C) evening or summer programs, including, but not limited to, intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

"(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

"(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

"(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

"(2) Programs and activities to be conducted by centers assisted under this section may include—

"(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program; and

"(B) other eligible activities prescribed by the Secretary.

"(d)(1) In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

"(2) The Center Advisory Council shall include—

"(A) one representative of an administrative department or office of the institution of higher education;

"(B) one faculty representative of the business or management school or department of such institution;

"(C) one faculty representative of the international studies or foreign language school or department of such institution;

"(D) one faculty representative of another professional school or department of such institution, as appropriate;

"(E) one or more representative of local or regional businesses or firms;

"(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

"(G) such other individuals as the institution of higher education deems appropriate.

"(3) In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

"(e)(1) The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

"(2) The Federal share of the cost of planning, establishing and operating centers under this section shall be—

"(A) not more than 90 per centum for the first year in which Federal funds are furnished,

"(B) not more than 70 per centum for the second such year and

"(C) not more than 50 per centum for the third such year and for each such year thereafter.

"(3) The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind assistance.

"(f)(1) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

"(A) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1);

"(B) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies and other professional schools or departments, as appropriate;

"(C) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

"(D) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).".

SEC. 6262. AUTHORIZATION OF APPROPRIATIONS.

Section 614 of the Act (as redesignated by section 6261 of this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 614. (a) There are authorized to be appropriated $5,000,000 for the fiscal year 1988 and for each of the 3 succeeding fiscal years to carry out the provisions of section 612. 20 USC 1130b.

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 613.".

SEC. 6263. CONFORMING AMENDMENT.

Section 613 of the Act (as redesignated by section 6261 of this Act) is amended by striking out "part" each time it appears and inserting in lieu thereof "section".

CHAPTER 7—ADDITIONAL HIGHER EDUCATION PROVISIONS

SEC. 6271. RONALD E. MCNAIR POST-BACCALAUREATE ACHIEVEMENT PROGRAM.

Section 417D(d)(6) of the Act is amended by striking out "in no case" and all that follows through the period and inserting in lieu thereof the following: "if— 20 USC 1070d-1b.

"(A) the funds so allocated equal or exceed $168,800,000 but are less than $215,000,000 funds allocated to projects authorized under this subsection may not exceed—

"(i) $1,000,000 in the fiscal year 1988,

"(ii) $2,000,000 in the fiscal year 1989,

"(iii) $3,000,000 in the fiscal year 1990, and

"(iv) $4,000,000 in the fiscal year 1991, and

"(B) the funds so allocated equal or exceed $215,000,000 funds allocated to projects authorized under this subsection may not exceed $5,000,000.".

SEC. 6272. UNITED STATES INSTITUTE OF PEACE.

Section 25 of the Higher Education Technical Amendments Act of 1987 is amended by striking out "Section 1703" and inserting in lieu thereof "Section 1705(b)(3)". 22 USC 4604.

Economic Dislocation and Worker Adjustment Assistance Act.
29 USC 1501 note.

Subtitle D—Employment and Training for Dislocated Workers

SEC. 6301. SHORT TITLE.

This title may be cited as the "Economic Dislocation and Worker Adjustment Assistance Act".

SEC. 6302. AMENDMENT TO TITLE III OF THE JOB TRAINING PARTNERSHIP ACT.

(a) IN GENERAL.—Title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) is amended to read as follows:

"TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

"DEFINITIONS

29 USC 1651.

"SEC. 301. (a) DISLOCATED WORKERS.—(1) For purposes of this title, the term 'eligible dislocated workers' means individuals who—

"(A) have been terminated or laid off or who have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

"(B) have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise;

"(C) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age; or

"(D) were self-employed (including farmers and ranchers) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters, subject to regulations prescribed by the Secretary.

"(2) For purposes of this title, the term 'additional dislocated worker' means a displaced homemaker as that term is defined in section 4(29) of this Act.

"(3) The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which paragraph (1)(D) applies.

"(b) ADDITIONAL DEFINITIONS.—For the purposes of this title—

"(1) The term 'labor-management committees' means committees voluntarily established to respond to actual or prospective worker dislocation, which ordinarily include (but are not limited to) the following—

"(A) shared and equal participation by workers and management;

"(B) shared financial participation between the company and the State, using funds provided under this title, in paying for the operating expenses of the committee;

Reports.

"(C) a chairperson, to oversee and guide the activities of the committee, (i) who shall be jointly selected by the labor

and management members of the committee, (ii) who is not employed by or under contract with labor or management at the site, and (iii) who shall provide advice and leadership to the committee and prepare a report on its activities;

"(D) the ability to respond flexibly to the needs of affected workers by devising and implementing a strategy for assessing the employment and training needs of each dislocated worker and for obtaining the services and assistance necessary to meet those needs;

"(E) a formal agreement, terminable at will by the workers or the company management, and terminable for cause by the Governor; and

"(F) local job identification activities by the chairman and members of the committee on behalf of the affected workers.

"(2) The term 'local elected official' means the chief elected executive officer of a unit of general local government in a substate area.

"(3) The term 'service provider' means a public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, or employment services.

"(4) The term 'substate area' means that geographic area in a State established pursuant to section 312(a).

"(5) The term 'substate grantee' means that agency or organization selected to administer programs pursuant to section 312(b).

"(6) The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"ALLOTMENT

"SEC. 302. (a) ALLOTMENT OF FUNDS.—From the funds appropriated pursuant to section 3(c) for any fiscal year, the Secretary shall— 29 USC 1652.

"(1) allot 80 percent of such funds in accordance with the provisions of subsection (b); and

"(2) reserve 20 percent for use under part B of this title, subject to the reservation required by subsection (e) of this section.

"(b) ALLOTMENT AMONG STATES.—(1) Subject to the provisions of paragraph (2), the Secretary shall allot the amount available in each fiscal year under subsection (a)(1) on the basis of the following factors:

"(A) One-third of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

"(B) One-third of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term 'excess number' means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

"(C) One-third of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for 15 weeks or more and who reside in

each State as compared to the total number of such individuals in all the States.

"(2) As soon as satisfactory data are available under section 462(e) of this Act, the Secretary shall allot amounts appropriated to carry out part B and this part for any fiscal year to each State so that—

"(A) 25 percent of such amount shall be allotted on the basis of each of the factors described in subparagraphs (A), (B), and (C) of paragraph (1), respectively, for a total of 75 percent of the amount allotted; and

"(B) 25 percent of such amount shall be allotted among the States on the basis of the relative number of dislocated workers in such State in the most recent period for which satisfactory data are available under section 462(e) and, when available, under section 462(f) of this Act.

"(c) RESERVATIONS FOR STATE ACTIVITIES AND FOR SUBSTATE GRANTEES IN NEED.—(1) The Governor may reserve not more than 40 percent of the amount allotted to the State under section 302(a)(1) for—

"(A) State administration, technical assistance, and coordination of the programs authorized under this title;

"(B) statewide, regional, or industrywide projects;

"(C) rapid response activities as described in section 314(b);

"(D) establishment of coordination between the unemployment compensation system and the worker adjustment program system; and

"(E) discretionary allocation for basic readjustment and retraining services to provide additional assistance to areas that experience substantial increases in the number of dislocated workers, to be expended in accordance with the substate plan or modification thereof.

"(2) In addition, the Governor may reserve not more than 10 percent of the amount allotted to the State under section 302(a)(1) for allocation among substate grantees. The amount so reserved shall be allocated on the basis of need and distributed to such grantees not later than 9 months after the beginning of the program year for which the allotment was made.

"(d) WITHIN STATE DISTRIBUTION.—The Governor shall allocate the remainder of the amount allotted to the State under this part to substate areas for services authorized in this part, based on an allocation formula prescribed by the Governor. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs. Such information shall include (but is not limited to)—

"(1) insured unemployment data;

"(2) unemployment concentrations;

Plant closings.

"(3) plant closing and mass layoff data;

"(4) declining industries data;

"(5) farmer-rancher economic hardship data; and

"(6) long-term unemployment data.

"(e) RESERVATION FOR THE TERRITORIES.—Not more than 0.3 percent of the amounts appropriated pursuant to section 3(c) and available under subsection (a)(2) of this section for any fiscal year shall be allocated among the Commonwealth of the Northern Mariana Islands and the other territories and possessions of the United States.

"RECAPTURE AND REALLOTMENT OF UNEXPENDED FUNDS

"SEC. 303. (a) GENERAL REALLOTMENT AUTHORITY.—For program years beginning July 1, 1989, and thereafter, the Secretary shall, in accordance with the requirements of this section, reallot to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallotment. State and local governments. 29 USC 1653.

"(b) AMOUNT AVAILABLE FOR REALLOTMENT.—The amount available for reallotment is equal to—

"(1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus

"(2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

"(c) METHOD OF REALLOTMENT.—(1) The Secretary shall determine the amount that would be allotted to each eligible State by using the factors described in section 302(b) to allocate among eligible States the amount available pursuant to subsection (b) of this section.

"(2) The Secretary shall allot to each eligible high unemployment State the amount determined for that State under the procedure in paragraph (1) of this subsection.

"(3) The Secretary shall, by using the factors described in section 302(b), allot to eligible States the amount available that remains after the allotment required by paragraph (2) of this subsection.

"(d) STATE PROCEDURES WITH RESPECT TO REALLOTMENT.—The Governor of each State shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the requirement that funds be made available for reallotment under subsection (b). The Governor shall further prescribe equitable procedures for making funds available from the State and substate grantees in the event that a State is required to make funds available for reallotment under such subsection.

"(e) DEFINITIONS.—(1) For the purpose of this section, an eligible State means a State which has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.

"(2) For the purpose of this section, an eligible high unemployment State means a State—

"(A) which meets the requirement in subsection (c)(1), and

"(B) which is among the States which has an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

"(3) For purposes of this section, funds awarded from discretionary funds of the Secretary shall not be included in calculating any of the reallotments described in this section.

"PART A—STATE DELIVERY OF SERVICES

"STATE PLAN

"SEC. 311. (a) STATE PLAN REQUIRED.—In order to receive an allotment of funds under section 302(b), the Governor of a State shall submit to the Secretary, on a biennial basis, a State plan describing in detail the programs and activities that will be assisted 29 USC 1661.

with funds provided under this title. The State plan shall be submitted on or before the first day of May immediately preceding the program year for which funds are first to be made available under this title. Such plan shall include incentives to provide training of greater duration for those who require it, consistent with section 106(g).

"(b) CONTENTS OF PLAN.—Each State plan shall contain provisions demonstrating to the satisfaction of the Secretary that the State will comply with the requirements of this title and that—

"(1) services under this title—

"(A) will, except as provided in paragraph (4), only be provided to eligible dislocated workers;

"(B) will not be denied to an eligible dislocated worker displaced by a permanent closure or substantial layoff within the State, regardless of the State of residence of such worker; and

"(C) may be provided to other eligible dislocated workers regardless of the State of residence of such worker;

"(2) the State will designate or create an identifiable State dislocated worker unit or office with the capability to respond rapidly, on site, to permanent closures and substantial layoffs throughout the State in order to assess the need for, and initially to provide for, appropriate basic readjustment services;

"(3) the State unit will—

"(A) make appropriate retraining and basic readjustment services available to eligible dislocated workers through the use of rapid response teams, substate grantees, and other appropriate organizations;

"(B) work with employers and labor organizations in promoting labor-management cooperation to achieve the goals of this title;

"(C) operate a monitoring, reporting, and management system which provides an adequate information base for effective program management, review, and evaluation; and

"(D) provide technical assistance and advice to substate grantees;

"(4) the State will provide to additional dislocated workers (as defined in section 301(a)(2)) the services available under this title to eligible dislocated workers only if the Governor of such State determines that such services may be provided to additional dislocated workers without adversely affecting the delivery of such services to eligible dislocated workers;

"(5) the State unit will exchange information and coordinate programs with—

"(A) the appropriate economic development agency, for the purpose of developing strategies to avert plant closings or mass layoffs and to accelerate the reemployment of affected individuals;

"(B) State education, training, and social services programs; and

"(C) all other programs available to assist dislocated workers (including the Job Service and the unemployment insurance system);

"(6) the State unit will disseminate throughout the State information on the availability of services and activities under this title;

"(7) any program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization will be established only after full consultation with such labor organization;

"(8) the State will not prescribe any standard for the operation of programs under this part that is inconsistent with section 106(g);

"(9) the State job training coordinating council has reviewed and commented in writing on the plan; and

"(10) the delivery of services with funds made available under this title will be integrated or coordinated with services or payments made available under chapter 2 of title II of the Trade Act of 1974 and provided by any State or local agencies designated under section 239 of the Trade Act of 1974.

"(c) REVIEW AND APPROVAL OF STATE PLANS.—The Secretary shall review any plan submitted under subsection (a), and any comments thereon submitted by the State job training coordinating council pursuant to subsection (b)(9), and shall notify a State as to any deficiencies in such plan within 30 days after submission. Unless a State has been so notified, the Secretary shall approve the plan within 45 days after submission. The Secretary shall not finally disapprove the plan of any State except after notice and opportunity for a hearing.

"(d) MODIFICATIONS—Any plan submitted under subsection (a) may be modified to describe changes in or additions to the programs and activities set forth in the plan, except that no such modification shall be effective unless reviewed and approved in accordance with subsection (c).

"(e) COMPLAINT, INVESTIGATION, PENALTY.—(1) Whenever the Secretary receives a complaint or a report from an aggrieved party or a public official that a State is not complying with the provisions of the State plan required by this section, the Secretary shall investigate such report or complaint.

"(2)(A) Whenever the Secretary determines that there has been such a failure to comply and that other remedies under this Act are not available or are not adequate to achieve compliance, the Secretary may withhold an amount not to exceed 10 percent of the allotment of the State for the fiscal year in which the determination is made for each such violation.

"(B) No determination may be made under this paragraph until the State affected is afforded adequate notice and opportunity for a hearing.

"(f) SPECIAL RULE.—The provisions of section 102(h) and 105(d), relating to cases in which a service delivery area is a State, shall apply to this title.

"SUBSTATE GRANTEES

"SEC. 312. (a) DESIGNATION OF SUBSTATE AREAS.—(1) The Governor of each State shall, after receiving any recommendations from the State job training coordinating council, designate substate areas for the State. 29 USC 1661a.

"(2) Each service delivery area within a State shall be included within a substate area and no service delivery area shall be divided among two or more substate areas.

"(3) In making designations of substate areas, the Governor shall consider—

"(A) the availability of services throughout the State;

"(B) the capability to coordinate the delivery of services with other human services and economic development programs; and

"(C) the geographic boundaries of labor market areas within the State.

"(4) Subject to paragraphs (2) and (3), the Governor—

"(A) shall designate as a substate area any single service delivery area that has a population of 200,000 or more;

"(B) shall designate as a substate area any two or more contiguous service delivery areas—

"(i) that in the aggregate have a population of 200,000 or more; and

"(ii) that request such designation; and

Rural areas.

"(C) shall designate as a substate area any concentrated employment program grantee for a rural area described in section 101(a)(4)(A)(iii) of this Act.

"(5) The Governor may deny a request for designation under paragraph (4)(B) if the Governor determines that such designation would not be consistent with the effective delivery of services to eligible dislocated workers in various labor market areas (including urban and rural areas) within the State, or would not otherwise be appropriate to carry out the purposes of this title.

"(6) The designations made under this section may not be revised more than once each two years, in accordance with the requirements of this section.

"(b) DESIGNATION OF SUBSTATE GRANTEES.—A substate grantee shall be designated, on a biennial basis, for each substate area. Such substate grantee shall be designated in accordance with an agreement among the Governor, the local elected official or officials of such area, and the private industry council or councils of such area. Whenever a substate area is represented by more than one such official or council, the respective officials and councils shall each designate representatives, in accordance with procedures established by the Governor (after consultation with the State job training coordinating council), to negotiate such agreement. In the event agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

Contracts.

"(c) ELIGIBILITY.—Entities eligible for designation as substate grantees include—

"(1) private industry councils in the substate area;

"(2) service delivery area grant recipients or administrative entities;

"(3) private nonprofit organizations;

"(4) units of general local government in the substate area, or agencies thereof;

"(5) local offices of State agencies; and

"(6) other public agencies, such as community colleges and area vocational schools.

"(d) FUNCTIONS OF SUBSTATE GRANTEES.—The substate grantee shall be responsible for providing, within such substate area, services described in section 314 (c), (d), and (e) pursuant to an agreement with the Governor and in accordance with the State plan under section 311 and the substate plan under section 313. The substate grantee may provide such services directly or through contract, grant, or agreement with service providers.

Contracts.

"(e) APPLICABILITY OF GENERAL ADMINISTRATIVE PROVISIONS TO SUBSTATE GRANTEES.—The requirements of parts C and D of title I of this Act that apply to an administrative entity or a recipient of

financial assistance under this Act shall also apply to substate grantees under this title.

"SUBSTATE PLAN

"SEC. 313. (a) GENERAL RULE.—No amounts appropriated for any fiscal year may be provided to a substate grantee unless the Governor (after considering the recommendations of the State job training coordinating council) has approved a substate plan, or modification thereof, submitted by the substate grantee describing the manner in which activities will be conducted within the substate area. Prior to the submission to the Governor, the plan shall be submitted for review and comment to the other parties to the agreement described in section 312(b). 29 USC 1661b.

"(b) CONTENTS OF SUBSTATE PLAN.—The substate plan shall contain a statement of—

"(1) the means for delivering services described in section 314 to eligible dislocated workers;

"(2) the means to be used to identify, select, and verify the eligibility of program participants;

"(3) the means for implementing the requirements of section 314(f);

"(4) the means for involving labor organizations in the development and implementation of services;

"(5) the performance goals to be achieved consistent with the performance goals contained in the State plan pursuant to section 311(b)(8);

"(6) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

"(7) a description of the methods by which the substate grantee will respond expeditiously to worker dislocation where the rapid response assistance required by section 314(b) is inappropriate, including worker dislocation in sparsely populated areas, which methods may include (but are not limited to)—

(A) development and delivery of widespread outreach mechanisms;

(B) provision of financial evaluation and counseling (where appropriate) to assist in determining eligibility for services and the type of services needed;

(C) initial assessment and referral for further basic adjustment and training services; and

(D) establishment of regional centers for the purpose of providing such outreach, assessment, and early readjustment assistance;

"(8) a description of the methods by which the other parties to the agreement described in section 312(b) may be involved in activities of the substate grantee;

"(9) a description of training services to be provided, including—

"(A) procedures to assess participants' current education skill levels and occupational abilities;

"(B) procedures to assess participants' needs, including educational, training, employment, and social services;

"(C) methods for allocating resources to provide the services recommended by rapid response teams for eligible dislocated workers within the substate area; and

"(D) a description of services and activities to be provided in the substate area;

"(10) the means whereby coordination with other appropriate programs, services, and systems will be effected, particularly where such coordination is intended to provide access to the services of such other systems for program participants at no cost to the worker readjustment program; and

"(11) a detailed budget, as required by the State.

"(c) PLAN APPROVAL.—The Governor shall approve or disapprove the plan of a substate grantee in the manner required by section 105(b) (1), (2), and (3). If a substate grantee fails to submit a plan, or submits a plan that is not approved by the Governor in accordance with such section, the Governor may direct the expenditure of funds allocated to the substate area until such time as a plan is submitted and approved or a new substate grantee is designated under section 312.

"(d) BY-PASS AUTHORITY.—If a substate grantee fails to expend funds allocated to it in accordance with its plan, the Governor may, subject to appropriate notice and opportunity for comment in the manner required by section 105(b) (1), (2), and (3), direct the expenditure of funds in accordance with the substate plan until—

"(1) the substate grantee corrects the failure,

"(2) the substate grantee submits an acceptable modification to its plan pursuant to subsection (a), or

"(3) a new substate grantee is designated under section 312.

"USE OF FUNDS; SERVICES TO BE PROVIDED

29 USC 1661c.

"SEC. 314. (a) IN GENERAL.—Funds allotted under section 302 may be used—

"(1) to provide rapid response assistance in accordance with subsection (b);

"(2) to deliver, coordinate, and integrate basic readjustment services and support services in accordance with subsection (c);

"(3) to provide retraining services in accordance with subsection (d);

"(4) to provide needs-related payments in accordance with subsection (e); and

"(5) to provide for coordination with the unemployment compensation system in accordance with subsection (f).

"(b) RAPID RESPONSE ASSISTANCE.—(1) The dislocated worker unit required by section 311(b)(2) shall include specialists who may use funds available under this title—

"(A) to establish on-site contact with employer and employee representatives within a short period of time (preferably 48 hours or less) after becoming aware of a current or projected permanent closure or substantial layoff in order to—

Public information.

"(i) provide information on and facilitate access to available public programs and services; and

"(ii) provide emergency assistance adapted to the particular closure or layoff;

"(B) to promote the formation of labor-management committees, by providing—

"(i) immediate assistance in the establishment of the labor-management committee, including providing immediate financial assistance to cover the start-up costs of the committee;

"(ii) a list of individuals from which the chairperson of the committee may be selected;

"(iii) technical advice as well as information on sources of assistance, and liaison with other public and private services and programs; and

"(iv) assistance in the selection of worker representatives in the event no union is present;

"(C) to collect information related to—

"(i) economic dislocation (including potential closings or layoffs); and

"(ii) all available resources within the State for displaced workers,

which information shall be made available on a regular basis to the Governor and the State job training coordinating council to assist in providing an adequate information base for effective program management, review, and evaluation;

"(D) to provide or obtain appropriate financial and technical advice and liaison with economic development agencies and other organizations to assist in efforts to avert worker dislocations;

"(E) to disseminate information throughout the State on the availability of services and activities carried out by the dislocated worker unit or office; and

"(F) to assist the local community in developing its own coordinated response and in obtaining access to State economic development assistance.

"(2) In a situation involving an impending permanent closure or substantial layoff, a State may provide funds, where other public or private resources are not expeditiously available, for a preliminary assessment of the advisability of conducting a comprehensive study exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation.

"(c) BASIC READJUSTMENT SERVICES.—Funds allotted under section 302 may be used to provide basic readjustment services to eligible dislocated workers. Subject to limitations set forth in subsection (e) and section 315(a), the services may include (but are not limited to)—

"(1) development of individual readjustment plans for participants in programs under this title;

"(2) outreach and intake;

"(3) early readjustment assistance;

"(4) job or career counseling;

"(5) testing;

"(6) orientation;

"(7) assessment, including evaluation of educational attainment and participant interests and aptitudes;

"(8) determination of occupational skills;

"(9) provision of future world-of-work and occupational information;

"(10) job placement assistance;

"(11) labor market information;

"(12) job clubs;

"(13) job search;

"(14) job development;

"(15) supportive services, including child care, commuting assistance, and financial and personal counseling which shall terminate not later than the 90th day after the participant has completed other services under this part, except that counseling necessary to assist participants to retain employment shall terminate not later than 6 months following the completion of training;

"(16) prelayoff assistance;

"(17) relocation assistance; and

"(18) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

"(d) RETRAINING SERVICES.—(1) Funds allotted under section 302 may be used to provide training services under this part to eligible dislocated workers. Such services may include (but are not limited to)—

"(A) classroom training;

"(B) occupational skill training;

"(C) on-the-job training;

"(D) out-of-area job search;

"(E) relocation;

"(F) basic and remedial education;

"(G) literacy and English for non-English speakers training;

"(H) entrepreneurial training; and

"(I) other appropriate training activities directly related to appropriate employment opportunities in the substate area.

"(2) No funds under this part may be expended to provide wages for public service employment.

"(e) NEEDS-RELATED PAYMENTS.—(1) Funds allocated to a substate grantee under section 302(d) may be used pursuant to a substate plan under section 313 to provide needs-related payments to an eligible dislocated worker who does not qualify or has ceased to qualify for unemployment compensation, in order to enable such worker to participate in training or education programs under this title. To be eligible for such payments, an eligible dislocated worker who has ceased to qualify for unemployment compensation must have been enrolled in training by the end of the 13th week of the worker's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an employee is informed that a short-term layoff will in fact exceed 6 months.

"(2) The level of needs-related payments shall be made available at a level not greater than the higher of—

"(A) the applicable level of unemployment compensation; or

"(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(f) COORDINATION WITH UNEMPLOYMENT COMPENSATION.—Funds allocated to a State under section 302 may be used for coordination of worker readjustment programs and the unemployment compensation system, consistent with the limitation on administrative expenses in section 315. Each State shall be responsible for coordinating the unemployment compensation system and worker readjustment programs within such State.

"LIMITATIONS ON USES OF FUNDS

"SEC. 315. (a) USE OF FUNDS FOR RETRAINING SERVICES.—(1) Not less than 50 percent of the funds expended under this title by any substate grantee shall be expended for retraining services specified under section 314(d). 29 USC 1661d.

"(2) A substate grantee may apply to the Governor for a waiver of the requirement in paragraph (1). Such waiver may not permit less than 30 percent of the funds to be spent for such retraining services. The waiver may be granted in whole or in part if the substate grantee demonstrates that the worker readjustment program in the area will be consistent with the principle that dislocated workers be prepared for occupations or industries with long-term potential. The Governor shall prescribe criteria for the demonstration required by the previous sentence.

"(3) An application for such a waiver shall be submitted at such time and in such form as the Governor may prescribe. The Governor shall provide an opportunity for public comment on the application.

"(b) NEEDS-RELATED PAYMENTS AND SUPPORTIVE SERVICES LIMITATION.—Not more than 25 percent of the funds expended under this title by any substate grantee or by the Governor may be used to provide needs-related payments and other supportive services.

"(c) ADMINISTRATIVE COST LIMITATION.—Not more than 15 percent of the funds expended under this title by any substate grantee or by the Governor may be expended to cover the administrative cost of programs under this title. For purposes of this subsection, administrative cost does not include the cost of activities under section 314(b).

"RETRAINING SERVICES AVAILABILITY

"SEC. 316. (a) ALTERNATIVE METHODS OF PROVIDING RETRAINING SERVICES.—A substate grantee may provide retraining services described in section 314(d) to an eligible dislocated worker— 29 USC 1661e.

"(1) by beginning such services promptly upon the worker's application for the program under this title;

"(2) by deferring the beginning of such services and providing the worker with a certificate of continuing eligibility in accordance with subsection (b) (1) and (2); or

"(3) by permitting the worker to obtain such services from a service provider using such certificate in accordance with subsection (b)(3).

"(b) CERTIFICATION OF CONTINUING ELIGIBILITY.—(1) A substate grantee may issue to any eligible dislocated worker who has applied for the program authorized in this part a certificate of continuing eligibility. Such a certificate of continuing eligibility may be effective for periods not to exceed 104 weeks. No such certificate shall include any reference to any specific amount of funds. Any such certificate shall state that it is subject to the availability of funds at the time that any such training services are to be provided. Acceptance of such a certificate shall not be deemed to be enrollment in training.

"(2) Any individual to whom a certificate of continuing eligibility has been issued under paragraph (1) of this subsection shall remain eligible for the program authorized under this part for the period specified in the certificate, notwithstanding section 301(a), and may use the certificate in order to receive the retraining services, subject to the limitations contained in the certificate.

"(3) A substate grantee may provide training services through systems that permit eligible dislocated workers to use certificates of continuing eligibility to seek out and arrange their own retraining with service providers approved by that substate grantee. Retraining provided pursuant to the certificate shall be conducted under a grant, contract, or other arrangement between the substate grantee and the service provider.

Contracts.

"FUNCTIONS OF STATE JOB TRAINING COORDINATING COUNCIL

29 USC 1661f.

"SEC. 317. For purposes of this title, the State job training coordinating council shall—

"(1) provide advice to the Governor regarding the use of funds under this title, including advice on—

"(A) the designation of substate areas and substate grantees, and the procedures for the selection of representatives within such areas under section 312; and

"(B) the methods for allocation and reallocation of funds, including the method for distribution of funds reserved under section 302(c)(2) and funds subject to reallocation under section 303(d);

"(2) submit comments to the Governor and the Secretary on the basis of review of the State and substate programs under this title;

"(3) review, and submit written comments on, the State plan (and any modification thereof) before its submission under section 311;

"(4) review, and submit written comments on, each substate plan submitted to the Governor under section 313; and

"(5) provide advice to the Governor regarding performance standards.

"PART B—FEDERAL RESPONSIBILITIES

"FEDERAL ADMINISTRATION

29 USC 1662.

"SEC. 321. (a) STANDARDS.—The Secretary shall promulgate standards for the conduct and evaluation of programs under this title.

"(b) BY-PASS AUTHORITY.—In the event that any State fails to submit a plan that is approved under section 311, the Secretary shall use the amount that would be allotted to that State to provide for the delivery in that State of the programs, activities, and services authorized by this title until the State plan is submitted and approved under that section.

"FEDERAL DELIVERY OF DISLOCATED WORKER SERVICES

29 USC 1662a.

"SEC. 322. (a) GENERAL AUTHORITY.—The Secretary shall, with respect to programs required by this title—

"(1) distribute funds to States in accordance with the requirements of section 302;

"(2) provide funds to exemplary and demonstration programs on plant closings and worker dislocation;

"(3) otherwise allocate discretionary funds to projects serving workers affected by multi-State or industry-wide dislocations and to areas of special need in a manner that efficiently targets resources to areas of most need, encourages a rapid response to economic dislocations, and promotes the effective use of funds;

"(4) monitor performance and expenditures and annually certify compliance with standards prescribed by the Secretary under section 106(g);

"(5) conduct research and serve as a national clearinghouse for gathering and disseminating information on plant closings and worker dislocation; and Research and development.

"(6) provide technical assistance and staff training services to States, communities, businesses, and unions, as appropriate.

"(b) ADMINISTRATIVE PROVISIONS.—The Secretary shall designate or create an identifiable dislocated workers unit or office to coordinate the functions of the Secretary under this title.

"ALLOWABLE ACTIVITIES

"SEC. 323. (a) CIRCUMSTANCES AND ACTIVITIES FOR USE OF FUNDS.— Amounts reserved for this part under section 302(a)(2) may be used to provide services of the type described in section 314 in the following circumstances: 29 USC 1662b.

"(1) mass layoffs, including mass layoffs caused by natural disasters or Federal actions (such as relocations of Federal facilities) when the workers are not expected to return to their previous occupations;

"(2) industrywide projects;

"(3) multistate projects;

"(4) special projects carried out through agreements with Indian tribal entities;

"(5) special projects to address national or regional concerns;

"(6) demonstration projects, including the projects described in section 324;

"(7) to provide additional financial assistance to programs and activities provided by States and substate grantees under part A of this title; and

"(8) to provide additional assistance under proposals for financial assistance that are submitted to the Secretary and approved by the Secretary after consultation with the Governor of the State in which the project is to operate.

"(b) USE OF FUNDS IN EMERGENCIES.—Amounts reserved for this part under section 302(a)(2) may also be used to provide services of the type described in section 314 whenever the Secretary (with agreement of the Governor) determines that an emergency exists with respect to any particular distressed industry or any particularly distressed area to provide emergency financial assistance to dislocated workers. The Secretary may make arrangements for the immediate provision of such emergency financial assistance for the purposes of this section with any necessary supportive documentation to be submitted at a date agreed to by the Governor and the Secretary.

"(c) STAFF TRAINING AND TECHNICAL ASSISTANCE.—(1) Amounts reserved for this part under section 302(a)(2) may be used to provide staff training and technical assistance services to States, communities, businesses and labor organizations, and other entities involved in providing adjustment assistance to workers. Applications for technical assistance funds shall be submitted in accordance with procedures issued by the Secretary.

"(2) Not more than 5 percent of the funds reserved for this part in any fiscal year shall be used for the purpose of this subsection.

"(d) TRAINING OF RAPID RESPONSE STAFFS.—Amounts reserved for this part under section 302(a)(2) shall be used to provide training of staff, including specialists, providing rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees.

"DEMONSTRATION PROGRAMS

29 USC 1662c.

"SEC. 324. (a) AUTHORIZED PROGRAMS.—From the amount reserved for this part under section 302(a)(2) for the fiscal years 1989, 1990, and 1991, not less than 10 percent of such amount shall be used for demonstration programs. Such demonstration programs may be up to three years in length, and shall include (but need not be limited to) at least two of the following demonstration programs:

"(1) self-employment opportunity demonstration program;
"(2) public works employment demonstration program;
"(3) dislocated farmer demonstration program; and
"(4) job creation demonstration program.

"(b) EVALUATION AND REPORT.—The Secretary shall conduct or provide for an evaluation of the success of each demonstration program, and shall prepare and submit to the Congress a report of the evaluation not later than October 1, 1992, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.".

SEC. 6303. AUTHORIZATION OF APPROPRIATIONS.

29 USC 1502.

Section 3(c) of the Job Training Partnership Act is amended to read as follows:

"(c) There are authorized to be appropriated to carry out title III—
"(1) $980,000,000 for fiscal year 1989; and
"(2) such sums as may be necessary for each succeeding fiscal year.".

SEC. 6304. CONFORMING AMENDMENTS.

(a) PERFORMANCE STANDARDS.—Section 106 of the Job Training
29 USC 1516. Partnership Act is amended—

(1) in subsection (e)—
(A) by inserting "and subsection (g)" after "subsection";
(B) by inserting after "State" the following: "and in substate areas"; and
(2) in subsection (g)—
(A) by inserting "(1)" after "(g)"; and
(B) by adding at the end thereof the following new paragraph:

"(2) Any performance standard that may be prescribed under paragraph (1) of this subsection shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).".

(b) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(a)(3)
29 USC 1532. of the Job Training Partnership Act is amended to read as follows:

"(3) The State job training coordinating council shall be composed as follows:

"(A) Thirty percent of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State.

"(B) Thirty percent of the membership of the State council shall be—

"(i) representatives of the State legislature, and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State; and

"(ii) representatives of the units or consortia of general local government in the State who shall be nominated by the chief elected officials of the units or consortia of units of general local government, and the representatives of local educational agencies who shall be nominated by local educational agencies.

"(C) Thirty percent of the membership of the State council shall be representatives of organized labor and representatives of community-based organizations in the State.

"(D) Ten percent of the membership of the State council shall be appointed from the general public by the Governor of the State.".

(c) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking out the portion pertaining to title III and inserting the following:

SEC. 6305. TRANSITION PROVISIONS.

29 USC 1651 note.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by sections 6302 and 6304 shall be effective for program years beginning on or after July 1, 1989.

Effective date.

(b) PROGRAM YEAR 1988–1989.—The Secretary of Labor and Governors shall, during the program year beginning July 1, 1988, continue to administer title III of the Job Training Partnership Act in the same manner as such title was administered during prior

program years, except to the extent necessary to provide for an orderly transition to and implementation of the amendments made by this subtitle. The Secretary and Governors may, for such purposes, use funds appropriated for fiscal year 1989 or any preceding fiscal year to carry out appropriate transition and implementation activities. Such activities may include—

(1) activities to prevent disruption in the delivery of services to program participants; and

(2) planning for and implementation of such amendments.

(c) STATE JOB TRAINING COORDINATING COUNCIL.—A State job training coordinating council shall comply with the changes in membership required by the amendment made by section 6304(b) not later than January 1, 1989. Upon certification by the Governor to the Secretary that such changes in membership have been accomplished, such council shall begin to perform the functions specified by section 317 of the Job Training Partnership Act (as amended by this subtitle).

(d) SUBSTATE AREAS AND GRANTEES.—The designation of substate areas and substate grantees required by the amendment to title III of such Act shall be completed not later than March 1, 1989.

(e) LIMITATION ON CARRY-OVER OF FUNDS.—The provisions of section 303 of such Act (as amended) shall apply to the program year beginning July 1, 1988, except that, for such program year—

(1) subsection (b)(1) of such section shall be applied by substituting "30 percent" for "20 percent"; and

(2) subsection (e) of such section shall be applied by substituting "70 percent" for "80 percent".

(f) REGULATIONS.—The Secretary of Labor shall prescribe such regulations as may be required to implement the amendments made by this subtitle not later than November 1, 1988.

SEC. 6306. STUDIES.

(a) DATA ON DISPLACED FARMERS AND RANCHERS.—Section 462 of such Act is amended by adding at the end the following new subsection:

29 USC 1752.

"(f)(1) The Secretary shall develop, in coordination with the Secretary of Agriculture, statistical data relating to permanent dislocation of farmers and ranchers due to farm and ranch failures. Among the data to be included are—

"(A) the number of such farm and ranch failures;

"(B) the number of farmers and ranchers displaced;

"(C) the location of the affected farms and ranches;

"(D) the types of farms and ranches involved; and

"(E) the identification of farm family members, including spouses, and farm workers working the equivalent of a full-time job on the farm who are dislocated by such farm and ranch failures.

Reports.

"(2) The Secretary shall publish a report based upon such data as soon as practicable after the end of each calendar year. Such report shall include a comparison of data contained therein with data currently used by the Bureau of Labor Statistics in determining the Nation's annual employment and unemployment rates and an analysis of whether farmers and ranchers are being adequately counted in such employment statistics. Such report shall also include an analysis of alternative methods for reducing the adverse effects of displacements of farmers and ranchers, not only on the individual farmer or rancher, but on the surrounding community".

(b) FAILURE TO PROVIDE INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—(1) The Secretary of Labor shall conduct a study, in consultation with the Secretary of State, to identify the extent to which countries recognize and enforce, and the producers fail to comply with, internationally recognized worker rights. A report on the study conducted under this subsection shall be submitted to Congress biennially. 29 USC 565. Reports.

(2) As used in this Act, the term "internationally recognized worker rights" includes—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) the right to be free from 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, maximum hours of work, and occupational safety and health.

(c) ADDITIONAL STUDIES.—The National Commission for Employment Policy shall conduct research related to the provisions of this title. Such research shall include examinations of— Research and development. 29 USC 1651 note.

(1) the role of the employment services in implementing programs to enhance services provided under this title, and

(2) alternative techniques for managing production cutbacks without permanently reducing workforces.

A report on the research conducted under this subsection shall be submitted to the Congress not later than 18 months after the date of enactment of this Act. Reports.

SEC. 6307. JOB BANKS.

(a) AMENDMENT.—Title V of the Job Training Partnership Act is amended by adding at the end thereof the following new section:

"STATE JOB BANK SYSTEMS

"SEC. 505. (a)(1) The Secretary shall carry out the purposes of this section with sums appropriated pursuant to paragraph (2) for any fiscal year. 29 USC 1505.

"(2) There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year. Appropriation authorization.

"(b) The Secretary shall make such sums available through the United States Employment Service for the development and implementation of job bank systems in each State. Such systems shall be designed to use computerized electronic data processing and telecommunications systems for such purposes as— Computers. Communications and telecommunications.

"(1) identifying job openings and referring jobseekers to job openings, with continual updating of such information;

"(2) providing information on occupational supply and demand; and

"(3) utilization of such systems by career information delivery systems (including career counseling programs in schools).

"(c) Wherever possible, computerized data systems developed with assistance under this section shall be capable of utilizing software compatible with other systems (including management information systems and unemployment insurance and other income maintenance programs) used in the administration of employment and training programs. In developing such systems, special consider- Computers.

ation shall be given to the advice and recommendations of the State occupational information coordinating committees (established under section 422(b) of the Carl D. Perkins Vocational Education Act), and other users of such systems for the various purposes described in subsection (b) of this section.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 504 the following:

"Sec. 505. State job bank systems.".

National Science Foundation University Infrastructure Act of 1988.
Research and development.
Schools and colleges.
Museums.
42 USC 1861 note.
42 USC 1862a.

Subtitle E—National Science Foundation University Infrastructure

SEC. 6401. SHORT TITLE.

This subtitle may be cited as the "National Science Foundation University Infrastructure Act of 1988".

SEC. 6402. NATIONAL SCIENCE FOUNDATION ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent nonprofit research institutions and research museums through capital investments.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out an Academic Research Facilities Modernization Program, under which awards shall be made to institutions of higher education, independent nonprofit research institutions and research museums, and consortia thereof, for the repair, renovation, or replacement (as appropriate) of such institutions' obsolete laboratories and other research facilities.

(c) PROJECTS AND FUNDING.—(1) The Academic Research Facilities Modernization Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(A) which involve the repair, renovation, or replacement (as appropriate) of specific research facilities at the eligible institutions or consortia thereof involved, and

(B) for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia thereof in accordance with regulations prescribed by the Director of the Foundation, pursuant to subsection (d), with the objective of carrying out the purpose of this section.

Regulations.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any eligible institution or consortia thereof will be in an amount equal to not more than 50 percent of the cost of the repair, renovation, or replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or consortia thereof or from other non-Federal public or private sources).

(d) CRITERIA FOR AWARDS.—(1) Annually, or prior to the issuance of a program announcement for solicitation of proposals for the award of funds to any institution or consortia thereof for a project under the National Science Foundation Academic Research Facilities Modernization Program, the National Science Foundation shall publish in the Federal Register interim guidelines for public review and comment for a period of 60 days. Such guidelines shall include (but not be limited to) the following: Federal Register, publication.

(A) specific definitions for the terms: facilities, instrumentation, equipment, repair, renovation, and replacement;

(B) specific selection criteria to be used in evaluating the scientific merit of proposals and, in making awards to an institution or to consortia thereof, including an analysis of the age and condition of existing research facilities; and

(C) specific provisions for matching the Federal grant pursuant to subsection (b).

(2) Final guidelines shall be published in the Federal Register 60 days following the close of the comment period incorporating such appropriate revisions as may arise from comments received during the review period. The guidelines, at a minimum, shall include selection criteria for the following: Federal Register, publication.

(A) the quality of the research and training to be carried out in the facility or facilities involved;

(B) the congruence of the institution's research and training activities with the future research needs of the Nation and the training and research mission of the National Science Foundation;

(C) the contribution which the project will make toward meeting national, regional, and the institution's research and related training needs; and

(D) the need for the proposed repair, renovation, or replacement (as appropriate) based on an analysis of the age and condition of existing research facilities and equipment.

(e) DISTRIBUTION OF FUNDS.—Awards made under the National Science Foundation Academic Research Facilities Modernization Program shall not exceed $5,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or replacement (as appropriate) of academic research facilities. Grants.

(f) CONSULTATIONS.—In prescribing criteria and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

(g) RESERVATIONS FOR CERTAIN INSTITUTIONS.—(1) At least 15 percent of the amount which is appropriated pursuant to this section in any fiscal year shall be available only for awards to universities, colleges, and research museums that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the activities authorized in this section and section 6403) in each of the two preceding fiscal years. Grants.

(2) Of the amounts appropriated under this section in each fiscal year at least 10 percent of the funds shall be reserved for institutions of higher education servicing a substantial percentage of students who are Black Americans, Native Americans, Hispanic Americans, Alaskan Natives (Eskimos or Aleut), Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), Northern Marianian, or Palauan. Minorities. Indians.

(3) Requirements of paragraph (2) may be satisfied by considering the funds awarded under paragraph (1) to the institutions described in paragraph (2).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $85,000,000 for fiscal year 1989 to carry out the National Science Foundation Academic Research Facilities Modernization Program. Such sums shall be available for that Program every year thereafter subject to the authorizations and appropriations of activities for the National Science Foundation.

42 USC 1862b.

SEC. 6403. NATIONAL SCIENCE FOUNDATION COLLEGE SCIENCE INSTRUMENTATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in revitalizing the Nation's academic instructional instrumentation at colleges.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out the College Science Instrumentation Program, under which awards are made only to two-year and community colleges and four-year, non-Ph.D. degree-granting institutions or consortia thereof for the purchase of instructional instrumentation.

(c) PROJECTS AND FUNDING.—(1) The College Science Instrumentation Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(1) which involve the purchase and replacement (as appropriate) of specific instructional instrumentation at the institutions involved, and

(2) for which funds are awarded in response to specific proposals submitted by such institutions or consortia thereof on a competitive basis in accordance with regulations prescribed by the Director of the Foundation with the objective of carrying out the purposes of this Act.

Regulations.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution or consortia thereof after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any academic institution will be in an amount equal to not more than 50 percent of the cost of the purchase and replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or from other non-Federal public or private sources).

(d) CRITERIA FOR AWARDS.—The National Science Foundation will evaluate proposals on the basis of the following criteria:

(1) PERFORMANCE COMPETENCE.—This criterion relates to the capacity of the investigator or investigators, the technical soundness of the proposed approach, the adequacy of the institutional resources available, and the proposed recent research/science education performance.

(2) INTRINSIC MERIT.—This criterion relates to the quality, currency, and significance of the scientific content and related instructional activity of the project within the context of undergraduate science, mathematics, and engineering education.

(3) UTILITY OR RELEVANCE.—This criterion relates to the impact the project will have at the proposing institution, and the relevance of the project in the local context.

(4) EFFECT ON THE INFRASTRUCTURE OF SCIENCE AND ENGINEERING.—This criterion relates to the potential of the proposed project to contribute to better understanding or improvement of the quality, distribution, effectiveness of the Nation's scientific and engineering research, education, and manpower base.

(e) CONSULTATIONS.—In prescribing regulations and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

(f) AUTHORIZATION OF APPROPRIATIONS.—Such sums shall be available for the College Science Instrumentation Program subject every year to the authorizations and appropriations for the National Science Foundation.

TITLE VII—BUY AMERICAN ACT OF 1988

Buy American Act of 1988. Contracts.

SEC. 7001. SHORT TITLE.

41 USC 10a note.

This title may be cited as the "Buy American Act of 1988".

SEC. 7002. AMENDMENTS TO THE BUY AMERICAN ACT.

Title III of the Act of March 3, 1933 (41 U.S.C. 10a–10d), is amended—

(1) by redesignating sections 4 and 5 as sections 5 and 6, respectively; and

41 USC 10c notes.

(2) by inserting after section 3 the following new section:

"SEC. 4. (a) A Federal agency shall not award any contract—

41 USC 10b–1. Minerals and mining.

"(1) for the procurement of an article, material, or supply mined, produced, or manufactured—

"(A) in a signatory country that is considered to be a signatory not in good standing of the Agreement pursuant to section 305(f)(3)(A) of the Trade Agreements Act of 1979; or

"(B) in a foreign country whose government maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of such Act; or

"(2) for the procurement of a service of any contractor or subcontractor that is a citizen or national of a foreign country identified by the President pursuant to section 305(f)(3)(A) or 305(g)(1)(A) of such Act, or is owned or controlled directly or indirectly by citizens or nationals of such a foreign country.

"(b) The prohibition on procurement in subsection (a) is subject to sections 305(h) and 305(j) of such Act and shall not apply—

"(1) with respect to services, articles, materials, or supplies procured and used outside the United States and its territories;

"(2) notwithstanding section 305(g) of such Act, to an eligible product of a country which is a signatory country unless that country is considered to be a signatory not in good standing pursuant to section 305(f)(3)(A) of such Act; or

"(3) notwithstanding section 305(g) of such Act, to a country that is a least developed country (as that term is defined in section 308(6) of that Act).

"(c) Notwithstanding subsection (a) of this section, the President or the head of a Federal agency may authorize the award of a

contract or class of contracts if the President or the head of the Federal agency—

"(1) determines that such action is necessary—

"(A) in the public interest;

"(B) to avoid the restriction of competition in a manner which would limit the procurement in question to, or would establish a preference for, the services, articles, materials, or supplies of a single manufacturer or supplier; or

"(C) because there would be or are an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices; and

"(2) notifies the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, and the appropriate committees of the House of Representatives, of such determination—

"(A) not less than 30 days prior to the date of the award of the contract or the date of authorization of the award of a class of contracts; or

"(B) if the agency's need for the service, article, material, or supply is of such urgency that the United States would be seriously injured by delaying the award or authorization, not more than 90 days after the date of such award or authorization.

"(d) The authority of the head of a Federal agency under subsection (c) shall not apply to contracts subject to memorandums of understanding entered into by the Department of Defense (or any military department) and a representative of a foreign country (or agency or instrumentality thereof). In the case of any such contracts, any determinations and notice required by subsection (c) shall be made by—

"(1) the President, or

"(2) if delegated, by the Secretary of Defense or the Secretary of the Army, Navy, or Air Force, subject to review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)).

"(e) The authority of the head of a Federal agency under subsection (c) or (d) of this section may not be delegated.

"(f) Nothing in this section shall restrict the application of the prohibition under section 302(a)(1) of the Trade Agreements Act of 1979.

"(g)(1) For purposes of this section with respect to construction services, a contractor or subcontractor is owned or controlled directly or indirectly by citizens or nationals of a foreign country if—

"(A) 50 percent or more of the voting stock of the contractor or subcontractor is owned by one or more citizens or nationals of the foreign country;

"(B) the title to 50 percent or more of the stock of the contractor or subcontractor is held subject to trust or fiduciary obligations in favor of one or more citizens or nationals of the foreign country;

"(C) 50 percent or more of the voting stock of the contractor or subcontractor is vested in or exercisable on behalf of one or more citizens or nationals of the foreign country;

"(D) the case of a corporation—

"(i) the number of its directors necessary to constitute a quorum are citizens or nationals of the foreign country; or

"(ii) the corporation is organized under the laws of the foreign country or any subdivision, territory, or possession thereof; or

"(E) in the case of a contractor or subcontractor who is a participant in a joint venture or a member of a partnership, any participant of the joint venture or partner meets any of the criteria in subparagraphs (A) through (D) of this paragraph.

"(2)(A) For purposes of this section, except as provided in paragraph (1), a determination of whether a contractor or subcontractor is a citizen or national of a foreign country or is owned or controlled directly or indirectly by citizens or nationals of a foreign country shall be made in accordance with policy guidance prescribed by the Administrator for Federal Procurement Policy after conducting one or more public hearings at which interested parties may present comments. Sections 556 and 557 of title 5, United States Code, shall not apply to the conduct of any such hearing.

"(B) The Administrator shall include in the policy guidance prescribed under subparagraph (A) definitions, procedures, standards, and rules that, to the extent the Administrator considers appropriate and consistent with the applicability of such policy guidance to all services (other than construction services), is the same as or similar to the definitions, procedures, standards, and rules that the Administrator has developed and issued for the administration of section 109 of the Treasury, Postal Service, and General Government Appropriations Act, 1988 (101 Stat. 1329-434).

"(C) The policy guidance required by subparagraph (A) shall be prescribed not later than 180 days after the date of enactment of this subsection.

"(3)(A) The Administrator for Federal Procurement Policy shall conduct an assessment of the current rules under this Act for making determinations of country of origin and alternatives to such rules. Such assessment shall identify and evaluate (i) reasonable alternatives to such rules of origin, including one or more alternative rules that require a determination on the basis of total cost, and (ii) the specific cost factors that should be included in determining total cost.

"(B) In conducting the analysis, the Administrator shall consult and seek comment from representatives of United States labor and business, other interested United States persons, and other Federal agencies. The Administrator shall hold public hearings for the purpose of obtaining such comment, and a transcript of such hearings shall be appended to the report required by subparagraph (C).

"(C) A report on the results of the analysis shall be submitted to the appropriate committees of the House of Representatives and to the Committee on Governmental Affairs and other appropriate committees of the Senate not later than 18 months after the date of enactment of this subsection. Such report shall include proposed policy guidance or any recommended legislative changes on the factors to be used in making determinations of country of origin. Reports.

"(h) As used in this section—

"(1) the term 'Agreement' means the Agreement on Government Procurement as defined in section 308(1) of the Trade Agreements Act of 1979;

"(2) the term 'signatory' means a party to the Agreement; and

"(3) the term 'eligible product' has the meaning given such term by section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)).".

President of U.S.

SEC. 7003. PROCEDURES TO PREVENT GOVERNMENT PROCUREMENT DISCRIMINATION.

Section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515) is amended by adding at the end thereof the following:

"(d) ANNUAL REPORT ON FOREIGN DISCRIMINATION.—

"(1) ANNUAL REPORT REQUIRED.—The President shall, no later than April 30, 1990, and annually on April 30 thereafter, submit to the appropriate committees of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, a report on the extent to which foreign countries discriminate against United States products or services in making government procurements.

"(2) IDENTIFICATIONS REQUIRED.—In the annual report, the President shall identify (and continue to identify subject to subsections (f)(5) and (g)(3)) any countries, other than least developed countries, that—

"(A) are signatories to the Agreement and not in compliance with the requirements of the Agreement;

"(B)(i) are signatories to the Agreement; (ii) are in compliance with the Agreement but, in the government procurement of products or services not covered by the Agreement, maintain a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government; or

"(C)(i) are not signatories to the Agreement; (ii) maintain, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government.

"(3) CONSIDERATIONS IN MAKING IDENTIFICATIONS.—In making the identifications required by paragraph (1), the President shall—

"(A) use the requirements of the Agreement, government procurement practices, and the effects of such practices on United States businesses as a basis for evaluating whether the procurement practices of foreign governments do not provide fair market opportunities for United States products or services;

"(B) take into account, among other factors, whether and to what extent countries that are signatories to the Agreement, and other countries described in paragraph (1) of this subsection—

"(i) use sole-sourcing or otherwise noncompetitive procedures for procurements that could have been conducted using competitive procedures;

"(ii) conduct what normally would have been one procurement as two or more procurements, to decrease the anticipated contract values below the Agreement's value threshold or to make the procurements less attractive to United States businesses;

"(iii) announce procurement opportunities with inadequate time intervals for United States businesses to submit bids; and

"(iv) use specifications in such a way as to limit the ability of United States suppliers to participate in procurements; and

"(C) use any other additional criteria deemed appropriate.

"(4) CONTENTS OF REPORTS.—The reports required by this subsection shall include, with respect to each country identified under subparagraph (A), (B), or (C) of paragraph (1), the following:

"(A) a description of the specific nature of the discrimination, including (for signatory countries) any provision of the Agreement with which the country is not in compliance;

"(B) an identification of the United States products or services that are affected by the noncompliance or discrimination;

"(C) an analysis of the impact of the noncompliance or discrimination on the commerce of the United States and the ability of United States companies to compete in foreign government procurement markets; and

"(D) a description of the status, action taken, and disposition of cases of noncompliance or discrimination identified in the preceding annual report with respect to such country.

"(5) INFORMATION AND ADVICE FROM GOVERNMENT AGENCIES AND UNITED STATES BUSINESSES.—In developing the annual reports required by this subsection, the President shall seek information and advice from executive agencies through the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and from United States businesses in the United States and in countries that are signatories to the Agreement and in other foreign countries whose products or services are acquired in significant amounts by the United States Government.

"(6) IMPACT OF NONCOMPLIANCE.—The President shall take into account, in identifying countries in the annual report and in any action required by this section, the relative impact of any noncompliance with the Agreement or of other discrimination on United States commerce and the extent to which such noncompliance or discrimination has impeded the ability of United States suppliers to participate in procurements on terms comparable to those available to suppliers of the country in question when seeking to sell goods or services to the United States Government.

"(7) IMPACT ON PROCUREMENT COSTS.—Such report shall also include an analysis of the impact on United States Government procurement costs that may occur as a consequence of any sanctions that may be required by subsection (f) or (g) of this section.

"(e) CONSULTATION.—No later than the date the annual report is submitted under subsection (d)(1), the United States Trade Representative, on behalf of the United States, shall request consultations with any countries identified in the report to obtain their compliance with the Agreement or the elimination of their discriminatory procurement practices unless the country is identified as

discriminatory pursuant to section 305(d)(1) in the preceding annual report.

"(f) PROCEDURES WITH RESPECT TO VIOLATIONS OF THE AGREEMENT.—

"(1) INITIATION OF DISPUTE SETTLEMENT PROCEDURES.—If, within 60 days after the annual report is submitted under subsection (d)(1), a signatory country identified pursuant to subsection (d)(1)(A) has not complied with the Agreement, then the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under the Agreement unless such proceedings are already underway pursuant to the identification of the signatory country under section 305(d)(1) as not in compliance in a preceding annual report.

"(2) SETTLEMENT OF DISPUTES.—If, before the end of a year following the initiation of dispute settlement procedures—

"(A) the other participant to the dispute settlement procedures has complied with the Agreement,

"(B) the other participant to the procedures takes the action recommended as a result of the procedures to the satisfaction of the President, or

"(C) the procedures result in a determination requiring no action by the other participant,

the President shall take no action to limit Government procurement from that participant.

"(3) SANCTIONS AFTER FAILURE OF DISPUTE RESOLUTION.—If the dispute settlement procedures initiated pursuant to this subsection with any signatory country to the Agreement are not concluded within one year from their initiation or the country has not met the requirements of paragraph (2)(A) or (2)(B), then—

"(A) from the end of such one year period, such signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country; and

"(B) on the day after the end of such one year period, the President shall revoke the waiver of discriminatory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act.

"(4) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanctions required by subparagraph (A) or (B) of paragraph (3) would harm the public interest of the United States, the President may, to the extent necessary to apply appropriate limitations that are equivalent, in their effect, to the noncompliance with the Agreement by that signatory country—

"(A) withhold the imposition of either (but not both) of such sanctions;

"(B) modify or restrict the application of either or both such sanctions, subject to such terms and conditions as the President considers appropriate; or

"(C) take any combination of the actions permitted by subparagraph (A) or (B) of this paragraph.

"(5) TERMINATION OF SANCTIONS AND REINSTATEMENT OF WAIVERS.—The President may terminate the sanctions imposed under paragraph (3) or (4), reinstate the waiver of discrimina-

tory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act, and remove that country from the report under subsection (d)(1) of this section at such time as the President determines that—

"(A) the signatory country has complied with the Agreement;

"(B) the signatory country has taken corrective action as a result of the dispute settlement procedures to the satisfaction of the President; or

"(C) the dispute settlement procedures result in a determination requiring no action by the other signatory country.

"(g) PROCEDURES WITH RESPECT TO OTHER DISCRIMINATION.—

"(1) IMPOSITION OF SANCTIONS.—If, within 60 days after the annual report is submitted under subsection (d)(1), a country that is identified pursuant to subparagraph (B) or (C) of such subsection has not eliminated their discriminatory procurement practices, then, on the day after the end of such 60-day period—

"(A) the President shall identify such country as a country that maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and

"(B) the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country.

"(2) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanction required by paragraph (1) would harm the public interest of the United States, the President may, to the extent necessary to impose appropriate limitations that are equivalent, in their effect, to the discrimination against United States products or services in government procurement by that country, modify or restrict the application of such sanction, subject to such terms and conditions as the President considers appropriate.

"(3) TERMINATION OF SANCTIONS.—The President may terminate the sanctions imposed under paragraph (1) or (2) and remove a country from the report under subsection (d)(1) at such time as the President determines that the country has eliminated the discrimination identified pursuant to subsection (d)(2)(B) or (C).

"(h) LIMITATIONS ON IMPOSING SANCTIONS.—

"(1) AVOIDING ADVERSE IMPACT ON COMPETITION.—The President shall not take any action under subsection (f) or (g) of this section if the President determines that such action—

"(A) would limit the procurement or class of procurements to, or would establish a preference for, the products or services of a single manufacturer or supplier; or

"(B) would, with respect to any procurement or class of procurements, result in an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices.

"(2) ADVICE FROM U.S. AGENCIES AND BUSINESSES.—The President, in taking any action under this subsection to limit government procurements from foreign countries, shall seek the advice of executive agencies through the interagency trade organization established under section 242(a) of the Trade

Expansion Act of 1962 and the advice of United States businesses and other interested parties.

"(i) RENEGOTIATION TO SECURE FULL AND OPEN COMPETITION.—The President shall instruct the United States Trade Representative, in conducting renegotiations of the Agreement, to seek improvements in the Agreement that will secure full and open competition consistent with the requirements imposed by the amendments made by the Competition in Contracting Act (Public Law 98-369; 98 Stat. 1175).

"(j) FEDERAL REGISTER NOTICES OF ACTIONS.—

"(1) NOTICES REQUIRED.—A notice shall be published in the Federal Register on the date of any action under this section, describing—

"(A) the results of dispute settlement proceedings under subsection (f)(2);

"(B) any sanction imposed under subsection (f)(3) or (g)(1);

"(C) any withholding, modification, or restriction of any sanction under subsection (f)(4) or (g)(2); and

"(D) the termination of any sanction under subsection (f)(5) or (g)(3).

"(2) PUBLICATION OF DETERMINATIONS LIFTING SANCTIONS.—A notice describing the termination of any sanction under subsection (f)(5) or (g)(3) shall include a copy of the President's determination under such subsection.

"(k) GENERAL REPORT ON ACTIONS UNDER THIS SECTION.—

"(1) ADVICE TO THE CONGRESS.—The President shall, as necessary, advise the Congress and, by no later than April 30, 1994, submit to the the appropriate committees of the House of Representatives, and to the Committee on Governmental Affairs and other appropriate committees of the Senate, a general report on actions taken pursuant to this section.

"(2) CONTENTS OF REPORT.—The general report required by this subsection shall include an evaluation of the adequacy and effectiveness of actions taken pursuant to subsections (e), (f), and (g) of this section as a means toward eliminating discriminatory government procurement practices against United States businesses.

"(3) LEGISLATIVE RECOMMENDATIONS.—The general report may also include, if appropriate, legislative recommendations for enhancing the usefulness of this section or for other measures to be used as means for eliminating or responding to discriminatory foreign government procurement practices.".

41 USC 10a note.

SEC. 7004. SUNSET PROVISION.

The amendments made by this title shall cease to be effective on April 30, 1996, unless the Congress, after reviewing the report required by section 305(k) of the Trade Agreements Act of 1979, and other relevant information, extends such date. After such date, the President may modify or terminate any or all actions taken pursuant to such amendments.

SEC. 7005. CONFORMING AMENDMENTS.

(a) DEFINITION OF FEDERAL AGENCY.—The first section of the Act of March 3, 1933 (41 U.S.C. 10c), is amended—

(1) by striking out the period at the end of paragraph (b) and inserting a semicolon; and

(2) by adding at the end thereof the following:

"(c) The term 'Federal agency' has the meaning given such term by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 472), which includes the Departments of the Army, Navy, and Air Force.

(b) AMENDMENTS TO SECTION 2.—Section 2 of such Act (41 U.S.C. 10a) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(c) AMENDMENTS TO SECTION 3.—Section 3 of such Act (41 U.S.C. 10b) is amended—

(1) by striking out "department or independent establishment" in such subsection and inserting "Federal agency"; and

(2) by striking out "department, bureau, agency, or independent establishment" in subsection (b) and inserting "Federal agency".

(d) ADDITIONAL CONFORMING AMENDMENTS.—Section 633 of the Act of October 29, 1949 (41 U.S.C. 10d) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(e) SECTION 301 WAIVER AUTHORITY.—Section 301 of the Trade Agreements Act of 1979 is amended by adding at the end thereof the following: 19 USC 2511.

"(d) LIMITATIONS ON WAIVER AUTHORITY NOT EFFECTIVE UNLESS PROVISION AMENDED.—The authority of the President under subsection (a) to waive any laws, regulation, procedure, or practice shall be effective notwithstanding any other provision of law hereafter enacted (excluding the provisions of and amendments made by the Buy American Act of 1988) unless such other provision specifically refers to and amends this section.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect upon enactment. 41 USC 10a note.

TITLE VIII—SMALL BUSINESS

Small Business International Trade and Competitiveness Act. 15 USC 631 note.

SEC. 8001. SHORT TITLE.

This title may be cited as the "Small Business International Trade and Competitiveness Act".

SEC. 8002. DECLARATION OF POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) through (e) as subsections (c) through (f), respectively, and by inserting after subsection (a) the following:

"(b)(1) It is the declared policy of the Congress that the Federal Government, through the Small Business Administration, acting in cooperation with the Department of Commerce and other relevant State and Federal agencies, should aid and assist small businesses, as defined under this Act, to increase their ability to compete in international markets by—

"(A) enhancing their ability to export;

"(B) facilitating technology transfers;

"(C) enhancing their ability to compete effectively and efficiently against imports;

"(D) increasing the access of small businesses to long-term capital for the purchase of new plant and equipment used in the production of goods and services involved in international trade;

"(E) disseminating information concerning State, Federal, and private programs and initiatives to enhance the ability of small businesses to compete in international markets; and

"(F) ensuring that the interests of small businesses are adequately represented in bilateral and multilateral trade negotiations.

"(2) The Congress recognizes that the Department of Commerce is the principal Federal agency for trade development and export promotion and that the Department of Commerce and the Small Business Administration work together to advance joint interests. It is the purpose of this Act to enhance, not alter, their respective roles.".

SEC. 8003. CHANGES IN EXISTING SMALL BUSINESS ADMINISTRATION INTERNATIONAL TRADE OFFICE.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) The Office, working in close cooperation with the Department of Commerce and other relevant Federal agencies, Small Business Development Centers engaged in export promotion efforts, regional and local Administration offices, the small business community, and relevant State and local export promotion programs, shall—

"(1) assist in developing a distribution network for existing trade promotion, trade finance, trade adjustment, trade remedy assistance and trade data collection programs through use of the Administration's regional and local offices and the Small Business Development Center network;

Marketing.

"(2) assist in the aggressive marketing of these programs and the dissemination of marketing information, including computerized marketing data, to the small business community; and

"(3) give preference in hiring or approving the transfer of any employee into the Office or to a position described in paragraph (8) below to otherwise qualified applicants who are fluent in a language in addition to English. Such employees shall accompany foreign trade missions if designated by the director of the Office and shall be available as needed to translate documents, interpret conversations and facilitate multilingual transactions including providing referral lists for translation services if required.";

(2) in subsection (c), as redesignated, by redesignating paragraphs (1) through (3) as (6) through (8), respectively, and by inserting the following before paragraph (6), as redesignated:

"(1) in cooperation with the Department of Commerce, other relevant agencies, regional and local Administration offices, the Small Business Development Center network, and State programs, develop a mechanism for (A) identifying sub-sectors of the small business community with strong export potential; (B) identifying areas of demand in foreign markets; (C) prescreening foreign buyers for commercial and credit purposes; and (D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;

"(2) in cooperation with the Department of Commerce, actively assist small businesses in the formation and utilization of export trading companies, export management companies and

research and development pools authorized under section 9 of this Act;

"(3) work in conjunction with other Federal agencies, regional and local offices of the Administration, the Small Business Development Center network, and the private sector to identify and publicize existing translation services, including those available through colleges and universities participating in the Small Business Development Center Program; Schools and colleges.

"(4) work closely with the Department of Commerce and other relevant Federal agencies to—

"(A) collect, analyze and periodically update relevant data regarding the small business share of United States exports and the nature of State exports (including the production of Gross State Produce figures) and disseminate that data to the public and to Congress; Public information.

"(B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the SIC codes to encompass industries currently overlooked and to create SIC codes for export trading companies and export management companies;

"(C) improve the utility and accessibility of existing export promotion programs for small businesses; and

"(D) increase the accessibility of the Export Trading Company contact facilitation service;

"(5) make available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector."; and

(3) by adding after subsection (c), as redesignated, the following new subsections:

"(d) The Office shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export specialists in the regional offices of the Administration, regional and local loan officers, and Small Business Development Center personnel can facilitate the access of small businesses to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector. To accomplish this goal, the Office shall work in cooperation with the Export-Import Bank and the small business community, including small business trade associations, to—

"(1) aggressively market existing Administration export financing and pre-export financing programs; Marketing.

"(2) identify financing available under various Export-Import Bank programs, and aggressively market those programs to small businesses;

"(3) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs;

"(4) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

"(5) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank.

"(e) The Office shall—

"(1) work in cooperation with other Federal agencies and the private sector to counsel small businesses with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

"(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small businesses.

Reports. "(f) The Office shall report to the Committees on Small Business of the House of Representatives and the Senate on an annual basis as to its progress in implementing the requirements under this section.

Reports. "(g) The Office, in cooperation, where appropriate, with the Division of Economic Research of the Office of Advocacy, and with other Federal agencies, shall undertake studies regarding the following issues and shall report to the Committees on Small Business of the House of Representatives and the Senate, and to other relevant Committees of the House and Senate within 6 months after the date of enactment of the Small Business International Trade and Competitiveness Act with specific recommendations on—

"(1) the viability and cost of establishing an annual, competitive small business export incentive program similar to the Small Business Innovation Research program and alternative methods of structuring such a program;

"(2) methods of streamlining trade remedy proceedings to increase access for, and reduce expenses incurred by, smaller firms;

"(3) methods of improving the current small business foreign sales corporation tax incentives and providing small businesses with greater benefits from this initiative;

"(4) methods of identifying potential export markets for United States small businesses; maintaining and disseminating current foreign market data; and devising a comprehensive export marketing strategy for United States small business goods and services, and shall include data on the volume and dollar amount of goods and services, identified by type, imported by United States trading partners over the past 10 years; and

"(5) the results of a survey of major United States trading partners to identify the domestic policies, programs and incentives, and the private sector initiatives, which exist to encourage the formation and growth of small business.".

15 USC 631 note. **SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.**

Section 20 of the Small Business Act (15 U.S.C. 631) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of fiscal years 1988 and 1989, $3,500,000 to carry out the provisions of section 22 of this Act and section 8011 of the Small Business International Trade and Competitiveness Act, of which $350,000 is authorized to reimburse volunteers in the Service Corps of Retired Executives for their expenses in performing on-site counseling to actual or potential small business exporters, in participating in training sessions for such small businesses, and in preparing materials for use at such training sessions or during counseling.".

SEC. 8005. EXPORT FINANCING PROVIDED BY THE ADMINISTRATION.

Section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) is amended to read as follows:

"(14)(A) The Administration under this subsection may provide extensions and revolving lines of credit for export purposes and for pre-export financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. No such extension or revolving line of credit may be made for a period or periods exceeding 18 months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable. Banks and banking.

"(B) When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market. Loans.

"(C) The Administration shall aggressively market its export financing program to small businesses.".

SEC. 8006. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) AUTHORIZATION OF APPROPRIATION.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of the fiscal years 1988 and 1989, $5,000,000 to carry out the provisions of section 21(a)(6).".

(b) SBDC INFORMATION DISSEMINATION AND SERVICE DELIVERY.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) in subsection (a)(1), by inserting after "enterprises;" the following: "management and technical assistance regarding small business participation in international markets, export promotion and technology transfer;";

(2) in subsection (a), by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting the following after paragraph (1):

"(2) The Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the Department of Commerce, appropriate Federal, State and local agencies and the small business community to serve as an active information dissemination and service delivery mechanism for existing trade promotion, trade finance, trade adjustment, trade remedy and trade data collection programs of particular utility for small businesses.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(6) Any applicant which is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to assist— Grants.

"(A) with the development and enhancement of exports by small business concerns; and

"(B) in technology transfer,

as provided under subparagraphs (B) through (G) of subsection (c)(3). Applicants for such additional grants shall comply with all of the provisions of this section, including providing matching funds, except that funding under this paragraph shall be

effective for any fiscal year to the extent provided in advance in appropriations Acts and shall be in addition to the dollar program limitations specified in paragraphs (4) and (5). No recipient of funds under this paragraph shall receive a grant which would exceed its pro rata share of a $15,000,000 program based upon the populations to be served by the Small Business Development Center as compared to the total population of the United States. The minimum amount of eligibility for any State shall be $100,000.";

State and local governments.

(4) in subsection (c)(3), by striking subparagraph (B) and by inserting the following new subparagraph (B):

Research and development.

"(B) assisting in technology transfer, research and development, including applied research, and coupling from existing sources to small businesses, including—

"(i) working to increase the access of small businesses to the capabilities of automated flexible manufacturing systems;

"(ii) working through existing networks and developing new networks for technology transfer that encourage partnership between the small business and academic communities to help commercialize university-based research and development and introduce university-based engineers and scientists to their counterparts in small technology-based firms; and

"(iii) exploring the viability of developing shared production facilities, under appropriate circumstances;";

(5) in subsection (c)(3), by redesignating subparagraphs (C) through (H) as subparagraphs (H) through (M), respectively, and by inserting the following new subparagraphs after subparagraph (B):

"(C) in cooperation with the Department of Commerce and other relevant Federal agencies, actively assisting small businesses in exporting by identifying and developing potential export markets, facilitating export transactions, developing linkages between United States small business firms and prescreened foreign buyers, assisting small businesses to participate in international trade shows, assisting small businesses in obtaining export financing, and facilitating the development or reorientation of marketing and production strategies; where appropriate, the Small Business Development Center may work in cooperation with the State to establish a State international trade center for these purposes;

State and local governments.

Marketing.

"(D) assisting small businesses in developing and implementing marketing and production strategies that will enable them to better compete within the domestic market;

"(E) developing a program in conjunction with the Export-Import Bank and local and regional Administration offices that will enable Small Business Development Centers to serve as an information network and to assist small business applicants for Export-Import Bank financing programs, and otherwise identify and help to make available export financing programs to small businesses;

"(F) working closely with the small business community, small business consultants, State agencies, universities and other appropriate groups to make translation services more

readily available to small business firms doing business, or attempting to develop business, in foreign markets;

"(G) in providing assistance under this subsection, applicants shall cooperate with the Department of Commerce and other relevant Federal agencies to increase access to available export market information systems, including the CIMS system;";

(6) in subsection (c), by adding the following new paragraphs:

State and local governments. Grants.

"(5) In any State (A) in which the Administration has not made a grant pursuant to paragraph (1) of subsection (a), or (B) in which no application for a grant has been made by a Small Business Development Center pursuant to paragraph (6) of such subsection within 60 days after the effective date of any grant under paragraph (a)(1) to such center, the Administration may make grants to a non-profit entity in that State to carry out the activities specified in paragraph (6) of subsection (a). Any such applicants shall comply with the matching funds requirement of paragraph (4) of subsection (a). Such grants shall be effective for any fiscal year only to the extent provided in advance in appropriations Acts, and each State shall be limited to the pro rata share provisions of paragraph (6) of subsection (a).

"(6) In performing the services identified in paragraph (3), the Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the local small business community, and appropriate State and local agencies.

"(7) The Deputy Associate Administrator of the Small Business Development Center program, in consultation with the Small Business Development Centers, shall develop and implement an information sharing system which will—

"(A) allow Small Business Development Centers participating in the program to exchange information about their programs; and

"(B) provide information central to technology transfer."; and

(7) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively, and inserting the following new subsection after subsection (c):

"(d) Where appropriate, the Small Business Development Centers shall work in conjunction with the relevant State agency and the Department of Commerce to develop a comprehensive plan for enhancing the export potential of small businesses located within the State. This plan may involve the cofunding and staffing of a State Office of International Trade within the State Small Business Development Center, using joint State and Federal funding, and any other appropriate measures directed at improving the export performance of small businesses within the State.".

SEC. 8007. CAPITAL FORMATION.

(a) LOAN LIMITATIONS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking "and" at the end of clause (i) of paragraph (2)(B) and by adding after clause (ii) the following new clauses:

"(iii) not less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and is less than $1,176,470; and

"(iv) less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and exceeds $1,176,470;";

(2) by amending paragraph (3) to read as follows:

"(3) No loan shall be made under this subsection—

"(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed $750,000, except as provided in subparagraph (B);

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,000,000, such amount to be in addition to any financing solely for working capital, supplies, or revolving lines of credit for export purposes up to a maximum of $250,000; and

Banks and banking.

"(C) if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed $350,000.";

(3) by adding the following new paragraphs after paragraph (15):

"(16)(A) The Administration may guarantee loans under this paragraph to assist any eligible small business concern in an industry engaged in or adversely affected by international trade in the financing of the acquisition, construction, renovation, modernization, improvement or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade, if the Administration determines that the appropriate upgrading of plant and equipment will allow the concern to improve its competitive position. Each such loan shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan. The lender shall agree to sell the loan in the secondary market as authorized in sections 5(f) and 5(g) of this Act within 180 days of the date of disbursement.

"(B) A small business concern shall be considered to be engaged in or adversely affected by international trade for purposes of this provision if such concern is, as determined by the Administration in accordance with regulations that it shall develop—

"(i) in a position to significantly expand existing export markets or develop new export markets; or

"(ii) adversely affected by import competition in that it is—

"(I) confronting increased direct competition with foreign firms in the relevant market; and

"(II) can demonstrate injury attributable to such competition.

Banks and banking.

"(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection."; and

(4) by redesignating the existing paragraph (16) as paragraph (18).

(b) DEVELOPMENT COMPANY LIMITS.—Section 502(2) of the Small Business Investment Act of 1985 (15 U.S.C. 636(a)(3)) is amended by striking "$500,000" and by inserting in lieu thereof "$750,000" 15 USC 696.

(c) REPORT.—The Administrator of the Small Business Administration shall report to the Committees on Small Business of the House of Representatives and the Senate within 6 months after the date of enactment of this title as to the viability of creating cooperative Federal-State guarantee programs, particularly for purposes of export financing, to encourage States to coinsure Federal loans, thus permitting the Federal Government to reduce its exposure. State and local governments. Loans.

SEC. 8008. SMALL BUSINESS INNOVATION RESEARCH. 15 USC 638 note.

Section 6 of Public Law 97-219, as amended by Public Law 99-443, is further amended by adding the following at the end of subsection (a): "The report also shall include the Comptroller General's recommendations as to the advisability of amending the Small Business Innovation Research program to— Reports.

"(1) increase each agency's share of research and development expenditures devoted to it by 0.25 per centum per year, until it is 3 per centum of the total extramural research and development funds, and targeting a portion of the increment at products with commercialization or export potential;

"(2) make the Small Business Innovation Research program permanent with a formal congressional review every 10 years, beginning in 1993;

"(3) allocate a modest but appropriate share of each agency's Small Business Innovation Research fund for administrative purposes for effective management, quality maintenance, and the elimination of program delays; and

"(4) include within the Small Business Innovation and Research program all agencies expending between $20,000,000 and $100,000,000 in extramural research and development funds annually.".

SEC. 8009. GLOBALIZATION OF PRODUCTION. Reports. 15 USC 631 note.

Within one year after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit a written report to the Committees on Small Business of the House of Representatives and the Senate, prepared by the Administration in conjunction with the Bureau of Census and in cooperation with other relevant agencies, that would—

(1) analyze to the extent possible the effect of increased outsourcing and other shifts in production arrangements on small firms, particularly manufacturing firms, within the United States subcontractor tier and to the extent that such data is not available determine methods by which such data may be collected;

(2) assess the impact of specific economic policies, including, but not limited to, procurement, tax and trade policies, in facilitating outsourcing and other international production arrangements; and

(3) make recommendations as to changes in Government policy that would improve the competitive position of smaller United States subcontractors, including recommendations as to incentives which could be provided to larger corporations to maximize their use of United States subcontractors and assist these subcontractors in changing production and marketing

strategies and in obtaining new business in domestic and foreign markets.

Reports.

SEC. 8010. SMALL BUSINESS TRADE REMEDY ASSISTANCE.

Not later than December 1, 1988, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Governmental Affairs and the Committee on Small Business of the Senate, as well as to other appropriate committees of the Senate, and to the Committee on Small Business and the Committee on Ways and Means of the House of Representatives on the costs incurred by small businesses in pursuing rights and remedies under the trade laws. Such report shall include an analysis of—

(1) the costs incurred by small businesses (and trade associations whose membership is primarily small business) in pursuing investigations under the trade remedy laws, including—

(A) antidumping investigations and proceedings under title VII of the Tariff Act of 1930;

(B) countervailing duty investigations and proceedings under section 303 or title VII of the Tariff Act of 1930;

(C) unfair trade practice investigations under section 337 of the Tariff Act of 1930;

(D) investigations under chapter 1 of title III of the Tariff Act of 1974;

(E) import relief investigations under chapter 1 of title II of the Trade Act of 1974;

(F) market disruption investigations under section 406 of the Trade Act of 1974; and

(G) national security relief investigations under section 232 of the Trade Expansion Act of 1962;

(2) the extent of assistance and information provided by the Trade Remedy Assistance Office of the United States International Trade Commission;

(3) the ability of small businesses to generate the information and resources needed for such investigations; and

(4) the costs and benefits to the Federal Government of either—

(A) providing reimbursement to small businesses for legal expenses incurred in pursuing trade remedies; or

(B) providing direct legal assistance to small businesses.

15 USC 631 note.

SEC. 8011. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS.

(a) SEMINAR.—The Administration shall conduct a National Seminar on Small Business Exports within one year following enactment of this Act in order to develop recommendations designed to stimulate exports from small companies. The Seminar shall build upon the information collected by the Administration through previously conducted regional small business trade conferences.

(b) ASSISTANCE BY EXPERTS.—For the purpose of ascertaining facts and developing policy recommendations concerning the expansion of United States exports from small companies the Seminar shall bring together individuals who are experts in the fields of international trade and small business development and representatives of small businesses, associations, the labor community, academic institutions, and Federal, State and local governments.

(c) RECOMMENDATIONS CONCERNING UTILITY OF INTERNATIONAL CONFERENCE.—The Seminar shall specifically consider the utility of, and make recommendations regarding, a subsequent International Conference on Small Business and Trade that would—

(1) help establish linkages between United States small business owners and small business owners in foreign countries;

(2) enable United States small business owners to learn how others organize themselves for exporting; and

(3) foster greater consideration of small business concerns in the GATT.

SEC. 8012. TRADE NEGOTIATIONS. 15 USC 631 note.

It is the sense of the Congress that the interests of the small business community have not been adequately represented in trade policy formulation and in trade negotiations. Therefore, it is the sense of the Congress that the Administrator of the Small Business Administration should be appointed as a member of the Trade Policy Committee and that the United States Trade Representative should consult with the Small Business Administration and its Office of Advocacy in trade policy formulation and in trade negotiations.

Further, it is the sense of the Congress that the United States Trade Representative would better serve the needs of the small business community with full-time staff assistance with responsibilities for small business trade issues.

Further, it is the sense of the Congress that the United States Trade Representative should appoint a special trade assistant for small business.

SEC. 8013. PROMULGATION OF REGULATIONS. 15 USC 631 note.

Notwithstanding any law, rule, or regulation, the Small Business Administration shall promulgate final regulations to carry out the provisions of this title within six months after the date of enactment of this title.

SEC. 8014. EFFECTIVE DATE. 15 USC 631 note.

This title shall become effective on the date of its enactment.

TITLE IX—PATENTS

Subtitle A—Process Patents

Process Patent Amendments Act of 1988.

SEC. 9001. SHORT TITLE. 35 USC 1 note.

This subtitle may be cited as the "Process Patent Amendments Act of 1988".

SEC. 9002. RIGHTS OF OWNERS OF PATENTED PROCESSES.

Section 154 of title 35, United States Code, is amended by inserting after "United States" the following: "and, if the invention is a process, of the right to exclude others from using or selling throughout the United States, or importing into the United States, products made by that process,".

SEC. 9003. INFRINGEMENT FOR IMPORTATION, USE, OR SALE.

Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(g) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent. In an action for infringement of a process patent, no remedy may be granted for infringement on account of the noncommercial use or retail sale of a product unless there is no adequate remedy under this title for infringement on account of the importation or other use or sale of that product. A product which is made by a patented process will, for purposes of this title, not be considered to be so made after—

"(1) it is materially changed by subsequent processes; or

"(2) it becomes a trivial and nonessential component of another product.".

SEC. 9004. DAMAGES FOR INFRINGEMENT.

(a) LIMITATIONS AND OTHER REMEDIES.—Section 287 of title 35, United States Code, is amended—

(1) in the section heading by striking "**Limitation on damages**" and inserting "**Limitation on damages and other remedies**";

(2) by inserting "(a)" before "Patentees"; and

(3) by adding at the end the following:

"(b)(1) An infringer under section 271(g) shall be subject to all the provisions of this title relating to damages and injunctions except to the extent those remedies are modified by this subsection or section 9006 of the Process Patent Amendments Act of 1988. The modifications of remedies provided in this subsection shall not be available to any person who—

"(A) practiced the patented process;

"(B) owns or controls, or is owned or controlled by, the person who practiced the patented process; or

"(C) had knowledge before the infringement that a patented process was used to make the product the importation, use, or sale of which constitutes the infringement.

"(2) No remedies for infringement under section 271(g) of this title shall be available with respect to any product in the possession of, or in transit to, the person subject to liability under such section before that person had notice of infringement with respect to that product. The person subject to liability shall bear the burden of proving any such possession or transit.

Courts, U.S.

"(3)(A) In making a determination with respect to the remedy in an action brought for infringement under section 271(g), the court shall consider—

"(i) the good faith demonstrated by the defendant with respect to a request for disclosure,

"(ii) the good faith demonstrated by the plaintiff with respect to a request for disclosure, and

"(iii) the need to restore the exclusive rights secured by the patent.

"(B) For purposes of subparagraph (A), the following are evidence of good faith:

"(i) a request for disclosure made by the defendant;

"(ii) a response within a reasonable time by the person receiving the request for disclosure; and

Claims.

"(iii) the submission of the response by the defendant to the manufacturer, or if the manufacturer is not known, to the

supplier, of the product to be purchased by the defendant, together with a request for a written statement that the process claimed in any patent disclosed in the response is not used to produce such product.

The failure to perform any acts described in the preceding sentence is evidence of absence of good faith unless there are mitigating circumstances. Mitigating circumstances include the case in which, due to the nature of the product, the number of sources for the product, or like commercial circumstances, a request for disclosure is not necessary or practicable to avoid infringement.

"(4)(A) For purposes of this subsection, a 'request for disclosure' means a written request made to a person then engaged in the manufacture of a product to identify all process patents owned by or licensed to that person, as of the time of the request, that the person then reasonably believes could be asserted to be infringed under section 271(g) if that product were imported into, or sold or used in, the United States by an unauthorized person. A request for disclosure is further limited to a request—

"(i) which is made by a person regularly engaged in the United States in the sale of the same type of products as those manufactured by the person to whom the request is directed, or which includes facts showing that the person making the request plans to engage in the sale of such products in the United States;

"(ii) which is made by such person before the person's first importation, use, or sale of units of the product produced by an infringing process and before the person had notice of infringement with respect to the product; and

"(iii) which includes a representation by the person making the request that such person will promptly submit the patents identified pursuant to the request to the manufacturer, or if the manufacturer is not known, to the supplier, of the product to be purchased by the person making the request, and will request from that manufacturer or supplier a written statement that none of the processes claimed in those patents is used in the manufacture of the product.

"(B) In the case of a request for disclosure received by a person to whom a patent is licensed, that person shall either identify the patent or promptly notify the licensor of the request for disclosure.

"(C) A person who has marked, in the manner prescribed by subsection (a), the number of the process patent on all products made by the patented process which have been sold by that person in the United States before a request for disclosure is received is not required to respond to the request for disclosure. For purposes of the preceding sentence, the term 'all products' does not include products made before the effective date of the Process Patent Amendments Act of 1988.

"(5)(A) For purposes of this subsection, notice of infringement means actual knowledge, or receipt by a person of a written notification, or a combination thereof, of information sufficient to persuade a reasonable person that it is likely that a product was made by a process patented in the United States.

"(B) A written notification from the patent holder charging a person with infringement shall specify the patented process alleged to have been used and the reasons for a good faith belief that such process was used. The patent holder shall include in the notification such information as is reasonably necessary to explain fairly the

patent holder's belief, except that the patent holder is not required to disclose any trade secret information.

"(C) A person who receives a written notification described in subparagraph (B) or a written response to a request for disclosure described in paragraph (4) shall be deemed to have notice of infringement with respect to any patent referred to in such written notification or response unless that person, absent mitigating circumstances—

"(i) promptly transmits the written notification or response to the manufacturer or, if the manufacturer is not known, to the supplier, of the product purchased or to be purchased by that person; and

"(ii) receives a written statement from the manufacturer or supplier which on its face sets forth a well grounded factual basis for a belief that the identified patents are not infringed.

"(D) For purposes of this subsection, a person who obtains a product made by a process patented in the United States in a quantity which is abnormally large in relation to the volume of business of such person or an efficient inventory level shall be rebuttably presumed to have actual knowledge that the product was made by such patented process.

"(6) A person who receives a response to a request for disclosure under this subsection shall pay to the person to whom the request was made a reasonable fee to cover actual costs incurred in complying with the request, which may not exceed the cost of a commercially available automated patent search of the matter involved, but in no case more than $500.".

(b) TECHNICAL AMENDMENT.—The item relating to section 287 of title 35, United States Code, in the table of sections for chapter 29 of such title is amended to read as follows:

"287. Limitation on damages and other remedies; marking and notice.".

SEC. 9005. PRESUMPTION IN CERTAIN INFRINGEMENT ACTIONS.

(a) PRESUMPTION THAT PRODUCT MADE BY PATENTED PROCESS.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following:

"§ 295. Presumption: Product made by patented process

"In actions alleging infringement of a process patent based on the importation, sale, or use of a product which is made from a process patented in the United States, if the court finds—

"(1) that a substantial likelihood exists that the product was made by the patented process, and

"(2) that the plaintiff has made a reasonable effort to determine the process actually used in the production of the product and was unable to so determine,

the product shall be presumed to have been so made, and the burden of establishing that the product was not made by the process shall be on the party asserting that it was not so made.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 294 the following:

"295. Presumption: Product made by patented process.".

35 USC 271 note.

SEC. 9006. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle take effect 6 months after the date of enactment of this Act and, subject

to subsections (b) and (c), shall apply only with respect to products made or imported after the effective date of the amendments made by this subtitle.

(b) EXCEPTIONS.—The amendments made by this subtitle shall not abridge or affect the right of any person or any successor in business of such person to continue to use, sell, or import any specific product already in substantial and continuous sale or use by such person in the United States on January 1, 1988, or for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investments made or business commenced in the United States before such date. This subsection shall not apply to any person or any successor in business of such person using, selling, or importing a product produced by a patented process that is the subject of a process patent enforcement action commenced before January 1, 1987, before the International Trade Commission, that is pending or in which an order has been entered.

(c) RETENTION OF OTHER REMEDIES.—The amendments made by this subtitle shall not deprive a patent owner of any remedies available under subsections (a) through (f) of section 271 of title 35, United States Code, under section 337 of the Tariff Act of 1930, or under any other provision of law.

SEC. 9007. REPORTS TO CONGRESS.

35 USC 271 note.

(a) CONTENTS.—The Secretary of Commerce shall, not later than the end of each 1-year period described in subsection (b), report to the Congress on the effect of the amendments made by this subtitle on those domestic industries that submit complaints to the Department of Commerce, during that 1-year period, alleging that their legitimate sources of supply have been adversely affected by the amendments made by this subtitle.

(b) WHEN SUBMITTED.—A report described in subsection (a) shall be submitted with respect to each of the five 1-year periods which occur successively beginning on the effective date of the amendments made by this subtitle and ending five years after that effective date.

Subtitle B—Foreign Filing

SEC. 9101. INCREASED EFFECTIVENESS OF PATENT LAW.

Patent Law Foreign Filing Amendments Act of 1988.
35 USC 1 note.

(a) SHORT TITLE.—This section may be cited as the "Patent Law Foreign Filing Amendments Act of 1988".

(b) FILING OF APPLICATIONS IN FOREIGN COUNTRIES.—(1) Section 184 of title 35, United States Code, is amended—

(A) in the third sentence by—

(i) striking out "inadvertently"; and

(ii) inserting "through error and without deceptive intent" after "filed abroad"; and

(B) by adding at the end thereof the following new paragraph:

"The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter if the application upon which the request for the license is based is not, or was not, required to be made available for inspection under section 181 of this title and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available

for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require the United States application to have been made available for inspection under such section 181.".

(2) Section 185 of title 35, United States Code, is amended by inserting immediately before the period in the last sentence the following: ", unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.".

(3) Section 186 of title 35, United States Code, is amended by inserting "willfully" after "whoever", the second place it appears.

35 USC 184 note.

(c) REGULATIONS.—The Commissioner of Patents and Trademarks shall prescribe such regulations as may be necessary to implement the amendments made by this section.

35 USC 184 note.

(d) EFFECTIVE DATE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the amendments made by this section shall apply to all United States patents granted before, on, or after the date of enactment of this section, to all applications for United States patents pending on or filed after such date of enactment, and to all licenses under section 184 granted before, on, or after the date of enactment of this section.

(2) The amendments made by this section shall not affect any final decision made by a court or the Patent and Trademark Office before the date of enactment of this section with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

Claims.

(3) No United States patent granted before the date of enactment of this section shall abridge or affect the right of any person or his successors in business who made, purchased, or used, prior to such date of enactment, anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by this section and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this section, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment of this section, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before such date of enactment.

(4) The amendments made by this section shall not affect the right of any party in any case pending in court on the date of enactment of this section to have its rights or liabilities—

(A) under any patent before the court, or

(B) under any patent granted after such date of enactment which is related to the patent before the court by deriving priority rights under section 120 or 121 of title 35, United States Code, from a patent or an application for patent common to both patents,

determined on the basis of the substantive law in effect before the date of enactment of this section.

Subtitle C—Patent Term Extension

SEC. 9201. PATENT TERM EXTENSION.

Drugs and drug abuse.

(a) GENERAL RULE.—Except as provided in subsection (b), the term of United States Patent number 3,674,836 issued for the drug Lopid shall be extended in accordance with section 9202 for 3 years and 6 months from the date of its expiration.

(b) CONDITIONS.—

(1) No extension of the term of the patent described in subsection (a) may be made unless there has been submitted for the drug Lopid a supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug.

(2) If the Secretary of Health and Human Services makes a final determination, after the date of the enactment of this Act, disapproving the first supplemental new drug application submitted under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug Lopid—

(A) no extension shall be granted for the term of the patent under subsection (a) if the final determination of disapproval is issued before the date the term of the patent is extended under subsection (a), and

(B) if an extension has been granted under subsection (a) before the final determination of disapproval is issued, the extension shall be terminated as of the date of such disapproval.

The Secretary shall promptly notify the Commissioner of Patents and Trademarks of such a disapproval.

SEC. 9202. PROCEDURE.

Drugs and drug abuse.

(a) NOTICE.—To receive the patent term extension under section 9201(a), the owner of record of the patent shall notify the Commissioner of Patents and Trademarks before January 4, 1989, of the identity of the supplemental new drug application required under section 9201(b)(1).

(b) EXTENSION.—On receipt of the notice under subsection (a), the Commissioner shall, in accordance with section 9201, promptly issue to the owner of record of the patent a certificate of extension, under seal, stating the fact and length of the extension and indicating that such extension is limited to the subject matter of claim 1 (insofar as claim 1 is needed to cover the compound described in claim 6 and additionally insofar as claim 1 is needed to cover the pharmaceutically acceptable salts of the compound described in claim 6) and claim 6 of the patent. Such certificate shall be recorded in the official file of the patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice

Claims.

Records.

shall be published in the Official Gazette of the Patent and Trademark Office. If the extension of the term of the patent is to be terminated under section 9201(b), the Commissioner shall promptly issue a certificate of termination of extension, under seal, stating the fact that the patent term extension is terminated, effective on the date of the final determination that the supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act was disapproved. Such certificate shall be recorded in the official file of the patent and such certificate shall be considered as a part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.

Records.

TITLE X—OCEAN AND AIR TRANSPORTATION

Subtitle A—Foreign Shipping Practices

Foreign Shipping Practices Act of 1988.
Maritime affairs.
46 USC app. 1701 note.

SEC. 10001. SHORT TITLE.

This subtitle may be cited as the "Foreign Shipping Practices Act of 1988".

46 USC app. 1710a.

SEC. 10002. FOREIGN LAWS AND PRACTICES.

(a) DEFINITIONS.—For purposes of this section—

(1) "common carrier", "marine terminal operator", "non-vessel-operating common carrier", "ocean common carrier", "person", "shipper", "shippers' association", and "United States" have the meanings given each such term, respectively, in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702);

(2) "foreign carrier" means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States;

(3) "maritime services" means port-to-port carriage of cargo by the vessels operated by ocean common carriers;

(4) "maritime-related services" means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf;

(5) "United States carrier" means an ocean common carrier which operates vessels documented under the laws of the United States; and

(6) "United States oceanborne trade" means the carriage of cargo between the United States and a foreign country, whether direct or indirect, by an ocean common carrier.

(b) AUTHORITY TO CONDUCT INVESTIGATIONS.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country result in the existence of conditions that—

(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

(c) INVESTIGATIONS.—(1) Investigations under subsection (b) of this section may be initiated by the Commission on its own motion or on the petition of any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States.

(2) The Commission shall complete any such investigation and render a decision within 120 days after it is initiated, except that the Commission may extend such 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (b) of this section exists. Any notice providing such an extension shall clearly state the reasons for such extension.

(d) INFORMATION REQUESTS.—(1) In order to further the purposes of subsection (b) of this section, the Commission may, by order, require any person (including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate. The Commission may require that the response to any such order shall be made under oath. Such response shall be furnished in the form and within the time prescribed by the Commission.

(2) In an investigation under subsection (b) of this section, the Commission may issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other evidence.

(3) Notwithstanding any other provision of law, the Commission may, in its discretion, determine that any information submitted to it in response to a request under this subsection, or otherwise, shall not be disclosed to the public. Classified information.

(e) ACTION AGAINST FOREIGN CARRIERS.—(1) Whenever, after notice and opportunity for comment or hearing, the Commission determines that the conditions specified in subsection (b) of this section exist, the Commission shall take such action as it considers necessary and appropriate against any foreign carrier that is a contributing cause to, or whose government is a contributing cause to, such conditions, in order to offset such conditions. Such action may include—

(A) limitations on sailings to and from United States ports or on the amount or type of cargo carried;

(B) suspension, in whole or in part, of any or all tariffs filed with the Commission, including the right of an ocean common carrier to use any or all tariffs of conferences in United States trades of which it is a member for such period as the Commission specifies;

(C) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and Contracts.

(D) a fee, not to exceed $1,000,000 per voyage.

(2) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this subsection.

(3) Before a determination under this subsection becomes effective or a request is made under subsection (f) of this section, the determination shall be submitted immediately to the President who may, within 10 days after receiving such determination, disapprove the determination in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(f) ACTIONS UPON REQUEST OF THE COMMISSION.—Whenever the conditions specified in subsection (b) of this section are found by the Commission to exist, upon the request of the Commission—

(1) the collector of customs at any port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section; and

(2) the Secretary of the department in which the Coast Guard is operating shall deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section to any port or place in the United States or the navigable waters of the United States, or shall detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States.

(g) REPORT.—The Commission shall include in its annual report to Congress—

(1) a list of the twenty foreign countries which generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

(2) an analysis of conditions described in subsection (b) of this section being investigated or found to exist in foreign countries;

(3) any actions being taken by the Commission to offset such conditions;

(4) any recommendations for additional legislation to offset such conditions; and

(5) a list of petitions filed under subsection (c) of this section that the Commission rejected, and the reasons for each such rejection.

(h) The actions against foreign carriers authorized in subsections (e) and (f) of this section may be used in the administration and enforcement of section 13(b)(5) of the Shipping Act of 1984 (46 App. U.S.C. 1712(b)(5)) or section 19(1)(b) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876).

(i) Any rule, regulation or final order of the Commission issued under this section shall be reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28, United States Code.

SEC. 10003. MOBILE TRADE FAIRS.

(a) Section 212(B)(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122b(c)), is amended to read as follows:

"(c) In addition to any amounts appropriated to carry out trade promotion activities, the President may use foreign currencies owned by or owed to the United States to carry out this section.".

(b) For one year after the date of enactment of this Act, a vessel that is undergoing repair or retrofitting for use solely for mobile trade fair purposes is deemed to be out of commission under section 3302(e) of title 46, United States Code, during the repair or retrofitting. 46 USC 3302 note.

Subtitle B—International Air Transportation

SEC. 10011. MAXIMUM PERIOD FOR TAKING ACTION WITH RESPECT TO COMPLAINTS.

Section 2(b)(2) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)(2)) is amended—

(1) in the third sentence by striking out "but in no event may" and all that follows through "180 days" and inserting in lieu thereof "but the aggregate period for taking action under this subsection may not exceed 90 days"; and

(2) by inserting after the third sentence the following new sentence: "However, if on the last day of such 90-day period, the Secretary finds that—

"(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

"(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and

"(C) public interest requires additional time before the taking of action with respect to the complaint;

the Secretary may extend such 90-day period for not to exceed an additional 90 days.".

SEC. 10012. VIEWS OF THE DEPARTMENT OF COMMERCE AND OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)) is amended—

(1) by redesignating paragraph (3), and any references thereto, as paragraph (4);

(2) by striking out the last sentence of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) In considering any complaint, or in any proceedings under its own initiative, under this subsection, the Secretary shall—

"(A) solicit the views of the Department of State, the Department of Commerce, and the Office of the United States Trade Representative; and

"(B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.".

SEC. 10013. REPORTING ON ACTIONS TAKEN WITH RESPECT TO COMPLAINTS.

Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b) is amended by adding at the end thereof the following new subsection:

"(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to the complaint.".

Approved August 23, 1988.

LEGISLATIVE HISTORY—H.R. 4848:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 13, considered and passed House.
Aug. 2, 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 23, Presidential remarks.