

Union Calendar No. 200

103D CONGRESS
1ST SESSION

H. R. 3450

[Report No. 103-361, Parts I, II, and III]

A BILL

To implement the North American Free Trade Agreement.

NOVEMBER 15, 1993

The Committees on Agriculture, Foreign Affairs, Government Operations, the Judiciary, and Public Works and Transportation discharged: committed to the Committee of the Whole House on the State of the Union

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To implement the North American Free Trade Agreement.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 1993

Mr. ROSTENKOWSKI (as designee of the Majority Leader) (for himself and Mr. ARCHER) (as designee of the Minority Leader) (by request) introduced the following bill; which was referred jointly to the following committees for a period ending not later than November 15, 1993: Ways and Means, Agriculture, Banking, Finance and Urban Affairs, Energy and Commerce, Foreign Affairs, Government Operations, the Judiciary, and Public Works and Transportation

NOVEMBER 15, 1993

Reported from the Committee on Ways and Means

NOVEMBER 15, 1993

Reported adversely from the Committee on Banking, Finance and Urban Affairs

NOVEMBER 15, 1993

Reported from the Committee on Energy and Commerce

NOVEMBER 15, 1993

The Committees on Agriculture, Foreign Affairs, Government Operations, the Judiciary, and Public Works and Transportation discharged; committed to the Committee of the Whole House on the State of the Union

A BILL

To implement the North American Free Trade Agreement.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “North American Free Trade Agreement Implementation
6 Act”.

7 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title and table of contents.
- Sec. 2. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING
TO, THE NORTH AMERICAN FREE TRADE AGREEMENT

- Sec. 101. Approval and entry into force of the North American Free Trade Agreement.
- Sec. 102. Relationship of the Agreement to United States and State law.
- Sec. 103. Consultation and layover requirements for, and effective date of, proclaimed actions.
- Sec. 104. Implementing actions in anticipation of entry into force and initial regulations.
- Sec. 105. United States section of the NAFTA secretariat.
- Sec. 106. Appointments to chapter 20 panel proceedings.
- Sec. 107. Termination or suspension of United States-Canada Free-Trade Agreement.
- Sec. 108. Congressional intent regarding future accessions.
- Sec. 109. Effective dates; effect of termination of NAFTA status.

TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Rules of origin.
- Sec. 203. Drawback.
- Sec. 204. Customs user fees.
- Sec. 205. Enforcement.
- Sec. 206. Reliquidation of entries for NAFTA-origin goods.
- Sec. 207. Country of origin marking of NAFTA goods.
- Sec. 208. Protests against adverse origin determinations.
- Sec. 209. Exchange of information.
- Sec. 210. Prohibition on drawback for television picture tubes.
- Sec. 211. Monitoring of television and picture tube imports.
- Sec. 212. Title VI amendments.
- Sec. 213. Effective dates.

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND
SERVICES

Subtitle A—Safeguards

PART 1—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

- Sec. 301. Definitions.
- Sec. 302. Commencing of action for relief.
- Sec. 303. International Trade Commission action on petition.
- Sec. 304. Provision of relief.
- Sec. 305. Termination of relief authority.
- Sec. 306. Compensation authority.
- Sec. 307. Submission of petitions.
- Sec. 308. Special tariff provisions for Canadian fresh fruits and vegetables.
- Sec. 309. Price-based snapback for frozen concentrated orange juice.

PART 2—RELIEF FROM IMPORTS FROM ALL COUNTRIES

- Sec. 311. NAFTA article impact in import relief cases under the Trade Act of 1974.
- Sec. 312. Presidential action regarding NAFTA imports.

PART 3—GENERAL PROVISIONS

- Sec. 315. Provisional relief.
- Sec. 316. Monitoring.
- Sec. 317. Procedures concerning the conduct of International Trade Commission investigations.
- Sec. 318. Effective date.

Subtitle B—Agriculture

- Sec. 321. Agriculture.

Subtitle C—Intellectual Property

- Sec. 331. Treatment of inventive activity.
- Sec. 332. Rental rights in sound recordings.
- Sec. 333. Nonregistrability of misleading geographic indications.
- Sec. 334. Motion pictures in the public domain.
- Sec. 335. Effective dates.

Subtitle D—Temporary Entry of Business Persons

- Sec. 341. Temporary entry.
- Sec. 342. Effective date.

Subtitle E—Standards

PART 1—STANDARDS AND MEASURES

- Sec. 351. Standards and sanitary and phytosanitary measures.
- Sec. 352. Transportation.

PART 2—AGRICULTURAL STANDARDS

- Sec. 361. Agricultural technical and conforming amendments.

Subtitle F—Corporate Average Fuel Economy

- Sec. 371. Corporate average fuel economy.

Subtitle G—Government Procurement

Sec. 381. Government procurement.

TITLE IV—DISPUTE SETTLEMENT IN ANTIDUMPING AND
COUNTERVAILING DUTY CASES

Subtitle A—Organizational, Administrative, and Procedural Provisions
Regarding the Implementation of Chapter 19 of the Agreement

- Sec. 401. References in subtitle.
- Sec. 402. Organizational and administrative provisions.
- Sec. 403. Testimony and production of papers in extraordinary challenges.
- Sec. 404. Requests for review of determinations by competent investigating authorities of NAFTA countries.
- Sec. 405. Rules of procedure for panels and committees.
- Sec. 406. Subsidy negotiations.
- Sec. 407. Identification of industries facing subsidized imports.
- Sec. 408. Treatment of amendments to antidumping and countervailing duty law.

Subtitle B—Conforming Amendments and Provisions

- Sec. 411. Judicial review in antidumping duty and countervailing duty cases.
- Sec. 412. Conforming amendments to other provisions of the Tariff Act of 1930.
- Sec. 413. Consequential amendment to Free-Trade Agreement Act of 1988.
- Sec. 414. Conforming amendments to title 28, United States Code.
- Sec. 415. Effect of termination of NAFTA country status.
- Sec. 416. Effective date.

TITLE V—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND
OTHER PROVISIONS

Subtitle A—NAFTA Transitional Adjustment Assistance Program

- Sec. 501. Short title.
- Sec. 502. Establishment of NAFTA transitional adjustment assistance program.
- Sec. 503. Conforming amendments.
- Sec. 504. Authorization of appropriations.
- Sec. 505. Termination of transition program.
- Sec. 506. Effective date.
- Sec. 507. Treatment of self-employment assistance programs.

Subtitle B—Provisions Relating to Performance Under the Agreement

- Sec. 511. Discriminatory taxes.
- Sec. 512. Review of the operation and effects of the agreement.
- Sec. 513. Actions affecting United States cultural industries.
- Sec. 514. Report on impact of NAFTA on motor vehicle exports to Mexico.
- Sec. 515. Center for the study of western hemispheric trade.
- Sec. 516. Effective date.

Subtitle C—Funding

PART 1—CUSTOMS USER FEES

- Sec. 521. Fees for certain customs services.

PART 2—INTERNAL REVENUE CODE AMENDMENTS

- Sec. 522. Authority to disclose certain tax information to the United States customs service.
- Sec. 523. Use of electronic fund transfer system for collection of certain taxes.

Subtitle D—Implementation of NAFTA Supplemental Agreements

PART 1—AGREEMENTS RELATING TO LABOR AND ENVIRONMENT

- Sec. 531. Agreement on labor cooperation.
- Sec. 532. Agreement on environmental cooperation.
- Sec. 533. Agreement on Border Environment Cooperation Commission.

PART 2—NORTH AMERICAN DEVELOPMENT BANK AND RELATED PROVISIONS.

- Sec. 541. North American Development Bank.
- Sec. 542. Status, immunities, and privileges.
- Sec. 543. Community adjustment and investment program.
- Sec. 544. Definition.

TITLE VI—CUSTOMS MODERNIZATION

- Sec. 601. Reference.

Subtitle A—Improvements in Customs Enforcement

- Sec. 611. Penalties for violations of arrival, reporting, entry, and clearance requirements.
- Sec. 612. Failure to declare.
- Sec. 613. Customs testing laboratories; detention of merchandise.
- Sec. 614. Recordkeeping.
- Sec. 615. Examination of books and witnesses.
- Sec. 616. Judicial enforcement.
- Sec. 617. Review of protests.
- Sec. 618. Repeal of provision relating to reliquidation on account of fraud.
- Sec. 619. Penalties relating to manifests.
- Sec. 620. Unlawful unloading or transshipment.
- Sec. 621. Penalties for fraud, gross negligence, and negligence; prior disclosure.
- Sec. 622. Penalties for false drawback claims.
- Sec. 623. Interpretive rulings and decisions; public information.
- Sec. 624. Seizure authority.

Subtitle B—National Customs Automation Program

- Sec. 631. National Customs Automation Program.
- Sec. 632. Drawback and refunds.
- Sec. 633. Effective date of rates of duty.
- Sec. 634. Definitions.
- Sec. 635. Manifests.
- Sec. 636. Invoice contents.
- Sec. 637. Entry of merchandise.
- Sec. 638. Appraisement and other procedures.
- Sec. 639. Voluntary reliquidations.
- Sec. 640. Appraisement regulations.
- Sec. 641. Limitation on liquidation.
- Sec. 642. Payment of duties and fees.

- Sec. 643. Abandonment and damage.
- Sec. 644. Customs officer's immunity.
- Sec. 645. Protests.
- Sec. 646. Refunds and errors.
- Sec. 647. Bonds and other security.
- Sec. 648. Customhouse brokers.
- Sec. 649. Conforming amendments.

Subtitle C—Miscellaneous Amendments to the Tariff Act of 1930

- Sec. 651. Administrative exemptions.
- Sec. 652. Report of arrival.
- Sec. 653. Entry of vessels.
- Sec. 654. Unlawful return of foreign vessel papers.
- Sec. 655. Vessels not required to enter.
- Sec. 656. Unlading.
- Sec. 657. Declarations.
- Sec. 658. General orders.
- Sec. 659. Unclaimed merchandise.
- Sec. 660. Destruction of merchandise.
- Sec. 661. Proceeds of sale.
- Sec. 662. Entry under regulations.
- Sec. 663. American trademarks.
- Sec. 664. Simplified recordkeeping for merchandise transported by pipeline.
- Sec. 665. Entry for warehouse.
- Sec. 666. Cartage.
- Sec. 667. Seizure.
- Sec. 668. Limitation on actions.
- Sec. 669. Collection of fees on behalf of other agencies.
- Sec. 670. Authority to settle claims.
- Sec. 671. Use of private collection agencies.

Subtitle D—Miscellaneous Provisions and Consequential and Conforming
Amendments to Other Laws

- Sec. 681. Amendments to the Harmonized Tariff Schedule.
- Sec. 682. Customs personnel airport work shift regulation.
- Sec. 683. Use of harbor maintenance trust fund amounts for administrative ex-
penses.
- Sec. 684. Amendments to title 28, United States Code.
- Sec. 685. Treasury forfeiture fund.
- Sec. 686. Amendments to the Revised Statutes of the United States.
- Sec. 687. Amendments to title 18, United States Code.
- Sec. 688. Amendment to the Act to Prevent Pollution from Ships.
- Sec. 689. Miscellaneous technical amendments.
- Sec. 690. Repeal of obsolete provisions of law.
- Sec. 691. Reports to Congress.
- Sec. 692. Effective date.

1 SEC. 2. DEFINITIONS.

2 For purposes of this Act:

1 (1) AGREEMENT.—The term “Agreement”
2 means the North American Free Trade Agreement
3 approved by the Congress under section 101(a).

4 (2) HTS.—The term “HTS” means the Har-
5 monized Tariff Schedule of the United States.

6 (3) MEXICO.—Any reference to Mexico shall be
7 considered to be a reference to the United Mexican
8 States.

9 (4) NAFTA COUNTRY.—Except as provided in
10 section 202, the term “NAFTA country” means—

11 (A) Canada for such time as the Agree-
12 ment is in force with respect to, and the United
13 States applies the Agreement to, Canada; and

14 (B) Mexico for such time as the Agreement
15 is in force with respect to, and the United
16 States applies the Agreement to, Mexico.

17 (5) INTERNATIONAL TRADE COMMISSION.—The
18 term “International Trade Commission” means the
19 United States International Trade Commission.

20 (6) TRADE REPRESENTATIVE.—The term
21 “Trade Representative” means the United States
22 Trade Representative.

1 **TITLE I—APPROVAL OF, AND**
2 **GENERAL PROVISIONS RE-**
3 **LATING TO, THE NORTH**
4 **AMERICAN FREE TRADE**
5 **AGREEMENT**

6 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**
7 **NORTH AMERICAN FREE TRADE AGREEMENT.**

8 (a) APPROVAL OF AGREEMENT AND STATEMENT OF
9 ADMINISTRATIVE ACTION.—Pursuant to section 1103 of
10 the Omnibus Trade and Competitiveness Act of 1988 (19
11 U.S.C. 2903) and section 151 of the Trade Act of 1974
12 (19 U.S.C. 2191), the Congress approves—

13 (1) the North American Free Trade Agreement
14 entered into on December 17, 1992, with the Gov-
15 ernments of Canada and Mexico and submitted to
16 the Congress on November 4, 1993; and

17 (2) the statement of administrative action pro-
18 posed to implement the Agreement that was submit-
19 ted to the Congress on November 4, 1993.

20 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE
21 AGREEMENT.—The President is authorized to exchange
22 notes with the Government of Canada or Mexico providing
23 for the entry into force, on or after January 1, 1994, of
24 the Agreement for the United States with respect to such
25 country at such time as—

1 (1) the President—

2 (A) determines that such country has im-
3 plemented the statutory changes necessary to
4 bring that country into compliance with its obli-
5 gations under the Agreement and has made
6 provision to implement the Uniform Regula-
7 tions provided for under article 511 of the
8 Agreement regarding the interpretation, appli-
9 cation, and administration of the rules of ori-
10 gin, and

11 (B) transmits a report to the House of
12 Representatives and the Senate setting forth
13 the determination under subparagraph (A) and
14 including, in the case of Mexico, a description
15 of the specific measures taken by that country
16 to—

17 (i) bring its laws into conformity with
18 the requirements of the Schedule of Mexico
19 in Annex 1904.15 of the Agreement, and

20 (ii) otherwise ensure the effective im-
21 plementation of the binational panel review
22 process under chapter 19 of the Agreement
23 regarding final antidumping and counter-
24 vailing duty determinations; and

1 (2) the Government of such country exchanges
2 notes with the United States providing for the entry
3 into force of the North American Agreement on En-
4 vironmental Cooperation and the North American
5 Agreement on Labor Cooperation for that country
6 and the United States.

7 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**
8 **STATES AND STATE LAW.**

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

11 (1) UNITED STATES LAW TO PREVAIL IN CON-
12 FFLICT.—No provision of the Agreement, nor the ap-
13 plication of any such provision to any person or cir-
14 cumstance, which is inconsistent with any law of the
15 United States shall have effect.

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

18 (A) to amend or modify any law of the
19 United States, including any law regarding—

20 (i) the protection of human, animal,
21 or plant life or health,

22 (ii) the protection of the environment,

23 or

24 (iii) motor carrier or worker safety; or

1 (B) to limit any authority conferred under
2 any law of the United States, including section
3 301 of the Trade Act of 1974;

4 unless specifically provided for in this Act.

5 (b) RELATIONSHIP OF AGREEMENT TO STATE
6 LAW.—

7 (1) FEDERAL-STATE CONSULTATION.—

8 (A) IN GENERAL.—Upon the enactment of
9 this Act, the President shall, through the inter-
10 governmental policy advisory committees on
11 trade established under section 306(c)(2)(A) of
12 the Trade and Tariff Act of 1984, consult with
13 the States for the purpose of achieving con-
14 formity of State laws and practices with the
15 Agreement.

16 (B) FEDERAL-STATE CONSULTATION
17 PROCESS.—The Trade Representative shall es-
18 tablish within the Office of the United States
19 Trade Representative a Federal-State consulta-
20 tion process for addressing issues relating to
21 the Agreement that directly relate to, or will po-
22 tentially have a direct impact on, the States.
23 The Federal-State consultation process shall in-
24 clude procedures under which—

1 (i) the Trade Representative will as-
2 sist the States in identifying those State
3 laws that may not conform with the Agree-
4 ment but may be maintained under the
5 Agreement by reason of being in effect be-
6 fore the Agreement entered into force;

7 (ii) the States will be informed on a
8 continuing basis of matters under the
9 Agreement that directly relate to, or will
10 potentially have a direct impact on, the
11 States;

12 (iii) the States will be provided oppor-
13 tunity to submit, on a continuing basis, to
14 the Trade Representative information and
15 advice with respect to matters referred to
16 in clause (ii);

17 (iv) the Trade Representative will
18 take into account the information and ad-
19 vice received from the States under clause
20 (iii) when formulating United States posi-
21 tions regarding matters referred to in
22 clause (ii); and

23 (v) the States will be involved (includ-
24 ing involvement through the inclusion of
25 appropriate representatives of the States)

1 to the greatest extent practicable at each
2 stage of the development of United States
3 positions regarding matters referred to in
4 clause (ii) that will be addressed by com-
5 mittees, subcommittees, or working groups
6 established under the Agreement or
7 through dispute settlement processes pro-
8 vided for under the Agreement.

9 The Federal Advisory Committee Act (5 U.S.C.
10 App.) shall not apply to the Federal-State consulta-
11 tion process established by this paragraph.

12 (2) LEGAL CHALLENGE.—No State law, or the
13 application thereof, may be declared invalid as to
14 any person or circumstance on the ground that the
15 provision or application is inconsistent with the
16 Agreement, except in an action brought by the Unit-
17 ed States for the purpose of declaring such law or
18 application invalid.

19 (3) DEFINITION OF STATE LAW.—For purposes
20 of this subsection, the term “State law” includes—

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

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

1 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-
2 VATE REMEDIES.—No person other than the United
3 States—

4 (1) shall have any cause of action or defense
5 under—

6 (A) the Agreement or by virtue of Congres-
7 sional approval thereof, or

8 (B) the North American Agreement on
9 Environmental Cooperation or the North Amer-
10 ican Agreement on Labor Cooperation; or

11 (2) may challenge, in any action brought under
12 any provision of law, any action or inaction by any
13 department, agency, or other instrumentality of the
14 United States, any State, or any political subdivision
15 of a State on the ground that such action or inaction
16 is inconsistent with the Agreement, the North Amer-
17 ican Agreement on Environmental Cooperation, or
18 the North American Agreement on Labor Coopera-
19 tion.

20 **SEC. 103. CONSULTATION AND LAYOVER REQUIREMENTS**
21 **FOR, AND EFFECTIVE DATE OF, PROCLAIMED**
22 **ACTIONS.**

23 (a) CONSULTATION AND LAYOVER REQUIRE-
24 MENTS.—If a provision of this Act provides that the imple-
25 mentation of an action by the President by proclamation

1 is subject to the consultation and layover requirements of
2 this section, such action may be proclaimed only if—

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

5 (A) the appropriate advisory committees
6 established under section 135 of the Trade Act
7 of 1974, and

8 (B) the International Trade Commission;

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

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

15 (B) the advice obtained under paragraph
16 (1);

17 (3) a period of 60 calendar days, beginning
18 with the first day on which the President has met
19 the requirements of paragraphs (1) and (2) with re-
20 spect to such action, has expired; and

21 (4) the President has consulted with such Com-
22 mittees regarding the proposed action during the pe-
23 riod referred to in paragraph (3).

24 (b) EFFECTIVE DATE OF CERTAIN PROCLAIMED AC-
25 TIONS.—Any action proclaimed by the President under the

1 authority of this Act that is not subject to the consultation
2 and layover requirements under subsection (a) may not
3 take effect before the 15th day after the date on which
4 the text of the proclamation is published in the Federal
5 Register.

6 **SEC. 104. IMPLEMENTING ACTIONS IN ANTICIPATION OF**
7 **ENTRY INTO FORCE AND INITIAL REGULA-**
8 **TIONS.**

9 (a) IMPLEMENTING ACTIONS.—After the date of the
10 enactment of this Act—

11 (1) the President may proclaim such actions;
12 and

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

15 as may be necessary to ensure that any provision of this
16 Act, or amendment made by this Act, that takes effect
17 on the date the Agreement enters into force is appro-
18 priately implemented on such date, but no such proclama-
19 tion or regulation may have an effective date earlier than
20 the date of entry into force. The 15-day restriction in sec-
21 tion 103(b) on the taking effect of proclaimed actions is
22 waived to the extent that the application of such restric-
23 tion would prevent the taking effect on the date the Agree-
24 ment enters into force of any action proclaimed under this
25 section.

1 (b) INITIAL REGULATIONS.—Initial regulations nec-
2 essary or appropriate to carry out the actions proposed
3 in the statement of administrative action submitted under
4 section 101(a)(2) to implement the Agreement shall, to
5 the maximum extent feasible, be issued within 1 year after
6 the date of entry into force of the Agreement; except that
7 interim or initial regulations to implement those Uniform
8 Regulations regarding rules of origin provided for under
9 article 511 of the Agreement shall be issued no later than
10 the date of entry into force of the Agreement. In the case
11 of any implementing action that takes effect on a date
12 after the date of entry into force of the Agreement, initial
13 regulations to carry out that action shall, to the maximum
14 extent feasible, be issued within 1 year after such effective
15 date.

16 **SEC. 105. UNITED STATES SECTION OF THE NAFTA SEC-**
17 **RETARIAT.**

18 (a) ESTABLISHMENT OF THE UNITED STATES SEC-
19 TION.—The President is authorized to establish within
20 any department or agency of the United States Govern-
21 ment a United States Section of the Secretariat estab-
22 lished under chapter 20 of the Agreement. The United
23 States Section, subject to the oversight of the interagency
24 group established under section 402, shall carry out its
25 functions within the Secretariat to facilitate the operation

1 of the Agreement, including the operation of chapters 19
2 and 20 of the Agreement and the work of the panels, ex-
3 traordinary challenge committees, special committees, and
4 scientific review boards convened under those chapters.
5 The United States Section may not be considered to be
6 an agency for purposes of section 552 of title 5, United
7 States Code.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated for each fiscal year after
10 fiscal year 1993 to the department or agency within which
11 the United States Section is established the lesser of—

12 (1) such sums as may be necessary; or

13 (2) \$2,000,000;

14 for the establishment and operations of the United States
15 Section and for the payment of the United States share
16 of the expenses of binational panels and extraordinary
17 challenge committees convened under chapter 19, and of
18 the expenses incurred in dispute settlement proceedings
19 under chapter 20, of the Agreement.

20 (c) REIMBURSEMENT OF CERTAIN EXPENSES.—If,
21 in accordance with Annex 2002.2 of the Agreement, the
22 Canadian Section or the Mexican Section of the Secretar-
23 iat provides funds to the United States Section during any
24 fiscal year, as reimbursement for expenses by the Cana-
25 dian Section or the Mexican Section in connection with

1 settlement proceedings under chapter 19 or 20 of the
2 Agreement, the United States Section may retain and use
3 such funds to carry out the functions described in sub-
4 section (a).

5 **SEC. 106. APPOINTMENTS TO CHAPTER 20 PANEL PRO-**
6 **CEEDINGS.**

7 (a) CONSULTATION.—The Trade Representative shall
8 consult with the Committee on Ways and Means of the
9 House of Representatives and the Committee on Finance
10 of the Senate regarding the selection and appointment of
11 candidates for the rosters described in article 2009 of the
12 Agreement.

13 (b) SELECTION OF INDIVIDUALS WITH ENVIRON-
14 MENTAL EXPERTISE.—The United States shall, to the
15 maximum extent practicable, encourage the selection of in-
16 dividuals who have expertise and experience in environ-
17 mental issues for service in panel proceedings under chap-
18 ter 20 of the Agreement to hear any challenge to a United
19 States or State environmental law.

20 **SEC. 107. TERMINATION OR SUSPENSION OF UNITED**
21 **STATES-CANADA FREE-TRADE AGREEMENT.**

22 Section 501(c) of the United States-Canada Free-
23 Trade Implementation Act of 1988 (19 U.S.C. 2112 note)
24 is amended to read as follows:

1 “(c) TERMINATION OR SUSPENSION OF AGREE-
2 MENT.—

3 “(1) TERMINATION OF AGREEMENT.—On the
4 date the Agreement ceases to be in force, the provi-
5 sions of this Act (other than this paragraph and sec-
6 tion 410(b)), and the amendments made by this Act,
7 shall cease to have effect.

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

13 “(3) SUSPENSION RESULTING FROM NAFTA.—
14 On the date the United States and Canada agree to
15 suspend the operation of the Agreement by reason of
16 the entry into force between them of the North
17 American Free Trade Agreement, the following pro-
18 visions of this Act are suspended and shall remain
19 suspended until such time as the suspension of the
20 Agreement may be terminated:

21 “(A) Sections 204(a) and (b) and 205(a).

22 “(B) Sections 302 and 304(f).

23 “(C) Sections 404, 409, and 410(b).”.

1 **SEC. 108. CONGRESSIONAL INTENT REGARDING FUTURE**
2 **ACCESSIONS.**

3 (a) IN GENERAL.—Section 101(a) may not be con-
4 strued as conferring Congressional approval of the entry
5 into force of the Agreement for the United States with
6 respect to countries other than Canada and Mexico.

7 (b) FUTURE FREE TRADE AREA NEGOTIATIONS.—

8 (1) FINDINGS.—The Congress makes the fol-
9 lowing findings:

10 (A) Efforts by the United States to obtain
11 greater market opening through multilateral ne-
12 gotiations have not produced agreements that
13 fully satisfy the trade negotiating objectives of
14 the United States.

15 (B) United States trade policy should pro-
16 vide for additional mechanisms with which to
17 pursue greater market access for United States
18 exports of goods and services and opportunities
19 for export-related investment by United States
20 persons.

21 (C) Among the additional mechanisms
22 should be a system of bilateral and multilateral
23 trade agreements that provide greater market
24 access for United States exports and opportuni-
25 ties for export-related investment by United
26 States persons.

1 (D) The system of trade agreements can
2 and should be structured to be consistent with,
3 and complementary to, existing international
4 obligations of the United States and ongoing
5 multilateral efforts to open markets.

6 (2) REPORT ON SIGNIFICANT MARKET OPEN-
7 ING.—No later than May 1, 1994, and May 1, 1997,
8 the Trade Representative shall submit to the Presi-
9 dent, and to the Committee on Finance of the Sen-
10 ate and the Committee on Ways and Means of the
11 House of Representatives (hereafter in this section
12 referred to as the “appropriate Congressional com-
13 mittees”), a report which lists those foreign coun-
14 tries—

15 (A) that—

16 (i) currently provide fair and equitable
17 market access for United States exports of
18 goods and services and opportunities for
19 export-related investment by United States
20 persons, beyond what is required by exist-
21 ing multilateral trade agreements or obli-
22 gations; or

23 (ii) have made significant progress in
24 opening their markets to United States ex-
25 ports of goods and services and export-re-

1 lated investment by United States persons;
2 and

3 (B) the further opening of whose markets
4 has the greatest potential to increase United
5 States exports of goods and services and export-
6 related investment by United States persons, ei-
7 ther directly or through the establishment of a
8 beneficial precedent.

9 (3) PRESIDENTIAL DETERMINATION.—The
10 President, on the basis of the report submitted by
11 the Trade Representative under paragraph (2), shall
12 determine with which foreign country or countries, if
13 any, the United States should seek to negotiate a
14 free trade area agreement or agreements.

15 (4) RECOMMENDATIONS ON FUTURE FREE
16 TRADE AREA NEGOTIATIONS.—No later than July 1,
17 1994, and July 1, 1997, the President shall submit
18 to the appropriate Congressional committees a writ-
19 ten report that contains—

20 (A) recommendations for free trade area
21 negotiations with each foreign country selected
22 under paragraph (3);

23 (B) with respect to each country selected,
24 the specific negotiating objectives that are nec-

1 essary to meet the objectives of the United
2 States under this section; and

3 (C) legislative proposals to ensure ade-
4 quate consultation with the Congress and the
5 private sector during the negotiations, advance
6 Congressional approval of the negotiations rec-
7 ommended by the President, and Congressional
8 approval of any trade agreement entered into
9 by the President as a result of the negotiations.

10 (5) GENERAL NEGOTIATING OBJECTIVES.—The
11 general negotiating objectives of the United States
12 under this section are to obtain—

13 (A) preferential treatment for United
14 States goods;

15 (B) national treatment and, where appro-
16 prium, equivalent competitive opportunity for
17 United States services and foreign direct invest-
18 ment by United States persons;

19 (C) the elimination of barriers to trade in
20 goods and services by United States persons
21 through standards, testing, labeling, and certifi-
22 cation requirements;

23 (D) nondiscriminatory government pro-
24 curement policies and practices with respect to
25 United States goods and services;

1 (E) the elimination of other barriers to
2 market access for United States goods and
3 services, and the elimination of barriers to for-
4 eign direct investment by United States per-
5 sons;

6 (F) the elimination of acts, policies, and
7 practices which deny fair and equitable market
8 opportunities, including foreign government tol-
9 eration of anticompetitive business practices by
10 private firms or among private firms that have
11 the effect of restricting, on a basis that is in-
12 consistent with commercial considerations, pur-
13 chasing by such firms of United States goods
14 and services;

15 (G) adequate and effective protection of in-
16 tellectual property rights of United States per-
17 sons, and fair and equitable market access for
18 United States persons that rely upon intellec-
19 tual property protection;

20 (H) the elimination of foreign export and
21 domestic subsidies that distort international
22 trade in United States goods and services or
23 cause material injury to United States indus-
24 tries;

25 (I) the elimination of all export taxes;

1 (J) the elimination of acts, policies, and
2 practices which constitute export targeting; and

3 (K) monitoring and effective dispute settle-
4 ment mechanisms to facilitate compliance with
5 the matters described in subparagraphs (A)
6 through (J).

7 **SEC. 109. EFFECTIVE DATES; EFFECT OF TERMINATION OF**
8 **NAFTA STATUS.**

9 (a) EFFECTIVE DATES.—

10 (1) IN GENERAL.—This title (other than the
11 amendment made by section 107) takes effect on the
12 date of the enactment of this Act.

13 (2) SECTION 107 AMENDMENT.—The amend-
14 ment made by section 107 takes effect on the date
15 the Agreement enters into force between the United
16 States and Canada.

17 (b) TERMINATION OF NAFTA STATUS.—During any
18 period in which a country ceases to be a NAFTA country,
19 sections 101 through 106 shall cease to have effect with
20 respect to such country.

21 **TITLE II—CUSTOMS PROVISIONS**

22 **SEC. 201. TARIFF MODIFICATIONS.**

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

1 (1) PROCLAMATION AUTHORITY.—The Presi-
2 dent may proclaim—

3 (A) such modifications or continuation of
4 any duty,

5 (B) such continuation of duty-free or ex-
6 cise treatment, or

7 (C) such additional duties,

8 as the President determines to be necessary or ap-
9 propriate to carry out or apply articles 302, 305,
10 307, 308, and 703 and Annexes 302.2, 307.1,
11 308.1, 308.2, 300-B, 703.2, and 703.3 of the Agree-
12 ment.

13 (2) EFFECT ON MEXICAN GSP STATUS.—Not-
14 withstanding section 502(a)(2) of the Trade Act of
15 1974 (19 U.S.C. 2462(a)(2)), the President shall
16 terminate the designation of Mexico as a beneficiary
17 developing country for purposes of title V of the
18 Trade Act of 1974 on the date of entry into force
19 of the Agreement between the United States and
20 Mexico.

21 (b) OTHER TARIFF MODIFICATIONS.—

22 (1) IN GENERAL.—Subject to paragraph (2)
23 and the consultation and layover requirements of
24 section 103(a), the President may proclaim—

1 (A) such modifications or continuation of
2 any duty,

3 (B) such modifications as the United
4 States may agree to with Mexico or Canada re-
5 garding the staging of any duty treatment set
6 forth in Annex 302.2 of the Agreement,

7 (C) such continuation of duty-free or excise
8 treatment, or

9 (D) such additional duties,
10 as the President determines to be necessary or ap-
11 propriate to maintain the general level of reciprocal
12 and mutually advantageous concessions with respect
13 to Canada or Mexico provided for by the Agreement.

14 (2) SPECIAL RULE FOR ARTICLES WITH TARIFF
15 PHASEOUT PERIODS OF MORE THAN 10 YEARS.—The
16 President may not consider a request to accelerate
17 the staging of duty reductions for an article for
18 which the United States tariff phaseout period is
19 more than 10 years if a request for acceleration with
20 respect to such article has been denied in the preced-
21 ing 3 calendar years.

22 (c) CONVERSION TO AD VALOREM RATES FOR CER-
23 TAIN TEXTILES.—For purposes of subsections (a) and
24 (b), with respect to an article covered by Annex 300–B
25 of the Agreement imported from Mexico for which the base

1 rate in the Schedule of the United States in Annex 300–
2 B is a specific or compound rate of duty, the President
3 may substitute for the base rate an ad valorem rate that
4 the President determines to be equivalent to the base rate.

5 **SEC. 202. RULES OF ORIGIN.**

6 (a) ORIGINATING GOODS.—

7 (1) IN GENERAL.—For purposes of implement-
8 ing the tariff treatment and quantitative restrictions
9 provided for under the Agreement, except as other-
10 wise provided in this section, a good originates in
11 the territory of a NAFTA country if—

12 (A) the good is wholly obtained or pro-
13 duced entirely in the territory of one or more of
14 the NAFTA countries;

15 (B)(i) each nonoriginating material used in
16 the production of the good—

17 (I) undergoes an applicable change in
18 tariff classification set out in Annex 401 of
19 the Agreement as a result of production
20 occurring entirely in the territory of one or
21 more of the NAFTA countries; or

22 (II) where no change in tariff classi-
23 fication is required, the good otherwise sat-
24 isfies the applicable requirements of such
25 Annex; and

1 (ii) the good satisfies all other applicable
2 requirements of this section;

3 (C) the good is produced entirely in the
4 territory of one or more of the NAFTA coun-
5 tries exclusively from originating materials; or

6 (D) except for a good provided for in chap-
7 ters 61 through 63 of the HTS, the good is
8 produced entirely in the territory of one or
9 more of the NAFTA countries, but one or more
10 of the nonoriginating materials, that are pro-
11 vided for as parts under the HTS and are used
12 in the production of the good, does not undergo
13 a change in tariff classification because—

14 (i) the good was imported into the ter-
15 ritory of a NAFTA country in an unassem-
16 bled or a disassembled form but was classi-
17 fied as an assembled good pursuant to
18 General Rule of Interpretation 2(a) of the
19 HTS; or

20 (ii)(I) the heading for the good pro-
21 vides for and specifically describes both the
22 good itself and its parts and is not further
23 subdivided into subheadings; or

1 (II) the subheading for the good pro-
2 vides for and specifically describes both the
3 good itself and its parts.

4 (2) SPECIAL RULES.—

5 (A) FOREIGN-TRADE ZONES.—Subpara-
6 graph (B) of paragraph (1) shall not apply to
7 a good produced in a foreign-trade zone or
8 subzone (established pursuant to the Act of
9 June 18, 1934, commonly known as the For-
10 eign Trade Zones Act) that is entered for con-
11 sumption in the customs territory of the United
12 States.

13 (B) REGIONAL VALUE-CONTENT REQUIRE-
14 MENT.—For purposes of subparagraph (D) of
15 paragraph (1), a good shall be treated as origi-
16 nating in a NAFTA country if the regional
17 value-content of the good, determined in accord-
18 ance with subsection (b), is not less than 60
19 percent where the transaction value method is
20 used, or not less than 50 percent where the net
21 cost method is used, and the good satisfies all
22 other applicable requirements of this section.

23 (b) REGIONAL VALUE-CONTENT.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (5), the regional value-content of a good shall

1 be calculated, at the choice of the exporter or pro-
 2 ducer of the good, on the basis of—

3 (A) the transaction value method described
 4 in paragraph (2); or

5 (B) the net cost method described in para-
 6 graph (3).

7 (2) TRANSACTION VALUE METHOD.—

8 (A) IN GENERAL.—An exporter or pro-
 9 ducer may calculate the regional value-content
 10 of a good on the basis of the following trans-
 11 action value method:

$$\text{RVC} = \frac{\text{TV}-\text{VNM}}{\text{TV}} \times 100$$

12 (B) DEFINITIONS.—For purposes of sub-
 13 paragraph (A):

14 (i) The term “RVC” means the re-
 15 gional value-content, expressed as a per-
 16 centage.

17 (ii) The term “TV” means the trans-
 18 action value of the good adjusted to a
 19 F.O.B. basis.

20 (iii) The term “VNM” means the
 21 value of nonoriginating materials used by
 22 the producer in the production of the good.

23 (3) NET COST METHOD.—

1 (A) IN GENERAL.—An exporter or pro-
 2 ducer may calculate the regional value-content
 3 of a good on the basis of the following net cost
 4 method:

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

5 (B) DEFINITIONS.—For purposes of sub-
 6 paragraph (A):

7 (i) The term “RVC” means the re-
 8 gional value-content, expressed as a per-
 9 centage.

10 (ii) The term “NC” means the net
 11 cost of the good.

12 (iii) The term “VNM” means the
 13 value of nonoriginating materials used by
 14 the producer in the production of the good.

15 (4) VALUE OF NONORIGINATING MATERIALS
 16 USED IN ORIGINATING MATERIALS.—Except as pro-
 17 vided in subsection (c)(1), and for a motor vehicle
 18 identified in subsection (c)(2) or a component identi-
 19 fied in Annex 403.2 of the Agreement, the value of
 20 nonoriginating materials used by the producer in the
 21 production of a good shall not, for purposes of cal-
 22 culating the regional value-content of the good under
 23 paragraph (2) or (3), include the value of

1 nonoriginating materials used to produce originating
2 materials that are subsequently used in the produc-
3 tion of the good.

4 (5) NET COST METHOD MUST BE USED IN CER-
5 TAIN CASES.—An exporter or producer shall cal-
6 culate the regional value-content of a good solely on
7 the basis of the net cost method described in para-
8 graph (3), if—

9 (A) there is no transaction value for the
10 good;

11 (B) the transaction value of the good is
12 unacceptable under Article 1 of the Customs
13 Valuation Code;

14 (C) the good is sold by the producer to a
15 related person and the volume, by units of
16 quantity, of sales of identical or similar goods
17 to related persons during the six-month period
18 immediately preceding the month in which the
19 good is sold exceeds 85 percent of the produc-
20 er's total sales of such goods during that pe-
21 riod;

22 (D) the good is—

23 (i) a motor vehicle provided for in
24 heading 8701 or 8702, subheadings

1 8703.21 through 8703.90, or heading
2 8704, 8705, or 8706;

3 (ii) identified in Annex 403.1 or 403.2
4 of the Agreement and is for use in a motor
5 vehicle provided for in heading 8701 or
6 8702, subheadings 8703.21 through
7 8703.90, or heading 8704, 8705, or 8706;

8 (iii) provided for in subheadings
9 6401.10 through 6406.10; or

10 (iv) a word processing machine pro-
11 vided for in subheading 8469.10.00;

12 (E) the exporter or producer chooses to ac-
13 cumulate the regional value-content of the good
14 in accordance with subsection (d); or

15 (F) the good is designated as an intermedi-
16 ate material under paragraph (10) and is sub-
17 ject to a regional value-content requirement.

18 (6) NET COST METHOD ALLOWED FOR ADJUST-
19 MENTS.—If an exporter or producer of a good cal-
20 culates the regional value-content of the good on the
21 basis of the transaction value method and a NAFTA
22 country subsequently notifies the exporter or pro-
23 ducer, during the course of a verification conducted
24 in accordance with chapter 5 of the Agreement, that
25 the transaction value of the good or the value of any

1 material used in the production of the good must be
2 adjusted or is unacceptable under Article 1 of the
3 Customs Valuation Code, the exporter or producer
4 may calculate the regional value-content of the good
5 on the basis of the net cost method.

6 (7) REVIEW OF ADJUSTMENT.—Nothing in
7 paragraph (6) shall be construed to prevent any re-
8 view or appeal available in accordance with article
9 510 of the Agreement with respect to an adjustment
10 to or a rejection of—

11 (A) the transaction value of a good; or

12 (B) the value of any material used in the
13 production of a good.

14 (8) CALCULATING NET COST.—The producer
15 may, consistent with regulations implementing this
16 section, calculate the net cost of a good under para-
17 graph (3), by—

18 (A) calculating the total cost incurred with
19 respect to all goods produced by that producer,
20 subtracting any sales promotion, marketing and
21 after-sales service costs, royalties, shipping and
22 packing costs, and nonallowable interest costs
23 that are included in the total cost of all such
24 goods, and reasonably allocating the resulting
25 net cost of those goods to the good;

1 (B) calculating the total cost incurred with
2 respect to all goods produced by that producer,
3 reasonably allocating the total cost to the good,
4 and subtracting any sales promotion, marketing
5 and after-sales service costs, royalties, shipping
6 and packing costs, and nonallowable interest
7 costs that are included in the portion of the
8 total cost allocated to the good; or

9 (C) reasonably allocating each cost that is
10 part of the total cost incurred with respect to
11 the good so that the aggregate of these costs
12 does not include any sales promotion, market-
13 ing and after-sales service costs, royalties, ship-
14 ping and packing costs, or nonallowable interest
15 costs.

16 (9) VALUE OF MATERIAL USED IN PRODUC-
17 TION.—Except as provided in paragraph (11), the
18 value of a material used in the production of a
19 good—

20 (A) shall—

21 (i) be the transaction value of the ma-
22 terial determined in accordance with Arti-
23 cle 1 of the Customs Valuation Code; or

24 (ii) in the event that there is no trans-
25 action value or the transaction value of the

1 material is unacceptable under Article 1 of
2 the Customs Valuation Code, be deter-
3 mined in accordance with Articles 2
4 through 7 of the Customs Valuation Code;
5 and

6 (B) if not included under clause (i) or (ii)
7 of subparagraph (A), shall include—

8 (i) freight, insurance, packing, and all
9 other costs incurred in transporting the
10 material to the location of the producer;

11 (ii) duties, taxes, and customs broker-
12 age fees paid on the material in the terri-
13 tory of one or more of the NAFTA coun-
14 tries; and

15 (iii) the cost of waste and spoilage re-
16 sulting from the use of the material in the
17 production of the good, less the value of
18 renewable scrap or by-product.

19 (10) INTERMEDIATE MATERIAL.—Except for
20 goods described in subsection (c)(1), any self-pro-
21 duced material, other than a component identified in
22 Annex 403.2 of the Agreement, that is used in the
23 production of a good may be designated by the pro-
24 ducer of the good as an intermediate material for
25 the purpose of calculating the regional value-content

1 of the good under paragraph (2) or (3); provided
2 that if the intermediate material is subject to a re-
3 gional value-content requirement, no other self-pro-
4 duced material that is subject to a regional value-
5 content requirement and is used in the production of
6 the intermediate material may be designated by the
7 producer as an intermediate material.

8 (11) VALUE OF INTERMEDIATE MATERIAL.—
9 The value of an intermediate material shall be—

10 (A) the total cost incurred with respect to
11 all goods produced by the producer of the good
12 that can be reasonably allocated to the inter-
13 mediate material; or

14 (B) the aggregate of each cost that is part
15 of the total cost incurred with respect to the in-
16 termediate material that can be reasonably allo-
17 cated to that intermediate material.

18 (12) INDIRECT MATERIAL.—The value of an in-
19 direct material shall be based on the Generally Ac-
20 cepted Accounting Principles applicable in the terri-
21 tory of the NAFTA country in which the good is
22 produced.

23 (c) AUTOMOTIVE GOODS.—

24 (1) PASSENGER VEHICLES AND LIGHT TRUCKS,
25 AND THEIR AUTOMOTIVE PARTS.—For purposes of

1 calculating the regional value-content under the net
2 cost method for—

3 (A) a good that is a motor vehicle for the
4 transport of 15 or fewer persons provided for in
5 subheading 8702.10.00 or 8702.90.00, or a
6 motor vehicle provided for in subheadings
7 8703.21 through 8703.90, or subheading
8 8704.21 or 8704.31, or

9 (B) a good provided for in the tariff provi-
10 sions listed in Annex 403.1 of the Agreement,
11 that is subject to a regional value-content re-
12 quirement and is for use as original equipment
13 in the production of a motor vehicle for the
14 transport of 15 or fewer persons provided for in
15 subheading 8702.10.00 or 8702.90.00, or a
16 motor vehicle provided for in subheadings
17 8703.21 through 8703.90, or subheading
18 8704.21 or 8704.31,

19 the value of nonoriginating materials used by the
20 producer in the production of the good shall be the
21 sum of the values of all nonoriginating materials, de-
22 termined in accordance with subsection (b)(9) at the
23 time the nonoriginating materials are received by the
24 first person in the territory of a NAFTA country
25 who takes title to them, that are imported from out-

1 side the territories of the NAFTA countries under
2 the tariff provisions listed in Annex 403.1 of the
3 Agreement and are used in the production of the
4 good or that are used in the production of any mate-
5 rial used in the production of the good.

6 (2) OTHER VEHICLES AND THEIR AUTOMOTIVE
7 PARTS.—For purposes of calculating the regional
8 value-content under the net cost method for a good
9 that is a motor vehicle provided for in heading 8701,
10 subheading 8704.10, 8704.22, 8704.23, 8704.32, or
11 8704.90, or heading 8705 or 8706, a motor vehicle
12 for the transport of 16 or more persons provided for
13 in subheading 8702.10.00 or 8702.90.00, or a com-
14 ponent identified in Annex 403.2 of the Agreement
15 for use as original equipment in the production of
16 the motor vehicle, the value of nonoriginating mate-
17 rials used by the producer in the production of the
18 good shall be the sum of—

19 (A) for each material used by the producer
20 listed in Annex 403.2 of the Agreement, wheth-
21 er or not produced by the producer, at the
22 choice of the producer and determined in ac-
23 cordance with subsection (b), either—

24 (i) the value of such material that is
25 nonoriginating, or

1 (ii) the value of nonoriginating mate-
2 rials used in the production of such mate-
3 rial; and

4 (B) the value of any other nonoriginating
5 material used by the producer that is not listed
6 in Annex 403.2 of the Agreement determined in
7 accordance with subsection (b).

8 (3) AVERAGING PERMITTED.—

9 (A) IN GENERAL.—For purposes of cal-
10 culating the regional value-content of a motor
11 vehicle described in paragraph (1) or (2), the
12 producer may average its calculation over its
13 fiscal year, using any of the categories de-
14 scribed in subparagraph (B), on the basis of ei-
15 ther all motor vehicles in the category or on the
16 basis of only the motor vehicles in the category
17 that are exported to the territory of one or
18 more of the other NAFTA countries.

19 (B) CATEGORY DESCRIBED.—A category is
20 described in this subparagraph if it is—

21 (i) the same model line of motor vehi-
22 cles in the same class of vehicles produced
23 in the same plant in the territory of a
24 NAFTA country;

1 (ii) the same class of motor vehicles
2 produced in the same plant in the territory
3 of a NAFTA country;

4 (iii) the same model line of motor ve-
5 hicles produced in the territory of a
6 NAFTA country; or

7 (iv) if applicable, the basis set out in
8 Annex 403.3 of the Agreement.

9 (4) ANNEX 403.1 AND ANNEX 403.2.—For pur-
10 poses of calculating the regional value-content for
11 any or all goods provided for in a tariff provision
12 listed in Annex 403.1 of the Agreement, or a compo-
13 nent or material identified in Annex 403.2 of the
14 Agreement, produced in the same plant, the pro-
15 ducer of the good may—

16 (A) average its calculation—

17 (i) over the fiscal year of the motor
18 vehicle producer to whom the good is sold;

19 (ii) over any quarter or month; or

20 (iii) over its fiscal year, if the good is
21 sold as an aftermarket part;

22 (B) calculate the average referred to in
23 subparagraph (A) separately for any or all
24 goods sold to one or more motor vehicle produc-
25 ers; or

1 (C) with respect to any calculation under
2 this paragraph, make a separate calculation for
3 goods that are exported to the territory of one
4 or more NAFTA countries.

5 (5) PHASE-IN OF REGIONAL VALUE-CONTENT
6 REQUIREMENT.—Notwithstanding Annex 401 of the
7 Agreement, and except as provided in paragraph (6),
8 the regional value-content requirement shall be—

9 (A) for a producer's fiscal year beginning
10 on the day closest to January 1, 1998, and
11 thereafter, 56 percent calculated under the net
12 cost method, and for a producer's fiscal year
13 beginning on the day closest to January 1,
14 2002, and thereafter, 62.5 percent calculated
15 under the net cost method, for—

16 (i) a good that is a motor vehicle for
17 the transport of 15 or fewer persons pro-
18 vided for in subheading 8702.10.00 or
19 8702.90.00, or a motor vehicle provided
20 for in subheadings 8703.21 through
21 8703.90, or subheading 8704.21 or
22 8704.31; and

23 (ii) a good provided for in heading
24 8407 or 8408, or subheading 8708.40,

1 that is for use in a motor vehicle identified
2 in clause (i); and

3 (B) for a producer's fiscal year beginning
4 on the day closest to January 1, 1998, and
5 thereafter, 55 percent calculated under the net
6 cost method, and for a producer's fiscal year
7 beginning on the day closest to January 1,
8 2002, and thereafter, 60 percent calculated
9 under the net cost method, for—

10 (i) a good that is a motor vehicle pro-
11 vided for in heading 8701, subheading
12 8704.10, 8704.22, 8704.23, 8704.32, or
13 8704.90, or heading 8705 or 8706, or a
14 motor vehicle for the transport of 16 or
15 more persons provided for in subheading
16 8702.10.00 or 8702.90.00;

17 (ii) a good provided for in heading
18 8407 or 8408, or subheading 8708.40 that
19 is for use in a motor vehicle identified in
20 clause (i); and

21 (iii) except for a good identified in
22 subparagraph (A)(ii) or a good provided
23 for in subheadings 8482.10 through
24 8482.80, or subheading 8483.20 or
25 8483.30, a good identified in Annex 403.1

1 of the Agreement that is subject to a re-
2 gional value-content requirement and is for
3 use in a motor vehicle identified in sub-
4 paragraph (A)(i) or (B)(i).

5 (6) NEW AND REFITTED PLANTS.—The re-
6 gional value-content requirement for a motor vehicle
7 identified in paragraph (1) or (2) shall be—

8 (A) 50 percent for 5 years after the date
9 on which the first motor vehicle prototype is
10 produced in a plant by a motor vehicle assem-
11 bler, if—

12 (i) it is a motor vehicle of a class, or
13 marque, or, except for a motor vehicle
14 identified in paragraph (2), size category
15 and underbody, not previously produced by
16 the motor vehicle assembler in the territory
17 of any of the NAFTA countries;

18 (ii) the plant consists of a new build-
19 ing in which the motor vehicle is assem-
20 bled; and

21 (iii) the plant contains substantially
22 all new machinery that is used in the as-
23 sembly of the motor vehicle; or

24 (B) 50 percent for 2 years after the date
25 on which the first motor vehicle prototype is

1 produced at a plant following a refit, if it is a
2 motor vehicle of a class, or marque, or, except
3 for a motor vehicle identified in paragraph (2),
4 size category and underbody, different from
5 that assembled by the motor vehicle assembler
6 in the plant before the refit.

7 (7) ELECTION FOR CERTAIN VEHICLES FROM
8 CANADA.—In the case of goods provided for in sub-
9 headings 8703.21 through 8703.90, or subheading
10 8704.21 or 8704.31, exported from Canada directly
11 to the United States, and entered on or after Janu-
12 ary 1, 1989, and before the date of entry into force
13 of the Agreement between the United States and
14 Canada, an importer may elect to use the rules of
15 origin set out in this section in lieu of the rules of
16 origin contained in section 202 of the United States-
17 Canada Free-Trade Agreement Implementation Act
18 of 1988 (19 U.S.C. 2112 note) and may elect to use
19 the method for calculating the value of
20 nonoriginating materials established in article
21 403(2) of the Agreement in lieu of the method es-
22 tablished in article 403(1) of the Agreement for pur-
23 poses of determining eligibility for preferential duty
24 treatment under the United States-Canada Free-
25 Trade Agreement. Any election under this paragraph

1 shall be made in writing to the Customs Service not
2 later than the date that is 180 days after the date
3 of entry into force of the Agreement between the
4 United States and Canada. Any such election may
5 be made only if the liquidation of such entry has not
6 become final. For purposes of averaging the calcula-
7 tion of regional value-content for the goods covered
8 by such entry, where the producer's 1989–1990 fis-
9 cal year began after January 1, 1989, the producer
10 may include the period between January 1, 1989,
11 and the beginning of its first fiscal year after Janu-
12 ary 1, 1989, as part of fiscal year 1989–1990.

13 (d) ACCUMULATION.—

14 (1) DETERMINATION OF ORIGINATING GOOD.—

15 For purposes of determining whether a good is an
16 originating good, the production of the good in the
17 territory of one or more of the NAFTA countries by
18 one or more producers shall, at the choice of the ex-
19 porter or producer of the good, be considered to
20 have been performed in the territory of any of the
21 NAFTA countries by that exporter or producer, if—

22 (A) all nonoriginating materials used in
23 the production of the good undergo an applica-
24 ble tariff classification change set out in Annex
25 401 of the Agreement;

1 (B) the good satisfies any applicable re-
2 gional value-content requirement; and

3 (C) the good satisfies all other applicable
4 requirements of this section.

5 The requirements of subparagraphs (A) and (B)
6 must be satisfied entirely in the territory of one or
7 more of the NAFTA countries.

8 (2) TREATMENT AS SINGLE PRODUCER.—For
9 purposes of subsection (b)(10), the production of a
10 producer that chooses to accumulate its production
11 with that of other producers under paragraph (1)
12 shall be treated as the production of a single pro-
13 ducer.

14 (e) DE MINIMIS AMOUNTS OF NONORIGINATING MA-
15 TERIALS.—

16 (1) IN GENERAL.—Except as provided in para-
17 graphs (3), (4), (5), and (6), a good shall be consid-
18 ered to be an originating good if—

19 (A) the value of all nonoriginating mate-
20 rials used in the production of the good that do
21 not undergo an applicable change in tariff clas-
22 sification (set out in Annex 401 of the Agree-
23 ment) is not more than 7 percent of the trans-
24 action value of the good, adjusted to a F.O.B.
25 basis, or

1 (B) where the transaction value of the
2 good is unacceptable under Article 1 of the
3 Customs Valuation Code, the value of all such
4 nonoriginating materials is not more than 7
5 percent of the total cost of the good,
6 provided that the good satisfies all other applicable
7 requirements of this section and, if the good is sub-
8 ject to a regional value-content requirement, the
9 value of such nonoriginating materials is taken into
10 account in calculating the regional value-content of
11 the good.

12 (2) GOODS NOT SUBJECT TO REGIONAL VALUE-
13 CONTENT REQUIREMENT.—A good that is otherwise
14 subject to a regional value-content requirement shall
15 not be required to satisfy such requirement if—

16 (A)(i) the value of all nonoriginating mate-
17 rials used in the production of the good is not
18 more than 7 percent of the transaction value of
19 the good, adjusted to a F.O.B. basis; or

20 (ii) where the transaction value of the good
21 is unacceptable under Article 1 of the Customs
22 Valuation Code, the value of all nonoriginating
23 materials is not more than 7 percent of the
24 total cost of the good; and

1 (B) the good satisfies all other applicable
2 requirements of this section.

3 (3) DAIRY PRODUCTS, ETC.—Paragraph (1)
4 does not apply to—

5 (A) a nonoriginating material provided for
6 in chapter 4 of the HTS or a dairy preparation
7 containing over 10 percent by weight of milk
8 solids provided for in subheading 1901.90.30,
9 1901.90.40, or 1901.90.80 that is used in the
10 production of a good provided for in chapter 4
11 of the HTS;

12 (B) a nonoriginating material provided for
13 in chapter 4 of the HTS or a dairy preparation
14 containing over 10 percent by weight of milk
15 solids provided for in subheading 1901.90.30,
16 1901.90.40, or 1901.90.80 that is used in the
17 production of—

18 (i) preparations for infants containing
19 over 10 percent by weight of milk solids
20 provided for in subheading 1901.10.00;

21 (ii) mixes and doughs, containing over
22 25 percent by weight of butterfat, not put
23 up for retail sale, provided for in sub-
24 heading 1901.20.00;

1 (iii) a dairy preparation containing
2 over 10 percent by weight of milk solids
3 provided for in subheading 1901.90.30,
4 1901.90.40, or 1901.90.80;

5 (iv) a good provided for in heading
6 2105 or subheading 2106.90.05, or prep-
7 arations containing over 10 percent by
8 weight of milk solids provided for in sub-
9 heading 2106.90.15, 2106.90.40,
10 2106.90.50, or 2106.90.65;

11 (v) a good provided for in subheading
12 2202.90.10 or 2202.90.20; or

13 (vi) animal feeds containing over 10
14 percent by weight of milk solids provided
15 for in subheading 2309.90.30;

16 (C) a nonoriginating material provided for
17 in heading 0805 or subheadings 2009.11
18 through 2009.30 that is used in the production
19 of—

20 (i) a good provided for in subheadings
21 2009.11 through 2009.30, or subheading
22 2106.90.16, or concentrated fruit or vege-
23 table juice of any single fruit or vegetable,
24 fortified with minerals or vitamins, pro-
25 vided for in subheading 2106.90.19; or

1 (ii) a good provided for in subheading
2 2202.90.30 or 2202.90.35, or fruit or veg-
3 etable juice of any single fruit or vegetable,
4 fortified with minerals or vitamins, pro-
5 vided for in subheading 2202.90.36;

6 (D) a nonoriginating material provided for
7 in chapter 9 of the HTS that is used in the
8 production of instant coffee, not flavored, pro-
9 vided for in subheading 2101.10.20;

10 (E) a nonoriginating material provided for
11 in chapter 15 of the HTS that is used in the
12 production of a good provided for in headings
13 1501 through 1508, or heading 1512, 1514, or
14 1515;

15 (F) a nonoriginating material provided for
16 in heading 1701 that is used in the production
17 of a good provided for in headings 1701
18 through 1703;

19 (G) a nonoriginating material provided for
20 in chapter 17 of the HTS or heading 1805 that
21 is used in the production of a good provided for
22 in subheading 1806.10;

23 (H) a nonoriginating material provided for
24 in headings 2203 through 2208 that is used in

1 the production of a good provided for in head-
2 ings 2207 through 2208;

3 (I) a nonoriginating material used in the
4 production of—

5 (i) a good provided for in subheading
6 7321.11.30;

7 (ii) a good provided for in subheading
8 8415.10, subheadings 8415.81 through
9 8415.83, subheadings 8418.10 through
10 8418.21, subheadings 8418.29 through
11 8418.40, subheading 8421.12 or 8422.11,
12 subheadings 8450.11 through 8450.20, or
13 subheadings 8451.21 through 8451.29;

14 (iii) trash compactors provided for in
15 subheading 8479.89.60; or

16 (iv) a good provided for in subheading
17 8516.60.40; and

18 (J) a printed circuit assembly that is a
19 nonoriginating material used in the production
20 of a good where the applicable change in tariff
21 classification for the good, as set out in Annex
22 401 of the Agreement, places restrictions on the
23 use of such nonoriginating material.

24 (4) CERTAIN FRUIT JUICES.—Paragraph (1)
25 does not apply to a nonoriginating single juice ingre-

1 dient provided for in heading 2009 that is used in
2 the production of—

3 (A) a good provided for in subheading
4 2009.90, or concentrated mixtures of fruit or
5 vegetable juice, fortified with minerals or vita-
6 mins, provided for in subheading 2106.90.19;
7 or

8 (B) mixtures of fruit or vegetable juices,
9 fortified with minerals or vitamins, provided for
10 in subheading 2202.90.39.

11 (5) GOODS PROVIDED FOR IN CHAPTERS 1
12 THROUGH 27 OF THE HTS.—Paragraph (1) does not
13 apply to a nonoriginating material used in the pro-
14 duction of a good provided for in chapters 1 through
15 27 of the HTS unless the nonoriginating material is
16 provided for in a different subheading than the good
17 for which origin is being determined under this sec-
18 tion.

19 (6) GOODS PROVIDED FOR IN CHAPTERS 50
20 THROUGH 63 OF THE HTS.—A good provided for in
21 chapters 50 through 63 of the HTS, that does not
22 originate because certain fibers or yarns used in the
23 production of the component of the good that deter-
24 mines the tariff classification of the good do not un-
25 dergo an applicable change in tariff classification set

1 out in Annex 401 of the Agreement, shall be consid-
2 ered to be a good that originates if the total weight
3 of all such fibers or yarns in that component is not
4 more than 7 percent of the total weight of that com-
5 ponent.

6 (f) FUNGIBLE GOODS AND MATERIALS.—For pur-
7 poses of determining whether a good is an originating
8 good—

9 (1) if originating and nonoriginating fungible
10 materials are used in the production of the good, the
11 determination of whether the materials are originat-
12 ing need not be made through the identification of
13 any specific fungible material, but may be deter-
14 mined on the basis of any of the inventory manage-
15 ment methods set out in regulations implementing
16 this section; and

17 (2) if originating and nonoriginating fungible
18 goods are commingled and exported in the same
19 form, the determination may be made on the basis
20 of any of the inventory management methods set out
21 in regulations implementing this section.

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

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), accessories, spare parts, or tools delivered

1 with the good that form part of the good's standard
2 accessories, spare parts, or tools shall—

3 (A) be considered as originating goods if
4 the good is an originating good, and

5 (B) be disregarded in determining whether
6 all the nonoriginating materials used in the pro-
7 duction of the good undergo an applicable
8 change in tariff classification set out in Annex
9 401 of the Agreement.

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

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

14 (B) the quantities and value of the acces-
15 sories, spare parts, or tools are customary for
16 the good; and

17 (C) in any case in which the good is sub-
18 ject to a regional value-content requirement, the
19 value of the accessories, spare parts, or tools
20 are taken into account as originating or
21 nonoriginating materials, as the case may be, in
22 calculating the regional value-content of the
23 good.

1 (h) INDIRECT MATERIALS.—An indirect material
2 shall be considered to be an originating material without
3 regard to where it is produced.

4 (i) PACKAGING MATERIALS AND CONTAINERS FOR
5 RETAIL SALE.—Packaging materials and containers in
6 which a good is packaged for retail sale, if classified with
7 the good, shall be disregarded in determining whether all
8 the nonoriginating materials used in the production of the
9 good undergo an applicable change in tariff classification
10 set out in Annex 401 of the Agreement. If the good is
11 subject to a regional value-content requirement, the value
12 of such packaging materials and containers shall be taken
13 into account as originating or nonoriginating materials, as
14 the case may be, in calculating the regional value-content
15 of the good.

16 (j) PACKING MATERIALS AND CONTAINERS FOR
17 SHIPMENT.—Packing materials and containers in which
18 a good is packed for shipment shall be disregarded—

19 (1) in determining whether the nonoriginating
20 materials used in the production of the good under-
21 go an applicable change in tariff classification set
22 out in Annex 401 of the Agreement; and

23 (2) in determining whether the good satisfies a
24 regional value-content requirement.

1 (k) TRANSSHIPMENT.—A good shall not be consid-
2 ered to be an originating good by reason of having under-
3 gone production that satisfies the requirements of sub-
4 section (a) if, subsequent to that production, the good un-
5 dergoes further production or any other operation outside
6 the territories of the NAFTA countries, other than un-
7 loading, reloading, or any other operation necessary to
8 preserve it in good condition or to transport the good to
9 the territory of a NAFTA country.

10 (l) NONQUALIFYING OPERATIONS.—A good shall not
11 be considered to be an originating good merely by reason
12 of—

13 (1) mere dilution with water or another sub-
14 stance that does not materially alter the characteris-
15 tics of the good; or

16 (2) any production or pricing practice with re-
17 spect to which it may be demonstrated, by a prepon-
18 derance of evidence, that the object was to cir-
19 cumvent this section.

20 (m) INTERPRETATION AND APPLICATION.—For pur-
21 poses of this section:

22 (1) The basis for any tariff classification is the
23 HTS.

24 (2) Except as otherwise expressly provided,
25 whenever in this section there is a reference to a

1 heading or subheading such reference shall be a ref-
2 erence to a heading or subheading of the HTS.

3 (3) In applying subsection (a)(4), the deter-
4 mination of whether a heading or subheading under
5 the HTS provides for and specifically describes both
6 a good and its parts shall be made on the basis of
7 the nomenclature of the heading or subheading, the
8 rules of interpretation, or notes of the HTS.

9 (4) In applying the Customs Valuation Code—

10 (A) the principles of the Customs Valu-
11 ation Code shall apply to domestic transactions,
12 with such modifications as may be required by
13 the circumstances, as would apply to inter-
14 national transactions;

15 (B) the provisions of this section shall take
16 precedence over the Customs Valuation Code to
17 the extent of any difference; and

18 (C) the definitions in subsection (o) shall
19 take precedence over the definitions in the Cus-
20 toms Valuation Code to the extent of any dif-
21 ference.

22 (5) All costs referred to in this section shall be
23 recorded and maintained in accordance with the
24 Generally Accepted Accounting Principles applicable

1 in the territory of the NAFTA country in which the
2 good is produced.

3 (n) ORIGIN OF AUTOMATIC DATA PROCESSING
4 GOODS.—Notwithstanding any other provision of this sec-
5 tion, when the NAFTA countries apply the most-favored-
6 nation rate of duty described in paragraph 1 of section
7 A of Annex 308.1 of the Agreement to a good provided
8 for under the tariff provisions set out in Table 308.1.1
9 of such Annex, the good shall, upon importation from a
10 NAFTA country, be deemed to originate in the territory
11 of a NAFTA country for purposes of this section.

12 (o) SPECIAL RULE FOR CERTAIN AGRICULTURAL
13 PRODUCTS.—Notwithstanding any other provision of this
14 section, for purposes of applying a rate of duty to a good
15 provided for in—

16 (1) heading 1202 that is exported from the ter-
17 ritory of Mexico, if the good is not wholly obtained
18 in the territory of Mexico,

19 (2) subheading 2008.11 that is exported from
20 the territory of Mexico, if any material provided for
21 in heading 1202 used in the production of that good
22 is not wholly obtained in the territory of Mexico, or

23 (3) subheading 1806.10.42 or 2106.90.12 that
24 is exported from the territory of Mexico, if any ma-

1 material provided for in subheading 1701.99 used in
2 the production of that good is not a qualifying good,
3 such good shall be treated as a nonoriginating good and,
4 for purposes of this subsection, the terms “qualifying
5 good” and “wholly obtained in the territory of” have the
6 meaning given such terms in paragraph 26 of section A
7 of Annex 703.2 of the Agreement.

8 (p) DEFINITIONS.—For purposes of this section—

9 (1) CLASS OF MOTOR VEHICLES.—The term
10 “class of motor vehicles” means any one of the fol-
11 lowing categories of motor vehicles:

12 (A) Motor vehicles provided for in sub-
13 heading 8701.20, subheading 8704.10,
14 8704.22, 8704.23, 8704.32, or 8704.90, or
15 heading 8705 or 8706, or motor vehicles de-
16 signed for the transport of 16 or more persons
17 provided for in subheading 8702.10.00 or
18 8702.90.00.

19 (B) Motor vehicles provided for in sub-
20 heading 8701.10, or subheadings 8701.30
21 through 8701.90.

22 (C) Motor vehicles for the transport of 15
23 or fewer persons provided for in subheading
24 8702.10.00 or 8702.90.00, or motor vehicles
25 provided for in subheading 8704.21 or 8704.31.

1 (D) Motor vehicles provided for in sub-
2 headings 8703.21 through 8703.90.

3 (2) CUSTOMS VALUATION CODE.—The term
4 “Customs Valuation Code” means the Agreement on
5 Implementation of Article VII of the General Agree-
6 ment on Tariffs and Trade, including its interpreta-
7 tive notes.

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

12 (4) FUNGIBLE GOODS AND FUNGIBLE MATE-
13 RIALS.—The terms “fungible goods” and “fungible
14 materials” mean goods or materials that are inter-
15 changeable for commercial purposes and whose prop-
16 erties are essentially identical.

17 (5) GENERALLY ACCEPTED ACCOUNTING PRIN-
18 CIPLES.—The term “Generally Accepted Accounting
19 Principles” means the recognized consensus or sub-
20 stantial authoritative support in the territory of a
21 NAFTA country with respect to the recording of
22 revenues, expenses, costs, assets and liabilities, dis-
23 closure of information, and preparation of financial
24 statements. These standards may be broad guide-

1 lines of general application as well as detailed stand-
2 ards, practices, or procedures.

3 (6) GOODS WHOLLY OBTAINED OR PRODUCED
4 ENTIRELY IN THE TERRITORY OF ONE OR MORE OF
5 THE NAFTA COUNTRIES.—The term “goods wholly
6 obtained or produced entirely in the territory of one
7 or more of the NAFTA countries” means—

8 (A) mineral goods extracted in the terri-
9 tory of one or more of the NAFTA countries;

10 (B) vegetable goods harvested in the terri-
11 tory of one or more of the NAFTA countries;

12 (C) live animals born and raised in the ter-
13 ritory of one or more of the NAFTA countries;

14 (D) goods obtained from hunting, trap-
15 ping, or fishing in the territory of one or more
16 of the NAFTA countries;

17 (E) goods (such as fish, shellfish, and
18 other marine life) taken from the sea by vessels
19 registered or recorded with a NAFTA country
20 and flying its flag;

21 (F) goods produced on board factory ships
22 from the goods referred to in subparagraph
23 (E), if such factory ships are registered or re-
24 corded with that NAFTA country and fly its
25 flag;

1 (G) goods taken by a NAFTA country or
2 a person of a NAFTA country from the seabed
3 or beneath the seabed outside territorial waters,
4 provided that a NAFTA country has rights to
5 exploit such seabed;

6 (H) goods taken from outer space, if the
7 goods are obtained by a NAFTA country or a
8 person of a NAFTA country and not processed
9 in a country other than a NAFTA country;

10 (I) waste and scrap derived from—

11 (i) production in the territory of one
12 or more of the NAFTA countries; or

13 (ii) used goods collected in the terri-
14 tory of one or more of the NAFTA coun-
15 tries, if such goods are fit only for the re-
16 covery of raw materials; and

17 (J) goods produced in the territory of one
18 or more of the NAFTA countries exclusively
19 from goods referred to in subparagraphs (A)
20 through (I), or from their derivatives, at any
21 stage of production.

22 (7) IDENTICAL OR SIMILAR GOODS.—The term
23 “identical or similar goods” means “identical goods”
24 and “similar goods”, respectively, as defined in the
25 Customs Valuation Code.

1 (8) INDIRECT MATERIAL.—

2 (A) The term “indirect material” means a
3 good—

4 (i) used in the production, testing, or
5 inspection of a good but not physically in-
6 corporated into the good, or

7 (ii) used in the maintenance of build-
8 ings or the operation of equipment associ-
9 ated with the production of a good,
10 in the territory of one or more of the NAFTA
11 countries.

12 (B) When used for a purpose described in
13 subparagraph (A), the following materials are
14 among those considered to be indirect mate-
15 rials:

16 (i) Fuel and energy.

17 (ii) Tools, dies, and molds.

18 (iii) Spare parts and materials used in
19 the maintenance of equipment and build-
20 ings.

21 (iv) Lubricants, greases, compounding
22 materials, and other materials used in pro-
23 duction or used to operate equipment and
24 buildings.

1 (v) Gloves, glasses, footwear, clothing,
2 safety equipment, and supplies.

3 (vi) Equipment, devices, and supplies
4 used for testing or inspecting the goods.

5 (vii) Catalysts and solvents.

6 (viii) Any other goods that are not in-
7 corporated into the good, if the use of such
8 goods in the production of the good can
9 reasonably be demonstrated to be a part of
10 that production.

11 (9) INTERMEDIATE MATERIAL.—The term “in-
12 termediate material” means a material that is self-
13 produced, used in the production of a good, and des-
14 ignated pursuant to subsection (b)(10).

15 (10) MARQUE.—The term “marque” means the
16 trade name used by a separate marketing division of
17 a motor vehicle assembler.

18 (11) MATERIAL.—The term “material” means
19 a good that is used in the production of another
20 good and includes a part or an ingredient.

21 (12) MODEL LINE.—The term “model line”
22 means a group of motor vehicles having the same
23 platform or model name.

24 (13) MOTOR VEHICLE ASSEMBLER.—The term
25 “motor vehicle assembler” means a producer of

1 motor vehicles and any related persons or joint ven-
2 tures in which the producer participates.

3 (14) NAFTA COUNTRY.—The term “NAFTA
4 country” means the United States, Canada or Mex-
5 ico for such time as the Agreement is in force with
6 respect to Canada or Mexico, and the United States
7 applies the Agreement to Canada or Mexico.

8 (15) NEW BUILDING.—The term “new build-
9 ing” means a new construction, including at least
10 the pouring or construction of new foundation and
11 floor, the erection of a new structure and roof, and
12 installation of new plumbing, electrical, and other
13 utilities to house a complete vehicle assembly proc-
14 ess.

15 (16) NET COST.—The term “net cost” means
16 total cost less sales promotion, marketing and after-
17 sales service costs, royalties, shipping and packing
18 costs, and nonallowable interest costs that are in-
19 cluded in the total cost.

20 (17) NET COST OF A GOOD.—The term “net
21 cost of a good” means the net cost that can be rea-
22 sonably allocated to a good using one of the methods
23 set out in subsection (b)(8).

24 (18) NONALLOWABLE INTEREST COSTS.—The
25 term “nonallowable interest costs” means interest

1 costs incurred by a producer as a result of an inter-
2 est rate that exceeds the applicable federal govern-
3 ment interest rate for comparable maturities by
4 more than 700 basis points, determined pursuant to
5 regulations implementing this section.

6 (19) NONORIGINATING GOOD; NONORIGINATING
7 MATERIAL.—The term “nonoriginating good” or
8 “nonoriginating material” means a good or material
9 that does not qualify as an originating good or mate-
10 rial under the rules of origin set out in this section.

11 (20) ORIGINATING.—The term “originating”
12 means qualifying under the rules of origin set out in
13 this section.

14 (21) PRODUCER.—The term “producer” means
15 a person who grows, mines, harvests, fishes, traps,
16 hunts, manufactures, processes, or assembles a good.

17 (22) PRODUCTION.—The term “production”
18 means growing, mining, harvesting, fishing, trap-
19 ping, hunting, manufacturing, processing, or assem-
20 bling a good.

21 (23) REASONABLY ALLOCATE.—The term “rea-
22 sonably allocate” means to apportion in a manner
23 appropriate to the circumstances.

1 (24) REFIT.—The term “refit” means a plant
2 closure, for purposes of plant conversion or retool-
3 ing, that lasts at least 3 months.

4 (25) RELATED PERSONS.—The term “related
5 persons” means persons specified in any of the fol-
6 lowing subparagraphs:

7 (A) Persons who are officers or directors
8 of one another’s businesses.

9 (B) Persons who are legally recognized
10 partners in business.

11 (C) Persons who are employer and em-
12 ployee.

13 (D) Persons one of whom owns, controls,
14 or holds 25 percent or more of the outstanding
15 voting stock or shares of the other.

16 (E) Persons if 25 percent or more of the
17 outstanding voting stock or shares of each of
18 them is directly or indirectly owned, controlled,
19 or held by a third person.

20 (F) Persons one of whom is directly or in-
21 directly controlled by the other.

22 (G) Persons who are directly or indirectly
23 controlled by a third person.

24 (H) Persons who are members of the same
25 family.

1 For purposes of this paragraph, the term “members
2 of the same family” means natural or adoptive chil-
3 dren, brothers, sisters, parents, grandparents, or
4 spouses.

5 (26) ROYALTIES.—The term “royalties” means
6 payments of any kind, including payments under
7 technical assistance or similar agreements, made as
8 consideration for the use or right to use any copy-
9 right, literary, artistic, or scientific work, patent,
10 trademark, design, model, plan, secret formula, or
11 process. It does not include payments under tech-
12 nical assistance or similar agreements that can be
13 related to specific services such as—

14 (A) personnel training, without regard to
15 where performed; and

16 (B) if performed in the territory of one or
17 more of the NAFTA countries, engineering,
18 tooling, die-setting, software design and similar
19 computer services, or other services.

20 (27) SALES PROMOTION, MARKETING, AND
21 AFTER-SALES SERVICE COSTS.—The term “sales
22 promotion, marketing, and after-sales service costs”
23 means the costs related to sales promotion, market-
24 ing, and after-sales service for the following:

1 (A) Sales and marketing promotion, media
2 advertising, advertising and market research,
3 promotional and demonstration materials, ex-
4 hibits, sales conferences, trade shows, conven-
5 tions, banners, marketing displays, free sam-
6 ples, sales, marketing and after-sales service lit-
7 erature (product brochures, catalogs, technical
8 literature, price lists, service manuals, sales aid
9 information), establishment and protection of
10 logos and trademarks, sponsorships, wholesale
11 and retail restocking charges, and entertain-
12 ment.

13 (B) Sales and marketing incentives,
14 consumer, retailer, or wholesaler rebates, and
15 merchandise incentives.

16 (C) Salaries and wages, sales commissions,
17 bonuses, benefits (such as medical, insurance,
18 and pension), traveling and living expenses, and
19 membership and professional fees for sales pro-
20 motion, marketing, and after-sales service per-
21 sonnel.

22 (D) Recruiting and training of sales pro-
23 motion, marketing, and after-sales service per-
24 sonnel, and after-sales training of customers'
25 employees, where such costs are identified sepa-

1 rately for sales promotion, marketing, and
2 after-sales service of goods on the financial
3 statements or cost accounts of the producer.

4 (E) Product liability insurance.

5 (F) Office supplies for sales promotion,
6 marketing, and after-sales service of goods,
7 where such costs are identified separately for
8 sales promotion, marketing, and after-sales
9 service of goods on the financial statements or
10 cost accounts of the producer.

11 (G) Telephone, mail, and other commu-
12 nications, where such costs are identified sepa-
13 rately for sales promotion, marketing, and
14 after-sales service of goods on the financial
15 statements or cost accounts of the producer.

16 (H) Rent and depreciation of sales pro-
17 motion, marketing, and after-sales service of-
18 fices and distribution centers.

19 (I) Property insurance, taxes, utilities, and
20 repair and maintenance of sales promotion,
21 marketing, and after-sales service offices and
22 distribution centers, where such costs are iden-
23 tified separately for sales promotion, marketing,
24 and after-sales service of goods on the financial
25 statements or cost accounts of the producer.

1 (J) Payments by the producer to other
2 persons for warranty repairs.

3 (28) SELF-PRODUCED MATERIAL.—The term
4 “self-produced material” means a material that is
5 produced by the producer of a good and used in the
6 production of that good.

7 (29) SHIPPING AND PACKING COSTS.—The
8 term “shipping and packing costs” means the costs
9 incurred in packing a good for shipment and ship-
10 ping the good from the point of direct shipment to
11 the buyer, but does not include the costs of prepar-
12 ing and packaging the good for retail sale.

13 (30) SIZE CATEGORY.—The term “size cat-
14 egory” means with respect to a motor vehicle identi-
15 fied in subsection (c)(1)(A)—

16 (A) 85 cubic feet or less of passenger and
17 luggage interior volume;

18 (B) more than 85 cubic feet, but less than
19 100 cubic feet, of passenger and luggage inte-
20 rior volume;

21 (C) at least 100 cubic feet, but not more
22 than 110 cubic feet, of passenger and luggage
23 interior volume;

1 (D) more than 110 cubic feet, but less
2 than 120 cubic feet, of passenger and luggage
3 interior volume; and

4 (E) 120 cubic feet or more of passenger
5 and luggage interior volume.

6 (31) TERRITORY.—The term “territory” means
7 a territory described in Annex 201.1 of the Agree-
8 ment.

9 (32) TOTAL COST.—The term “total cost”
10 means all product costs, period costs, and other
11 costs incurred in the territory of one or more of the
12 NAFTA countries.

13 (33) TRANSACTION VALUE.—Except as pro-
14 vided in subsection (c)(1) or (c)(2)(A), the term
15 “transaction value” means the price actually paid or
16 payable for a good or material with respect to a
17 transaction of the producer of the good, adjusted in
18 accordance with the principles of paragraphs 1, 3,
19 and 4 of Article 8 of the Customs Valuation Code
20 and determined without regard to whether the good
21 or material is sold for export.

22 (34) UNDERBODY.—The term “underbody”
23 means the floor pan of a motor vehicle.

24 (35) USED.—The term “used” means used or
25 consumed in the production of goods.

1 (q) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

4 (A) the provisions set out in Appendix 6.A
5 of Annex 300–B, Annex 401, Annex 403.1,
6 Annex 403.2, and Annex 403.3, of the Agree-
7 ment, and

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

11 (2) MODIFICATIONS.—Subject to the consulta-
12 tion and layover requirements of section 103, the
13 President may proclaim—

14 (A) modifications to the provisions pro-
15 claimed under the authority of paragraph
16 (1)(A), other than the provisions of paragraph
17 A of Appendix 6 of Annex 300–B and section
18 XI of part B of Annex 401 of the Agreement;
19 and

20 (B) a modified version of the definition of
21 any term set out in subsection (p) (and such
22 modified version of the definition shall super-
23 sede the version in subsection (p)), but only if
24 the modified version reflects solely those modi-
25 fications to the same term in article 415 of the

1 Agreement that are agreed to by the NAFTA
2 countries before the 1st anniversary of the date
3 of the enactment of this Act.

4 (3) SPECIAL RULES FOR TEXTILES.—Notwith-
5 standing the provisions of paragraph (2)(A), and
6 subject to the consultation and layover requirements
7 of section 103, the President may proclaim—

8 (A) modifications to the provisions pro-
9 claimed under the authority of paragraph
10 (1)(A) as are necessary to implement an agree-
11 ment with one or more of the NAFTA countries
12 pursuant to paragraph 2 of section 7 of Annex
13 300–B of the Agreement, and

14 (B) before the 1st anniversary of the date
15 of the enactment of this Act, modifications to
16 correct any typographical, clerical, or other
17 nonsubstantive technical error regarding the
18 provisions of Appendix 6.A of Annex 300–B
19 and section XI of part B of Annex 401 of the
20 Agreement.

21 **SEC. 203. DRAWBACK.**

22 (a) DEFINITION OF A GOOD SUBJECT TO NAFTA
23 DRAWBACK.—For purposes of this Act and the amend-
24 ments made by subsection (b), the term “good subject to

1 NAFTA drawback” means any imported good other than
2 the following:

3 (1) A good entered under bond for transpor-
4 tation and exportation to a NAFTA country.

5 (2) A good exported to a NAFTA country in
6 the same condition as when imported into the Unit-
7 ed States. For purposes of this paragraph—

8 (A) processes such as testing, cleaning, re-
9 packing, or inspecting a good, or preserving it
10 in its same condition, shall not be considered to
11 change the condition of the good, and

12 (B) except for a good referred to in para-
13 graph 12 of section A of Annex 703.2 of the
14 Agreement that is exported to Mexico, if a good
15 described in the first sentence of this paragraph
16 is commingled with fungible goods and exported
17 in the same condition, the origin of the good
18 may be determined on the basis of the inventory
19 methods provided for in the regulations imple-
20 menting this title.

21 (3) A good—

22 (A) that is—

23 (i) deemed to be exported from the
24 United States,

1 (ii) used as a material in the produc-
2 tion of another good that is deemed to be
3 exported to a NAFTA country, or

4 (iii) substituted for by a good of the
5 same kind and quality that is used as a
6 material in the production of another good
7 that is deemed to be exported to a NAFTA
8 country, and

9 (B) that is delivered—

10 (i) to a duty-free shop,

11 (ii) for ship's stores or supplies for
12 ships or aircraft, or

13 (iii) for use in a project undertaken
14 jointly by the United States and a NAFTA
15 country and destined to become the prop-
16 erty of the United States.

17 (4) A good exported to a NAFTA country for
18 which a refund of customs duties is granted by rea-
19 son of—

20 (A) the failure of the good to conform to
21 sample or specification, or

22 (B) the shipment of the good without the
23 consent of the consignee.

24 (5) A good that qualifies under the rules of ori-
25 gin set out in section 202 that is—

1 (A) exported to a NAFTA country,

2 (B) used as a material in the production of
3 another good that is exported to a NAFTA
4 country, or

5 (C) substituted for by a good of the same
6 kind and quality that is used as a material in
7 the production of another good that is exported
8 to a NAFTA country.

9 (6) A good provided for in subheading
10 1701.11.02 of the HTS that is—

11 (A) used as a material, or

12 (B) substituted for by a good of the same
13 kind and quality that is used as a material,
14 in the production of a good provided for in existing
15 Canadian tariff item 1701.99.00 or existing Mexican
16 tariff item 1701.99.01 or 1701.99.99 (relating to re-
17 fined sugar).

18 (7) A citrus product that is exported to Can-
19 ada.

20 (8) A good used as a material, or substituted
21 for by a good of the same kind and quality that is
22 used as a material, in the production of—

23 (A) apparel, or

24 (B) a good provided for in subheading
25 6307.90.99 (insofar as it relates to furniture

1 moving pads), 5811.00.20, or 5811.00.30 of the
2 HTS,
3 that is exported to Canada and that is subject to
4 Canada's most-favored-nation rate of duty upon im-
5 portation into Canada.

6 Where in paragraph (6) a good referred to by an item
7 is described in parentheses following the item, the descrip-
8 tion is provided for purposes of reference only.

9 (b) CONSEQUENTIAL AMENDMENTS WITH DELAYED
10 EFFECT.—

11 (1) BONDED MANUFACTURING WAREHOUSES.—

12 The last paragraph of section 311 of the Tariff Act
13 of 1930 (19 U.S.C. 1311) is amended to read as fol-
14 lows:

15 “No article manufactured in a bonded warehouse
16 from materials that are goods subject to NAFTA draw-
17 back, as defined in section 203(a) of the North American
18 Free Trade Agreement Implementation Act, may be with-
19 drawn from warehouse for exportation to a NAFTA coun-
20 try, as defined in section 2(4) of that Act, without assess-
21 ment of a duty on the materials in their condition and
22 quantity, and at their weight, at the time of importation
23 into the United States. The duty shall be paid before the
24 61st day after the date of exportation, except that upon
25 the presentation, before such 61st day, of satisfactory evi-

1 dence of the amount of any customs duties paid to the
2 NAFTA country on the article, the customs duty may be
3 waived or reduced (subject to section 508(b)(2)(B)) in an
4 amount that does not exceed the lesser of—

5 “(1) the total amount of customs duties paid or
6 owed on the materials on importation into the Unit-
7 ed States, or

8 “(2) the total amount of customs duties paid on
9 the article to the NAFTA country.

10 If Canada ceases to be a NAFTA country and the suspen-
11 sion of the operation of the United States-Canada Free-
12 Trade Agreement thereafter terminates, no article manu-
13 factured in a bonded warehouse, except to the extent that
14 such article is made from an article that is a drawback
15 eligible good under section 204(a) of the United States-
16 Canada Free-Trade Agreement Implementation Act of
17 1988, may be withdrawn from such warehouse for expor-
18 tation to Canada during the period such Agreement is in
19 operation without payment of a duty on such imported
20 merchandise in its condition, and at the rate of duty in
21 effect, at the time of importation.”.

22 (2) BONDED SMELTING AND REFINING WARE-
23 HOUSES.—Section 312 of the Tariff Act of 1930 (19
24 U.S.C. 1312) is amended—

1 (A) in paragraphs (1) and (4) of sub-
2 section (b), by striking out the parenthetical
3 matter and the final “, or” and by adding at
4 the end the following:

5 “; except that in the case of a withdrawal for expor-
6 tation of such a product to a NAFTA country, as
7 defined in section 2(4) of the North American Free
8 Trade Agreement Implementation Act, if any of the
9 imported metal-bearing materials are goods subject
10 to NAFTA drawback, as defined in section 203(a)
11 of that Act, the duties on the materials shall be
12 paid, and the charges against the bond canceled, be-
13 fore the 61st day after the date of exportation; but
14 upon the presentation, before such 61st day, of sat-
15 isfactory evidence of the amount of any customs du-
16 ties paid to the NAFTA country on the product, the
17 duties on the materials may be waived or reduced
18 (subject to section 508(b)(2)(B)) in an amount that
19 does not exceed the lesser of—

20 “(A) the total amount of customs duties
21 owed on the materials on importation into the
22 United States, or

23 “(B) the total amount of customs duties
24 paid to the NAFTA country on the product,
25 or”;

1 (B) by adding at the end of subsection (b)
2 the following new flush sentence.

3 “If Canada ceases to be a NAFTA country and the sus-
4 pension of the operation of the United States-Canada
5 Free-Trade Agreement thereafter terminates, no charges
6 against such bond may be canceled in whole or part upon
7 an exportation to Canada under paragraph (1) or (4) dur-
8 ing the period such Agreement is in operation except to
9 the extent that the metal-bearing materials were of Cana-
10 dian origin as determined in accordance with section 202
11 of the United States-Canada Free-Trade Agreement Im-
12 plementation Act of 1988.”; and

13 (C) in subsection (d) by striking out the
14 parenthetical matter and by inserting before the
15 period the following:

16 “; except that in the case of a withdrawal for exportation
17 to a NAFTA country, as defined in section 2(4) of the
18 North American Free Trade Agreement Implementation
19 Act, if any of the imported metal-bearing materials are
20 goods subject to NAFTA drawback, as defined in section
21 203(a) of that Act, charges against the bond shall be paid
22 before the 61st day after the date of exportation; but upon
23 the presentation, before such 61st day, of satisfactory evi-
24 dence of the amount of any customs duties paid to the
25 NAFTA country on the product, the bond shall be credited

1 (subject to section 508(b)(2)(B)) in an amount not to ex-
2 ceed the lesser of—

3 “(1) the total amount of customs duties paid or
4 owed on the materials on importation into the Unit-
5 ed States, or

6 “(2) the total amount of customs duties paid to
7 the NAFTA country on the product.

8 If Canada ceases to be a NAFTA country and the suspen-
9 sion of the operation of the United States-Canada Free-
10 Trade Agreement thereafter terminates, no bond shall be
11 credited under this subsection with respect to an expor-
12 tation of a product to Canada during the period such
13 Agreement is in operation except to the extent that the
14 product is a drawback eligible good under section 204(a)
15 of the United States-Canada Free Trade Agreement Im-
16 plementation Act of 1988’.

17 (3) DRAWBACK.—Subsections (n) and (o) of
18 section 313 of the Tariff Act of 1930 (19 U.S.C.
19 1313(n) and (o)) are amended to read as follows:

20 “(n)(1) For purposes of this subsection and sub-
21 section (o)—

22 “(A) the term ‘NAFTA Act’ means the North
23 American Free Trade Agreement Implementation
24 Act;

1 “(B) the terms ‘NAFTA country’ and ‘good
2 subject to NAFTA drawback’ have the same respec-
3 tive meanings that are given such terms in sections
4 2(4) and 203(a) of the NAFTA Act; and

5 “(C) a refund, waiver, or reduction of duty
6 under paragraph (2) of this subsection or paragraph
7 (1) of subsection (o) is subject to section
8 508(b)(2)(B).

9 “(2) For purposes of subsections (a), (b), (f), (h), (p),
10 and (q), if an article that is exported to a NAFTA country
11 is a good subject to NAFTA drawback, no customs duties
12 on the good may be refunded, waived, or reduced in an
13 amount that exceeds the lesser of—

14 “(A) the total amount of customs duties paid or
15 owed on the good on importation into the United
16 States, or

17 “(B) the total amount of customs duties paid
18 on the good to the NAFTA country.

19 “(3) If Canada ceases to be a NAFTA country and
20 the suspension of the operation of the United States-Can-
21 ada Free-Trade Agreement thereafter terminates, then for
22 purposes of subsections (a), (b), (f), (h), (j)(2), and (q),
23 the shipment to Canada during the period such Agreement
24 is in operation of an article made from or substituted for,
25 as appropriate, a drawback eligible good under section

1 204(a) of the United States-Canada Free-Trade Imple-
2 mentation Act of 1988 does not constitute an exportation.

3 “(o)(1) For purposes of subsection (g), if—

4 “(A) a vessel is built for the account and own-
5 ership of a resident of a NAFTA country or the gov-
6 ernment of a NAFTA country, and

7 “(B) imported materials that are used in the
8 construction and equipment of the vessel are goods
9 subject to NAFTA drawback,

10 the amount of customs duties refunded, waived, or re-
11 duced on such materials may not exceed the lesser of the
12 total amount of customs duties paid or owed on the mate-
13 rials on importation into the United States or the total
14 amount of customs duties paid on the vessel to the
15 NAFTA country.

16 “(2) If Canada ceases to be a NAFTA country and
17 the suspension of the operation of the United States-Can-
18 ada Free-Trade Agreement thereafter terminates, then for
19 purposes of subsection (g), vessels built for Canadian ac-
20 count and ownership, or for the Government of Canada,
21 may not be considered to be built for any foreign account
22 and ownership, or for the government of any foreign coun-
23 try, except to the extent that the materials in such vessels
24 are drawback eligible goods under section 204(a) of the

1 United States-Canada Free-Trade Implementation Act of
2 1988.”.

3 (4) MANIPULATION IN WAREHOUSE.—Section
4 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is
5 amended—

6 (A) in the second sentence by striking out
7 “without payment of duties—” and inserting a
8 dash;

9 (B) by striking out paragraphs (1), (2),
10 and (3) and inserting the following:

11 “(1) without payment of duties for exportation
12 to a NAFTA country, as defined in section 2(4) of
13 the North American Free Trade Agreement Imple-
14 mentation Act, if the merchandise is of a kind de-
15 scribed in any of paragraphs (1) through (8) of sec-
16 tion 203(a) of that Act;

17 “(2) for exportation to a NAFTA country if the
18 merchandise consists of goods subject to NAFTA
19 drawback, as defined in section 203(a) of that Act,
20 except that—

21 “(A) the merchandise may not be with-
22 drawn from warehouse without assessment of a
23 duty on the merchandise in its condition and
24 quantity, and at its weight, at the time of with-
25 drawal from the warehouse with such additions

1 to or deductions from the final appraised value
2 as may be necessary by reason of change in
3 condition, and

4 “(B) duty shall be paid on the merchan-
5 dise before the 61st day after the date of expor-
6 tation, but upon the presentation, before such
7 61st day, of satisfactory evidence of the amount
8 of any customs duties paid to the NAFTA
9 country on the merchandise, the customs duty
10 may be waived or reduced (subject to section
11 508(b)(2)(B)) in an amount that does not ex-
12 ceed the lesser of—

13 “(i) the total amount of customs du-
14 ties paid or owed on the merchandise on
15 importation into the United States, or

16 “(ii) the total amount of customs du-
17 ties paid on the merchandise to the
18 NAFTA country;

19 “(3) without payment of duties for exportation
20 to any foreign country other than to a NAFTA
21 country or to Canada when exports to that country
22 are subject to paragraph (4);

23 “(4) without payment of duties for exportation
24 to Canada (if that country ceases to be a NAFTA
25 country and the suspension of the operation of the

1 United States-Canada Free-Trade Agreement there-
2 after terminates), but the exemption from the pay-
3 ment of duties under this paragraph applies only in
4 the case of an exportation during the period such
5 Agreement is in operation of merchandise that—

6 “(A) is only cleaned, sorted, or repacked in
7 a bonded warehouse, or

8 “(B) is a drawback eligible good under sec-
9 tion 204(a) of the United States-Canada Free-
10 Trade Agreement Implementation Act of 1988;
11 and

12 “(5) without payment of duties for shipment to
13 the Virgin Islands, American Samoa, Wake Island,
14 Midway Island, Kingman Reef, Johnston Island or
15 the island of Guam.”; and

16 (B) in the third sentence by striking out
17 “paragraph (1) of the preceding sentence” and
18 inserting “paragraph (4) of the preceding sen-
19 tence”.

20 (5) FOREIGN TRADE ZONES.—Section 3(a) of
21 the Act of June 18, 1934 (commonly known as the
22 “Foreign Trade Zones Act”; 19 U.S.C. 81c(a)) is
23 amended—

24 (A) in the last proviso—

1 (i) by inserting after “That” the fol-
2 lowing: “, if Canada ceases to be a
3 NAFTA country and the suspension of the
4 operation of the United States-Canada
5 Free-Trade Agreement thereafter termi-
6 nates,”; and

7 (ii) by striking out “on or after Janu-
8 ary 1, 1994, or such later date as may be
9 proclaimed by the President under section
10 204(b)(2)(B) of such Act of 1988,” and
11 inserting “during the period such Agree-
12 ment is in operation”; and

13 (B) by inserting before such last proviso
14 the following new proviso: “: *Provided, further,*
15 That no merchandise that consists of goods
16 subject to NAFTA drawback, as defined in sec-
17 tion 203(a) of the North American Free Trade
18 Agreement Implementation Act, that is manu-
19 factured or otherwise changed in condition shall
20 be exported to a NAFTA country, as defined in
21 section 2(4) of that Act, without an assessment
22 of a duty on the merchandise in its condition
23 and quantity, and at its weight, at the time of
24 its exportation (or if the privilege in the first
25 proviso to this subsection was requested, an as-

1 assessment of a duty on the merchandise in its
2 condition and quantity, and at its weight, at the
3 time of its admission into the zone) and the
4 payment of the assessed duty before the 61st
5 day after the date of exportation of the article,
6 except that upon the presentation, before such
7 61st day, of satisfactory evidence of the amount
8 of any customs duties paid or owed to the
9 NAFTA country on the article, the customs
10 duty may be waived or reduced (subject to sec-
11 tion 508(b)(2)(B) of the Tariff Act of 1930) in
12 an amount that does not exceed the lesser of
13 (1) the total amount of customs duties paid or
14 owed on the merchandise on importation into
15 the United States, or (2) the total amount of
16 customs duties paid on the article to the
17 NAFTA country:”.

18 (c) CONSEQUENTIAL AMENDMENT WITH IMMEDIATE
19 EFFECT.—Section 313(j) of the Tariff Act of 1930 (19
20 U.S.C. 1313(j)) is amended—

21 (1) by striking out “If” in paragraph (2) and
22 inserting “Subject to paragraph (4), if”; and

23 (2) by adding at the end the following new
24 paragraph:

1 “(4) Effective upon the entry into force of the
2 North American Free Trade Agreement, the expor-
3 tation to a NAFTA country, as defined in section
4 2(4) of the North American Free Trade Agreement
5 Implementation Act, of merchandise that is fungible
6 with and substituted for imported merchandise,
7 other than merchandise described in paragraphs (1)
8 through (8) of section 203(a) of that Act, shall not
9 constitute an exportation for purposes of paragraph
10 (2).”.

11 (d) ELIMINATION OF DRAWBACK FOR SECTION 22
12 FEES.—Notwithstanding any other provision of law, the
13 Secretary of the Treasury may not, on condition of export,
14 refund or reduce a fee applied pursuant to section 22 of
15 the Agricultural Adjustment Act (7 U.S.C. 624) with re-
16 spect to goods included under subsection (a) that are ex-
17 ported to—

18 (1) Canada after December 31, 1995, for so
19 long as it is a NAFTA country; or

20 (2) Mexico after December 31, 2000, for so
21 long as it is a NAFTA country.

22 (e) INAPPLICABILITY TO COUNTERVAILING AND
23 ANTIDUMPING DUTIES.—Nothing in this section or the
24 amendments made by it shall be considered to authorize

1 the refund, waiver, or reduction of countervailing duties
2 or antidumping duties imposed on an imported good.

3 **SEC. 204. CUSTOMS USER FEES.**

4 Paragraph (10) of section 13031(b) of the Consoli-
5 dated Omnibus Budget Reconciliation Act of 1985 (19
6 U.S.C. 58c(b)(10)) is amended to read as follows:

7 “(10)(A) The fee charged under subsection (a)(9) or
8 (10) with respect to goods of Canadian origin (as deter-
9 mined under section 202 of the United States-Canada
10 Free-Trade Agreement) when the United States-Canada
11 Free-Trade Agreement is in force shall be in accordance
12 with section 403 of that Agreement.

13 “(B) For goods qualifying under the rules of origin
14 set out in section 202 of the North American Free Trade
15 Agreement Implementation Act, the fee under subsection
16 (a)(9) or (10)—

17 “(i) may not be charged with respect to goods
18 that qualify to be marked as goods of Canada pursu-
19 ant to Annex 311 of the North American Free
20 Trade Agreement, for such time as Canada is a
21 NAFTA country, as defined in section 2(4) of such
22 Implementation Act; and

23 “(ii) may not be increased after December 31,
24 1993, and may not be charged after June 29, 1999,
25 with respect to goods that qualify to be marked as

1 goods of Mexico pursuant to such Annex 311, for
2 such time as Mexico is a NAFTA country.

3 Any service for which an exemption from such fee is pro-
4 vided by reason of this paragraph may not be funded with
5 money contained in the Customs User Fee Account.”.

6 **SEC. 205. ENFORCEMENT.**

7 (a) RECORDKEEPING REQUIREMENTS.—Section 508
8 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended
9 as follows:

10 (1) Subsection (b) is amended to read as fol-
11 lows:

12 “(b) EXPORTATIONS TO FREE TRADE COUNTRIES.—

13 “(1) DEFINITIONS.—As used in this sub-
14 section—

15 “(A) The term ‘associated records’ means,
16 in regard to an exported good under paragraph
17 (2), records associated with—

18 “(i) the purchase of, cost of, value of,
19 and payment for, the good;

20 “(ii) the purchase of, cost of, value of,
21 and payment for, all material, including in-
22 direct materials, used in the production of
23 the good; and

24 “(iii) the production of the good.

1 For purposes of this subparagraph, the terms
2 ‘indirect material,’ ‘material,’ ‘preferential tariff
3 treatment,’ ‘used,’ and ‘value’ have the respec-
4 tive meanings given them in articles 415 and
5 514 of the North American Free Trade Agree-
6 ment.

7 “(B) The term ‘NAFTA Certificate of Ori-
8 gin’ means the certification, established under
9 article 501 of the North American Free Trade
10 Agreement, that a good qualifies as an originat-
11 ing good under such Agreement.

12 “(2) EXPORTS TO NAFTA COUNTRIES.—

13 “(A) IN GENERAL.—Any person who com-
14 pletes and signs a NAFTA Certificate of Origin
15 for a good for which preferential treatment
16 under the North American Free Trade Agree-
17 ment is claimed shall make, keep, and render
18 for examination and inspection all records relat-
19 ing to the origin of the good (including the Cer-
20 tificate or copies thereof) and the associated
21 records.

22 “(B) CLAIMS FOR CERTAIN WAIVERS, RE-
23 DUCTIONS, OR REFUNDS OF DUTIES OR FOR
24 CREDIT AGAINST BONDS.—

1 “(i) IN GENERAL.—Any person that
2 claims with respect to an article—

3 “(I) a waiver or reduction of
4 duty under the last paragraph of sec-
5 tion 311, section 312(b)(1) or (4),
6 section 562(2), or the last proviso to
7 section 3(a) of the Foreign Trade
8 Zones Act;

9 “(II) a credit against a bond
10 under section 312(d); or

11 “(III) a refund, waiver, or reduc-
12 tion of duty under section 313(n)(2)
13 or (o)(1);

14 must disclose to the Customs Service the
15 information described in clause (ii).

16 “(ii) INFORMATION REQUIRED.—
17 Within 30 days after making a claim de-
18 scribed in clause (i) with respect to an ar-
19 ticle, the person making the claim must
20 disclose to the Customs Service whether
21 that person has prepared, or has knowl-
22 edge that another person has prepared, a
23 NAFTA Certificate of Origin for the arti-
24 cle. If after such 30-day period the person
25 making the claim either—

1 “(I) prepares a NAFTA Certifi-
2 cate of Origin for the article; or

3 “(II) learns of the existence of
4 such a Certificate for the article;

5 that person, within 30 days after the oc-
6 currence described in subclause (I) or (II),
7 must disclose the occurrence to the Cus-
8 toms Service.

9 “(iii) ACTION ON CLAIM.—If the Cus-
10 toms Service determines that a NAFTA
11 Certificate of Origin has been prepared
12 with respect to an article for which a claim
13 described in clause (i) is made, the Cus-
14 toms Service may make such adjustments
15 regarding the previous customs treatment
16 of the article as may be warranted.

17 “(3) EXPORTS UNDER THE CANADIAN AGREE-
18 MENT.—Any person who exports, or who knowingly
19 causes to be exported, any merchandise to Canada
20 during such time as the United States-Canada Free-
21 Trade Agreement is in force with respect to, and the
22 United States applies that Agreement to, Canada
23 shall make, keep, and render for examination and
24 inspection such records (including certifications of

1 origin or copies thereof) which pertain to the expor-
2 tations.”.

3 (2) Subsection (c) is amended to read as fol-
4 lows:

5 “(c) PERIOD OF TIME.—The records required by sub-
6 sections (a) and (b) shall be kept for such periods of time
7 as the Secretary shall prescribe; except that—

8 “(1) no period of time for the retention of the
9 records required under subsection (a) or (b)(3) may
10 exceed 5 years from the date of entry or exportation,
11 as appropriate;

12 “(2) the period of time for the retention of the
13 records required under subsection (b)(2) shall be at
14 least 5 years from the date of signature of the
15 NAFTA Certificate of Origin; and

16 “(3) records for any drawback claim shall be
17 kept until the 3rd anniversary of the date of pay-
18 ment of the claim.”.

19 (3) Subsection (e) is amended to read as fol-
20 lows:

21 “(e) SUBSECTION (b) PENALTIES.—

22 “(1) RELATING TO NAFTA EXPORTS.—Any per-
23 son who fails to retain records required by para-
24 graph (2) of subsection (b) or the regulations issued
25 to implement that paragraph shall be liable for—

1 “(A) a civil penalty not to exceed \$10,000;

2 or

3 “(B) the general recordkeeping penalty

4 that applies under the customs laws;

5 whichever penalty is higher.

6 “(2) RELATING TO CANADIAN AGREEMENT EX-
7 PORTS.—Any person who fails to retain the records
8 required by paragraph (3) of subsection (b) or the
9 regulations issued to implement that paragraph shall
10 be liable for a civil penalty not to exceed \$10,000.”.

11 (b) CONFORMING AMENDMENT.—Section
12 509(a)(2)(A)(ii) of the Tariff Act of 1930 (19 U.S.C.
13 1509(a)(2)(A)(ii)) is amended to read as follows:

14 “(ii) exported merchandise, or know-
15 ingly caused merchandise to be exported,
16 to a NAFTA country (as defined in section
17 2(4) of the North American Free Trade
18 Agreement Implementation Act) or to Can-
19 ada during such time as the United States-
20 Canada Free-Trade Agreement is in force
21 with respect to, and the United States ap-
22 plies that Agreement to, Canada,”.

23 (c) DISCLOSURE OF INCORRECT INFORMATION.—
24 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)
25 is amended—

1 (1) in subsection (c)—

2 (A) by redesignating paragraph (5) as
3 paragraph (6); and

4 (B) by inserting after paragraph (4) the
5 following new paragraph:

6 “(5) PRIOR DISCLOSURE REGARDING NAFTA
7 CLAIMS.—An importer shall not be subject to pen-
8 alties under subsection (a) for making an incorrect
9 claim for preferential tariff treatment under section
10 202 of the North American Free Trade Agreement
11 Implementation Act if the importer—

12 “(A) has reason to believe that the
13 NAFTA Certificate of Origin (as defined in sec-
14 tion 508(b)(1)) on which the claim was based
15 contains incorrect information; and

16 “(B) in accordance with regulations issued
17 by the Secretary, voluntarily and promptly
18 makes a corrected declaration and pays any du-
19 ties owing.”; and

20 (2) by adding at the end the following new sub-
21 section:

22 “(f) FALSE CERTIFICATIONS REGARDING EXPORTS
23 TO NAFTA COUNTRIES.—

24 “(1) IN GENERAL.—Subject to paragraph (3),
25 it is unlawful for any person to certify falsely, by

1 fraud, gross negligence, or negligence, in a NAFTA
2 Certificate of Origin (as defined in section
3 508(b)(1)) that a good to be exported to a NAFTA
4 country (as defined in section 2(4) of the North
5 American Free Trade Agreement Implementation
6 Act) qualifies under the rules of origin set out in
7 section 202 of that Act.

8 “(2) APPLICABLE PROVISIONS.—The proce-
9 dures and penalties of this section that apply to a
10 violation of subsection (a) also apply to a violation
11 of paragraph (1), except that—

12 “(A) subsection (d) does not apply, and

13 “(B) subsection (c)(5) applies only if the
14 person voluntarily and promptly provides, to all
15 persons to whom the person provided the
16 NAFTA Certificate of Origin, written notice of
17 the falsity of the Certificate.

18 “(3) EXCEPTION.—A person may not be consid-
19 ered to have violated paragraph (1) if—

20 “(A) the information was correct at the
21 time it was provided in a NAFTA Certificate of
22 Origin but was later rendered incorrect due to
23 a change in circumstances; and

24 “(B) the person voluntarily and promptly
25 provides written notice of the change to all per-

1 sons to whom the person provided the Certifi-
2 cate of Origin.”.

3 **SEC. 206. RELIQUIDATION OF ENTRIES FOR NAFTA-ORIGIN**
4 **GOODS.**

5 Section 520 of the Tariff Act of 1930 (19 U.S.C.
6 1520) is amended by adding at the end the following new
7 subsection:

8 “(d) Notwithstanding the fact that a valid protest
9 was not filed, the Customs Service may, in accordance
10 with regulations prescribed by the Secretary, reliquidate
11 an entry to refund any excess duties paid on a good quali-
12 fying under the rules of origin set out in section 202 of
13 the North American Free Trade Agreement Implementa-
14 tion Act for which no claim for preferential tariff treat-
15 ment was made at the time of importation if the importer,
16 within 1 year after the date of importation, files, in ac-
17 cordance with those regulations, a claim that includes—

18 “(1) a written declaration that the good quali-
19 fied under those rules at the time of importation;

20 “(2) copies of all applicable NAFTA Certifi-
21 cates of Origin (as defined in section 508(b)(1));
22 and

23 “(3) such other documentation relating to the
24 importation of the goods as the Customs Service
25 may require.”.

1 **SEC. 207. COUNTRY OF ORIGIN MARKING OF NAFTA GOODS.**

2 (a) AMENDMENTS TO TARIFF ACT OF 1930.—Sec-
3 tion 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is
4 amended—

5 (1) in subsection (c)(1), by striking “or engrav-
6 ing” and inserting “engraving, or continuous paint
7 stenciling”;

8 (2) in subsection (c)(2)—

9 (A) by striking “four” and inserting
10 “five”; and

11 (B) by striking “such as paint stenciling”;

12 (3) in subsection (e), by striking “or engraving”
13 and inserting “engraving, or an equally permanent
14 method of marking”;

15 (4) by redesignating subsection (h) as sub-
16 section (i); and

17 (5) by inserting after subsection (g) the follow-
18 ing new subsection:

19 “(h) TREATMENT OF GOODS OF A NAFTA COUN-
20 TRY.—

21 “(1) APPLICATION OF SECTION.—In applying
22 this section to an article that qualifies as a good of
23 a NAFTA country (as defined in section 2(4) of the
24 North American Free Trade Agreement Implemen-
25 tation Act) under the regulations issued by the Sec-

1 retary to implement Annex 311 of the North Amer-
2 ican Free Trade Agreement—

3 “(A) the exemption under subsection
4 (a)(3)(H) shall be applied by substituting ‘rea-
5 sonably know’ for ‘necessarily know’;

6 “(B) the Secretary shall exempt the good
7 from the requirements for marking under sub-
8 section (a) if the good—

9 “(i) is an original work of art, or

10 “(ii) is provided for under subheading
11 6904.10, heading 8541, or heading 8542
12 of the Harmonized Tariff Schedule of the
13 United States; and

14 “(C) subsection (b) does not apply to the
15 usual container of any good described in sub-
16 section (a)(3)(E) or (I) or subparagraph (B)(i)
17 or (ii) of this paragraph.

18 “(2) PETITION RIGHTS OF NAFTA EXPORTERS
19 AND PRODUCERS REGARDING MARKING DETERMINA-
20 TIONS.—

21 “(A) DEFINITIONS.—For purposes of this
22 paragraph:

23 “(i) The term ‘adverse marking deci-
24 sion’ means a determination by the Cus-
25 toms Service which an exporter or pro-

1 ducer of merchandise believes to be con-
2 trary to Annex 311 of the North American
3 Free Trade Agreement.

4 “(ii) A person may not be treated as
5 the exporter or producer of merchandise
6 regarding which an adverse marking deci-
7 sion was made unless such person—

8 “(I) if claiming to be the ex-
9 porter, is located in a NAFTA coun-
10 try and is required to maintain
11 records in that country regarding ex-
12 portations to NAFTA countries; or

13 “(II) if claiming to be the pro-
14 ducer, grows, mines, harvests, fishes,
15 traps, hunts, manufactures, processes,
16 or assembles such merchandise in a
17 NAFTA country.

18 “(B) INTERVENTION OR PETITION RE-
19 GARDING ADVERSE MARKING DECISIONS.—If
20 the Customs Service makes an adverse marking
21 decision regarding any merchandise, the Cus-
22 toms Service shall, upon written request by the
23 exporter or producer of the merchandise, pro-
24 vide to the exporter or producer a statement of
25 the basis for the decision. If the exporter or

1 producer believes that the decision is not cor-
2 rect, it may intervene in any protest proceeding
3 initiated by the importer of the merchandise. If
4 the importer does not file a protest with regard
5 to the decision, the exporter or producer may
6 file a petition with the Customs Service setting
7 forth—

8 “(i) a description of the merchandise;

9 and

10 “(ii) the basis for its claim that the
11 merchandise should be marked as a good
12 of a NAFTA country.

13 “(C) EFFECT OF DETERMINATION RE-
14 GARDING DECISION.—If, after receipt and con-
15 sideration of a petition filed by an exporter or
16 producer under subparagraph (B), the Customs
17 Service determines that the adverse marking
18 decision—

19 “(i) is not correct, the Customs Serv-
20 ice shall notify the petitioner of the deter-
21 mination and all merchandise entered, or
22 withdrawn from warehouse for consump-
23 tion, more than 30 days after the date that
24 notice of the determination under this
25 clause is published in the weekly Custom

1 Bulletin shall be marked in conformity
2 with the determination; or

3 “(ii) is correct, the Customs Service
4 shall notify the petitioner that the petition
5 is denied.

6 “(D) JUDICIAL REVIEW.—For purposes of
7 judicial review, the denial of a petition under
8 subparagraph (C)(ii) shall be treated as if it
9 were a denial of a petition of an interested
10 party under section 516 regarding an issue
11 arising under any of the preceding provisions of
12 this section.”.

13 (b) COORDINATION WITH 1988 ACT REGARDING
14 CERTAIN ARTICLES.—Articles that qualify as goods of a
15 NAFTA country under regulations issued by the Secretary
16 in accordance with Annex 311 of the Agreement are ex-
17 empt from the marking requirements promulgated by the
18 Secretary of the Treasury under section 1907(c) of the
19 Omnibus Trade and Competitiveness Act of 1988 (Public
20 Law 100–418), but are subject to the requirements of sec-
21 tion 304 of the Tariff Act of 1930 (19 U.S.C. 1304).

22 **SEC. 208. PROTESTS AGAINST ADVERSE ORIGIN DETER-**
23 **MINATIONS.**

24 Section 514 of the Tariff Act of 1930 (19 U.S.C.
25 1514) is amended—

1 (1) in subsection (c)(1) by inserting “, or with
2 respect to a determination of origin under section
3 202 of the North American Free Trade Agreement
4 Implementation Act,” after “with respect to any one
5 category of merchandise” in the fourth sentence;

6 (2) in subsection (c)(2)—

7 (A) by striking out “or” at the end of sub-
8 paragraph (D);

9 (B) by redesignating subparagraph (E) as
10 subparagraph (F);

11 (C) by inserting after subparagraph (D)
12 the following new subparagraph:

13 “(E) with respect to a determination of or-
14 igin under section 202 of the North American
15 Free Trade Agreement Implementation Act,
16 any exporter or producer of the merchandise
17 subject to that determination, if the exporter or
18 producer completed and signed a NAFTA Cer-
19 tificate of Origin covering the merchandise; or”;
20 and

21 (D) by striking “clauses (A) through (D)”
22 in subparagraph (F) (as redesignated by sub-
23 paragraph (B)), and inserting “clauses (A)
24 through (E)”;

1 (3) by adding at the end the following new sub-
2 sections:

3 “(e) ADVANCE NOTICE OF CERTAIN DETERMINA-
4 TIONS.—Except as provided in subsection (f), an exporter
5 or producer referred to in subsection (c)(2)(E) shall be
6 provided notice in advance of an adverse determination of
7 origin under section 202 of the North American Free
8 Trade Agreement Implementation Act. The Secretary
9 may, by regulations, prescribe the time period in which
10 such advance notice shall be issued and authorize the Cus-
11 toms Service to provide in the notice the entry number
12 and any other entry information considered necessary to
13 allow the exporter or producer to exercise the rights pro-
14 vided by this section.

15 “(f) DENIAL OF PREFERENTIAL TREATMENT.—If
16 the Customs Service finds indications of a pattern of con-
17 duct by an exporter or producer of false or unsupported
18 representations that goods qualify under the rules of ori-
19 gin set out in section 202 of the North American Free
20 Trade Agreement Implementation Act—

21 “(1) the Customs Service, in accordance with
22 regulations issued by the Secretary, may deny pref-
23 erential tariff treatment to entries of identical goods
24 exported or produced by that person; and

1 “(2) the advance notice requirement in sub-
2 section (e) shall not apply to that person;
3 until the person establishes to the satisfaction of the Cus-
4 toms Service that its representations are in conformity
5 with section 202.”.

6 **SEC. 209. EXCHANGE OF INFORMATION.**

7 Section 628 of the Tariff Act of 1930 (19 U.S.C.
8 1628) is amended by adding at the end the following new
9 subsection:

10 “(c) The Secretary may authorize the Customs Serv-
11 ice to exchange information with any government agency
12 of a NAFTA country, as defined in section 2(4) of the
13 North American Free Trade Agreement Implementation
14 Act, if the Secretary—

15 “(1) reasonably believes the exchange of infor-
16 mation is necessary to implement chapter 3, 4, or 5
17 of the North American Free Trade Agreement, and

18 “(2) obtains assurances from such country that
19 the information will be held in confidence and used
20 only for governmental purposes.”.

21 **SEC. 210. PROHIBITION ON DRAWBACK FOR TELEVISION**
22 **PICTURE TUBES.**

23 Notwithstanding any other provision of law, no cus-
24 toms duties may be refunded, waived, or reduced on color
25 cathode-ray television picture tubes, including video mon-

1 itor cathode-ray tubes (provided for in subheading
2 8540.11.00 of the HTS), that are nonoriginating goods
3 under section 202(p)(19) and are—

4 (A) exported to a NAFTA country;

5 (B) used as a material in the production of
6 other goods that are exported to a NAFTA country;

7 or

8 (C) substituted for by goods of the same kind
9 and quality used as a material in the production of
10 other goods that are exported to a NAFTA country.

11 **SEC. 211. MONITORING OF TELEVISION AND PICTURE TUBE**

12 **IMPORTS.**

13 (a) MONITORING.—Beginning on the date the Agree-
14 ment enters into force with respect to the United States,
15 the United States Customs Service shall, for a period of
16 5 years, monitor imports into the United States of articles
17 described in subheading 8528.10 of the HTS from
18 NAFTA countries and shall take action to exercise all
19 rights of the United States under chapter 5 of the Agree-
20 ment with respect to such imports. The United States
21 Customs Service shall take appropriate action under chap-
22 ter 5 of the Agreement with respect to such imports, in-
23 cluding verifications to ensure that the rules of origin
24 under the Agreement are fully complied with and that the
25 duty drawback obligations contained in article 303 and

1 Annex 303.8 of the Agreement are fully implemented and
2 duties are correctly assessed.

3 (b) REPORT TO TRADE REPRESENTATIVE.—The
4 United States Customs Service shall make the results of
5 the monitoring and verification required by subsection (a)
6 available to the President and the Trade Representative.
7 If, based on such information, the President has reason
8 to believe that articles described in subheading 8540.11
9 of the HTS, intended for ultimate consumption in the
10 United States, are entering the territory of a NAFTA
11 country inconsistent with the provisions of the Agreement,
12 or have been undervalued in a manner that may raise con-
13 cerns under United States trade laws, the President shall
14 promptly take such action as may be appropriate under
15 all relevant provisions of the Agreement, including article
16 317 and chapter 20, and under applicable United States
17 trade statutes.

18 **SEC. 212. TITLE VI AMENDMENTS.**

19 Any amendment in this title to a law that is also
20 amended under title VI shall be made after the title VI
21 amendment is executed.

22 **SEC. 213. EFFECTIVE DATES.**

23 (a) PROVISIONS EFFECTIVE ON DATE OF ENACT-
24 MENT.—Section 212 and this section take effect on the
25 date of the enactment of this Act.

1 (b) PROVISIONS EFFECTIVE WHEN AGREEMENT EN-
2 TERS INTO FORCE.—Section 201, section 202, section
3 203(a), (d), and (e), section 210 and section 211, the
4 amendment made by section 203(c), and the amendments
5 made by sections 204 through 209 take effect on the date
6 the Agreement enters into force with respect to the United
7 States.

8 (c) PROVISIONS WITH DELAYED EFFECTIVE
9 DATES.—The amendments made by section 203(b)
10 apply—

11 (1) with respect to exports from the United
12 States to Canada—

13 (A) on January 1, 1996, if Canada is a
14 NAFTA country on that date, and

15 (B) after such date for so long as Canada
16 continues to be a NAFTA country; and

17 (2) with respect to exports from the United
18 States to Mexico—

19 (A) on January 1, 2001, if Mexico is a
20 NAFTA country on that date; and

21 (B) after such date for so long as Mexico
22 continues to be a NAFTA country.

1 **TITLE III—APPLICATION OF**
2 **AGREEMENT TO SECTORS**
3 **AND SERVICES**

4 **Subtitle A—Safeguards**

5 **PART 1—RELIEF FROM IMPORTS BENEFITING**
6 **FROM THE AGREEMENT**

7 **SEC. 301. DEFINITIONS.**

8 As used in this part:

9 (1) **CANADIAN ARTICLE.**—The term “Canadian
10 article” means an article that—

11 (A) is an originating good under chapter 4
12 of the Agreement; and

13 (B) qualifies under the Agreement to be
14 marked as a good of Canada.

15 (2) **MEXICAN ARTICLE.**—The term “Mexican
16 article” means an article that—

17 (A) is an originating good under chapter 4
18 of the Agreement; and

19 (B) qualifies under the Agreement to be
20 marked as a good of Mexico.

21 **SEC. 302. COMMENCING OF ACTION FOR RELIEF.**

22 (a) **FILING OF PETITION.**—

23 (1) **IN GENERAL.**—A petition requesting action
24 under this part for the purpose of adjusting to the
25 obligations of the United States under the Agree-

1 ment may be filed with the International Trade
2 Commission by an entity, including a trade associa-
3 tion, firm, certified or recognized union, or group of
4 workers, that is representative of an industry. The
5 International Trade Commission shall transmit a
6 copy of any petition filed under this subsection to
7 the Trade Representative.

8 (2) PROVISIONAL RELIEF.—An entity filing a
9 petition under this subsection may request that pro-
10 visional relief be provided as if the petition had been
11 filed under section 202(a) of the Trade Act of 1974.

12 (3) CRITICAL CIRCUMSTANCES.—An allegation
13 that critical circumstances exist must be included in
14 the petition or made on or before the 90th day after
15 the date on which the investigation is initiated under
16 subsection (b).

17 (b) INVESTIGATION AND DETERMINATION.—Upon
18 the filing of a petition under subsection (a), the Inter-
19 national Trade Commission, unless subsection (d) applies,
20 shall promptly initiate an investigation to determine
21 whether, as a result of the reduction or elimination of a
22 duty provided for under the Agreement, a Canadian article
23 or a Mexican article, as the case may be, is being imported
24 into the United States in such increased quantities (in ab-

1 solute terms) and under such conditions so that imports
2 of the article, alone, constitute a substantial cause of—

3 (1) serious injury; or

4 (2) except in the case of a Canadian article, a
5 threat of serious injury;

6 to the domestic industry producing an article that is like,
7 or directly competitive with, the imported article.

8 (c) APPLICABLE PROVISIONS.—The provisions of—

9 (1) paragraphs (1)(B), (3) (except subpara-
10 graph (A)), and (4) of subsection (b);

11 (2) subsection (c); and

12 (3) subsection (d),

13 of section 202 of the Trade Act of 1974 (19 U.S.C. 2252)
14 apply with respect to any investigation initiated under
15 subsection (b).

16 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No
17 investigation may be initiated under this section with re-
18 spect to—

19 (1) any Canadian article or Mexican article if
20 import relief has been provided under this part with
21 respect to that article; or

22 (2) any textile or apparel article set out in Ap-
23 pendix 1.1 of Annex 300–B of the Agreement.

1 **SEC. 303. INTERNATIONAL TRADE COMMISSION ACTION ON**
2 **PETITION.**

3 (a) DETERMINATION.—By no later than 120 days
4 after the date on which an investigation is initiated under
5 section 302(b) with respect to a petition, the International
6 Trade Commission shall—

7 (1) make the determination required under that
8 section; and

9 (2) if the determination referred to in para-
10 graph (1) is affirmative and an allegation regarding
11 critical circumstances was made under section
12 302(a), make a determination regarding that allega-
13 tion.

14 (b) ADDITIONAL FINDING AND RECOMMENDATION IF
15 DETERMINATION AFFIRMATIVE.—If the determination
16 made by the International Trade Commission under sub-
17 section (a) with respect to imports of an article is affirma-
18 tive, the International Trade Commission shall find, and
19 recommend to the President in the report required under
20 subsection (c), the amount of import relief that is nec-
21 essary to remedy or, except in the case of imports of a
22 Canadian article, prevent the injury found by the Inter-
23 national Trade Commission in the determination. The im-
24 port relief recommended by the International Trade Com-
25 mission under this subsection shall be limited to that de-
26 scribed in section 304(c).

1 (c) REPORT TO PRESIDENT.—No later than the date
2 that is 30 days after the date on which a determination
3 is made under subsection (a) with respect to an investiga-
4 tion, the International Trade Commission shall submit to
5 the President a report that shall include—

6 (1) a statement of the basis for the determina-
7 tion;

8 (2) dissenting and separate views; and

9 (3) any finding made under subsection (b) re-
10 garding import relief.

11 (d) PUBLIC NOTICE.—Upon submitting a report to
12 the President under subsection (c), the International
13 Trade Commission shall promptly make public such report
14 (with the exception of information which the International
15 Trade Commission determines to be confidential) and
16 shall cause a summary thereof to be published in the Fed-
17 eral Register.

18 (e) APPLICABLE PROVISIONS.—For purposes of this
19 part, the provisions of paragraphs (1), (2), and (3) of sec-
20 tion 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d))
21 shall be applied with respect to determinations and find-
22 ings made under this section as if such determinations and
23 findings were made under section 202 of the Trade Act
24 of 1974 (19 U.S.C. 2252).

1 **SEC. 304. PROVISION OF RELIEF.**

2 (a) IN GENERAL.—No later than the date that is 30
3 days after the date on which the President receives the
4 report of the International Trade Commission containing
5 an affirmative determination of the International Trade
6 Commission under section 303(a), the President, subject
7 to subsection (b), shall provide relief from imports of the
8 article that is the subject of such determination to the ex-
9 tent that the President determines necessary to remedy
10 or, except in the case of imports of a Canadian article,
11 prevent the injury found by the International Trade
12 Commission.

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

17 (c) NATURE OF RELIEF.—The import relief (includ-
18 ing provisional relief) that the President is authorized to
19 provide under this part is as follows:

20 (1) In the case of imports of a Canadian arti-
21 cle—

22 (A) the suspension of any further reduc-
23 tion provided for under Annex 401.2 of the
24 United States-Canada Free-Trade Agreement
25 in the duty imposed on such article;

1 (B) an increase in the rate of duty im-
2 posed on such article to a level that does not
3 exceed the lesser of—

4 (i) the column 1 general rate of duty
5 imposed under the HTS on like articles at
6 the time the import relief is provided, or

7 (ii) the column 1 general rate of duty
8 imposed on like articles on December 31,
9 1988; or

10 (C) in the case of a duty applied on a sea-
11 sonal basis to such article, an increase in the
12 rate of duty imposed on the article to a level
13 that does not exceed the column 1 general rate
14 of duty imposed on the article for the cor-
15 responding season occurring immediately before
16 January 1, 1989.

17 (2) In the case of imports of a Mexican arti-
18 cle—

19 (A) the suspension of any further reduc-
20 tion provided for under the United States
21 Schedule to Annex 302.2 of the Agreement in
22 the duty imposed on such article;

23 (B) an increase in the rate of duty im-
24 posed on such article to a level that does not
25 exceed the lesser of—

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

4 (ii) the column 1 general rate of duty
5 imposed under the HTS on like articles on
6 the day before the date on which the
7 Agreement enters into force; or

8 (C) in the case of a duty applied on a sea-
9 sonal basis to such article, an increase in the
10 rate of duty imposed on the article to a level
11 that does not exceed the column 1 general rate
12 of duty imposed under the HTS on the article
13 for the corresponding season immediately occur-
14 ring before the date on which the Agreement
15 enters into force.

16 (d) PERIOD OF RELIEF.—The import relief that the
17 President is authorized to provide under this section may
18 not exceed 3 years, except that, if a Canadian article or
19 Mexican article which is the subject of the action—

20 (1) is provided for in an item for which the
21 transition period of tariff elimination set out in the
22 United States Schedule to Annex 302.2 of the
23 Agreement is greater than 10 years; and

1 (2) the President determines that the affected
2 industry has undertaken adjustment and requires an
3 extension of the period of the import relief;
4 the President, after obtaining the advice of the Inter-
5 national Trade Commission, may extend the period of the
6 import relief for not more than 1 year, if the duty applied
7 during the initial period of the relief is substantially re-
8 duced at the beginning of the extension period.

9 (e) RATE ON MEXICAN ARTICLES AFTER TERMI-
10 NATION OF IMPORT RELIEF.—When import relief under
11 this part is terminated with respect to a Mexican article—

12 (1) the rate of duty on that article after such
13 termination and on or before December 31 of the
14 year in which termination occurs shall be the rate
15 that, according to the United States Schedule to
16 Annex 302.2 of the Agreement for the staged elimi-
17 nation of the tariff, would have been in effect 1 year
18 after the initiation of the import relief action under
19 section 302; and

20 (2) the tariff treatment for that article after
21 December 31 of the year in which termination oc-
22 curs shall be, at the discretion of the President, ei-
23 ther—

1 (A) the rate of duty conforming to the ap-
2 plicable rate set out in the United States
3 Schedule to Annex 302.2; or

4 (B) the rate of duty resulting from the
5 elimination of the tariff in equal annual stages
6 ending on the date set out in the United States
7 Schedule to Annex 302.2 for the elimination of
8 the tariff.

9 **SEC. 305. TERMINATION OF RELIEF AUTHORITY.**

10 (a) GENERAL RULE.—Except as provided in sub-
11 section (b), no import relief may be provided under this
12 part—

13 (1) in the case of a Canadian article, after De-
14 cember 31, 1998; or

15 (2) in the case of a Mexican article, after the
16 date that is 10 years after the date on which the
17 Agreement enters into force;

18 unless the article against which the action is taken is an
19 item for which the transition period for tariff elimination
20 set out in the United States Schedule to Annex 302.2 of
21 the Agreement is greater than 10 years, in which case the
22 period during which relief may be granted shall be the pe-
23 riod of staged tariff elimination for that article.

24 (b) EXCEPTION.—Import relief may be provided
25 under this part in the case of a Canadian article or Mexi-

1 can article after the date on which such relief would, but
2 for this subsection, terminate under subsection (a), but
3 only if the Government of Canada or Mexico, as the case
4 may be, consents to such provision.

5 **SEC. 306. COMPENSATION AUTHORITY.**

6 For purposes of section 123 of the Trade Act of 1974
7 (19 U.S.C. 2133), any import relief provided by the Presi-
8 dent under section 304 shall be treated as action taken
9 under chapter I of title II of such Act.

10 **SEC. 307. SUBMISSION OF PETITIONS.**

11 A petition for import relief may be submitted to the
12 International Trade Commission under—

13 (1) this part;

14 (2) chapter 1 of title II of the Trade Act of
15 1974; or

16 (3) under both this part and such chapter 1 at
17 the same time, in which case the International
18 Trade Commission shall consider such petitions
19 jointly.

20 **SEC. 308. SPECIAL TARIFF PROVISIONS FOR CANADIAN**
21 **FRESH FRUITS AND VEGETABLES.**

22 (a) IN GENERAL.—Section 301(a) of the United
23 States-Canada Free-Trade Agreement Implementation
24 Act (19 U.S.C. 2112 note) is amended—

1 (1) in paragraph (1), by striking “promptly” in
2 the flush sentence at the end thereof and inserting
3 “immediately”,

4 (2) by redesignating paragraphs (2) through
5 (9) as paragraphs (3) through (10), respectively,

6 (3) by inserting after paragraph (1) the follow-
7 ing new paragraph:

8 “(2) No later than 6 days after publication in
9 the Federal Register of the notice described in para-
10 graph (1), the Secretary shall decide whether to rec-
11 ommend the imposition of a temporary duty to the
12 President, and if the Secretary decides to make such
13 a recommendation, the recommendation shall be for-
14 warded immediately to the President.”,

15 (4) in paragraph (5), as redesignated by para-
16 graph (2), by striking “paragraph (3)” and inserting
17 “paragraph (4)”,

18 (5) by amending paragraph (9), as redesignated
19 by paragraph (2), to read as follows:

20 “(9) For purposes of assisting the Secretary in
21 carrying out this subsection—

22 “(A) the Commissioner of Customs and
23 the Director of the Bureau of Census shall co-
24 operate in providing the Secretary with timely
25 information and data relating to the importa-

1 tion of Canadian fresh fruits and vegetables,
2 and

3 “(B) importers shall report such informa-
4 tion relating to Canadian fresh fruits and vege-
5 tables to the Commissioner of Customs at such
6 time and in such manner as the Commissioner
7 requires.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 subsection (a) take effect on the date of the enactment
10 of this Act.

11 **SEC. 309. PRICE-BASED SNAPBACK FOR FROZEN CON-**
12 **CENTRATED ORANGE JUICE.**

13 (a) TRIGGER PRICE DETERMINATION.—

14 (1) IN GENERAL.—The Secretary shall deter-
15 mine—

16 (A) each period of 5 consecutive business
17 days in which the daily price for frozen con-
18 centrated orange juice is less than the trigger
19 price; and

20 (B) for each period determined under sub-
21 paragraph (A), the first period occurring there-
22 after of 5 consecutive business days in which
23 the daily price for frozen concentrated orange
24 juice is greater than the trigger price.

1 (2) NOTICE OF DETERMINATIONS.—The Sec-
2 retary shall immediately notify the Commissioner of
3 Customs and publish notice in the Federal Register
4 of any determination under paragraph (1), and the
5 date of such publication shall be the determination
6 date for that determination.

7 (b) IMPORTS OF MEXICAN ARTICLES.—Whenever
8 after any determination date for a determination under
9 subsection (a)(1)(A), the quantity of Mexican articles of
10 frozen concentrated orange juice that is entered exceeds—

11 (1) 264,978,000 liters (single strength equiva-
12 lent) in any of calendar years 1994 through 2002;
13 or

14 (2) 340,560,000 liters (single strength equiva-
15 lent) in any of calendar years 2003 through 2007;
16 the rate of duty on Mexican articles of frozen concentrated
17 orange juice that are entered after the date on which the
18 applicable limitation in paragraph (1) or (2) is reached
19 and before the determination date for the related deter-
20 mination under subsection (a)(1)(B) shall be the rate of
21 duty specified in subsection (c).

22 (c) RATE OF DUTY.—The rate of duty specified for
23 purposes of subsection (b) for articles entered on any day
24 is the rate in the HTS that is the lower of—

1 (1) the column 1–General rate of duty in effect
2 for such articles on July 1, 1991; or

3 (2) the column 1–General rate of duty in effect
4 on that day.

5 (d) DEFINITIONS.—For purposes of this section—

6 (1) The term “daily price” means the daily
7 closing price of the New York Cotton Exchange, or
8 any successor as determined by the Secretary, for
9 the closest month in which contracts for frozen con-
10 centrated orange juice are being traded on the Ex-
11 change.

12 (2) The term “business day” means a day in
13 which contracts for frozen concentrated orange juice
14 are being traded on the New York Cotton Exchange,
15 or any successor as determined by the Secretary.

16 (3) The term “entered” means entered or with-
17 drawn from warehouse for consumption, in the cus-
18 toms territory of the United States.

19 (4) The term “frozen concentrated orange
20 juice” means all products classifiable under sub-
21 heading 2009.11.00 of the HTS.

22 (5) The term “Secretary” means the Secretary
23 of Agriculture.

24 (6) The term “trigger price” means the average
25 daily closing price of the New York Cotton Ex-

1 change, or any successor as determined by the Sec-
2 retary, for the corresponding month during the pre-
3 vious 5-year period, excluding the year with the
4 highest average price for the corresponding month
5 and the year with the lowest average price for the
6 corresponding month.

7 **PART 2—RELIEF FROM IMPORTS FROM ALL**
8 **COUNTRIES**

9 **SEC. 311. NAFTA ARTICLE IMPACT IN IMPORT RELIEF**
10 **CASES UNDER THE TRADE ACT OF 1974.**

11 (a) IN GENERAL.—If, in any investigation initiated
12 under chapter 1 of title II of the Trade Act of 1974, the
13 International Trade Commission makes an affirmative de-
14 termination (or a determination which the President may
15 treat as an affirmative determination under such chapter
16 by reason of section 330(d) of the Tariff Act of 1930),
17 the International Trade Commission shall also find (and
18 report to the President at the time such injury determina-
19 tion is submitted to the President) whether—

20 (1) imports of the article from a NAFTA coun-
21 try, considered individually, account for a substan-
22 tial share of total imports; and

23 (2) imports of the article from a NAFTA coun-
24 try, considered individually or, in exceptional cir-
25 cumstances, imports from NAFTA countries consid-

1 ered collectively, contribute importantly to the seri-
2 ous injury, or threat thereof, caused by imports.

3 (b) FACTORS.—

4 (1) SUBSTANTIAL IMPORT SHARE.—In deter-
5 mining whether imports from a NAFTA country,
6 considered individually, account for a substantial
7 share of total imports, such imports normally shall
8 not be considered to account for a substantial share
9 of total imports if that country is not among the top
10 5 suppliers of the article subject to the investigation,
11 measured in terms of import share during the most
12 recent 3-year period.

13 (2) APPLICATION OF “CONTRIBUTE IMPOR-
14 TANTLY” STANDARD.—In determining whether im-
15 ports from a NAFTA country or countries contrib-
16 ute importantly to the serious injury, or threat
17 thereof, the International Trade Commission shall
18 consider such factors as the change in the import
19 share of the NAFTA country or countries, and the
20 level and change in the level of imports of such
21 country or countries. In applying the preceding sen-
22 tence, imports from a NAFTA country or countries
23 normally shall not be considered to contribute impor-
24 tantly to serious injury, or the threat thereof, if the
25 growth rate of imports from such country or coun-

1 tries during the period in which an injurious in-
2 crease in imports occurred is appreciably lower than
3 the growth rate of total imports from all sources
4 over the same period.

5 (c) DEFINITION.—For purposes of this section and
6 section 312(a), the term “contribute importantly” refers
7 to an important cause, but not necessarily the most impor-
8 tant cause.

9 **SEC. 312. PRESIDENTIAL ACTION REGARDING NAFTA IM-**
10 **PORTS.**

11 (a) IN GENERAL.—In determining whether to take
12 action under chapter 1 of title II of the Trade Act of 1974
13 with respect to imports from a NAFTA country, the Presi-
14 dent shall determine whether—

15 (1) imports from such country, considered indi-
16 vidualy, account for a substantial share of total im-
17 ports; or

18 (2) imports from a NAFTA country, considered
19 individually, or in exceptional circumstances imports
20 from NAFTA countries considered collectively, con-
21 tribute importantly to the serious injury, or threat
22 thereof, found by the International Trade Commis-
23 sion.

24 (b) EXCLUSION OF NAFTA IMPORTS.—In determin-
25 ing the nature and extent of action to be taken under

1 chapter 1 of title II of the Trade Act of 1974, the Presi-
2 dent shall exclude from such action imports from a
3 NAFTA country if the President makes a negative deter-
4 mination under subsection (a)(1) or (2) with respect to
5 imports from such country.

6 (c) ACTION AFTER EXCLUSION OF NAFTA COUN-
7 TRY IMPORTS.—

8 (1) IN GENERAL.—If the President, under sub-
9 section (b), excludes imports from a NAFTA coun-
10 try or countries from action under chapter 1 of title
11 II of the Trade Act of 1974 but thereafter deter-
12 mines that a surge in imports from that country or
13 countries is undermining the effectiveness of the ac-
14 tion—

15 (A) the President may take appropriate ac-
16 tion under such chapter 1 to include those im-
17 ports in the action; and

18 (B) any entity that is representative of an
19 industry for which such action is being taken
20 may request the International Trade Commis-
21 sion to conduct an investigation of the surge in
22 such imports.

23 (2) INVESTIGATION.—Upon receiving a request
24 under paragraph (1)(B), the International Trade
25 Commission shall conduct an investigation to deter-

1 mine whether a surge in such imports undermines
2 the effectiveness of the action. The International
3 Trade Commission shall submit the findings of its
4 investigation to the President no later than 30 days
5 after the request is received by the International
6 Trade Commission.

7 (3) DEFINITION.—For purposes of this sub-
8 section, the term “surge” means a significant in-
9 crease in imports over the trend for a recent rep-
10 resentative base period.

11 (d) CONDITION APPLICABLE TO QUANTITATIVE RE-
12 STRICTIONS.—Any action taken under this section pro-
13 claiming a quantitative restriction shall permit the impor-
14 tation of a quantity or value of the article which is not
15 less than the quantity or value of such article imported
16 into the United States during the most recent period that
17 is representative of imports of such article, with allowance
18 for reasonable growth.

19 **PART 3—GENERAL PROVISIONS**

20 **SEC. 315. PROVISIONAL RELIEF.**

21 Section 202(d) of the Trade Act of 1974 (19 U.S.C.
22 2252(d)) is amended—

23 (1) in paragraph (1)(A) by inserting “or citrus
24 product” after “agricultural product” each place it
25 appears;

1 (2) in the text of paragraph (1)(C) that appears
2 before subclauses (I) and (II)—

3 (A) by inserting “or citrus product” after
4 “agricultural product” each place it appears,
5 and

6 (B) by inserting “or citrus product” after
7 “perishable product”;

8 (3) by redesignating subparagraphs (A) and
9 (B) of paragraph (5) as subparagraphs (B) and (C);
10 and

11 (4) by inserting a new subparagraph (A) in
12 paragraph (5) to read as follows:

13 “(A) The term ‘citrus product’ means any
14 processed oranges or grapefruit, or any orange
15 or grapefruit juice, including concentrate.”.

16 **SEC. 316. MONITORING.**

17 For purposes of expediting an investigation concern-
18 ing provisional relief under this subtitle or section 202 of
19 the Trade Act of 1974 regarding—

20 (1) fresh or chilled tomatoes provided for in
21 subheading 0702.00.00 of the HTS; and

22 (2) fresh or chilled peppers, other than chili
23 peppers provided for in subheading 0709.60.00 of
24 the HTS;

1 the International Trade Commission, until January 1,
2 2009, shall monitor imports of such goods as if proper
3 requests for such monitoring had been made under sub-
4 section 202(d)(1)(C)(i) of such section 202. At the request
5 of the International Trade Commission, the Secretary of
6 Agriculture and the Commissioner of Customs shall pro-
7 vide to the International Trade Commission information
8 relevant to the monitoring carried out under this section.

9 **SEC. 317. PROCEDURES CONCERNING THE CONDUCT OF**
10 **INTERNATIONAL TRADE COMMISSION INVES-**
11 **TIGATIONS.**

12 (a) PROCEDURES AND RULES.—The International
13 Trade Commission shall adopt such procedures and rules
14 and regulations as are necessary to bring its procedures
15 into conformity with chapter 8 of the Agreement.

16 (b) CONFORMING AMENDMENT.—Section 202(a) of
17 the Trade Act of 1974 is amended by adding at the end
18 thereof the following:

19 “(8) The procedures concerning the release of
20 confidential business information set forth in section
21 332(g) of the Tariff Act of 1930 shall apply with re-
22 spect to information received by the Commission in
23 the course of investigations conducted under this
24 chapter and part 1 of title III of the North Amer-
25 ican Free Trade Agreement Implementation Act.”.

1 **SEC. 318. EFFECTIVE DATE.**

2 Except as provided in section 308(b), the provisions
3 of this subtitle take effect on the date the Agreement en-
4 ters into force with respect to the United States.

5 **Subtitle B—Agriculture**

6 **SEC. 321. AGRICULTURE.**

7 (a) MEAT IMPORT ACT OF 1979.—The Meat Import
8 Act of 1979 (19 U.S.C. 2253 note) is amended—

9 (1) in subsection (b)—

10 (A) by striking the last sentence in para-
11 graph (2),

12 (B) by redesignating paragraph (3) as
13 paragraph (4) and inserting after paragraph
14 (2) the following new paragraph:

15 “(3) The term ‘meat articles’ does not include
16 any article described in paragraph (2) that—

17 “(A) originates in a NAFTA country (as
18 determined in accordance with section 202 of
19 the NAFTA Act), or

20 “(B) originates in Canada (as determined
21 in accordance with section 202 of the United
22 States-Canada Free-Trade Agreement Imple-
23 mentation Act of 1988) during such time as the
24 United States-Canada Free-Trade Agreement is
25 in force with respect to, and the United States
26 applies such Agreement to, Canada.”; and

1 (C) by inserting after paragraph (4) (as
2 redesignated by subparagraph (B) of this para-
3 graph) the following new paragraphs:

4 “(5) The term ‘NAFTA Act’ means the North
5 American Free Trade Agreement Implementation
6 Act.

7 “(6) The term ‘NAFTA country’ has the mean-
8 ing given such term in section 2(4) of the NAFTA
9 Act.”;

10 (2) in subsection (f)(1), by striking the end pe-
11 riod and inserting “, except that the President may
12 exclude any such article originating in a NAFTA
13 country (as determined in accordance with section
14 202 of the NAFTA Act) or, if paragraph (3)(B) ap-
15 plies, any such article originating in Canada as de-
16 termined in accordance with such paragraph
17 (3)(B).”;

18 (3) in subsection (i), by inserting “and Mexico”
19 after “Canada” each place it appears.

20 (b) SECTION 22 OF THE AGRICULTURAL ADJUST-
21 MENT ACT.—

22 (1) IN GENERAL.—The President may, pursu-
23 ant to article 309 and Annex 703.2 of the Agree-
24 ment, exempt from any quantitative limitation or fee
25 imposed pursuant to section 22 of the Agricultural

1 Adjustment Act (7 U.S.C. 624), reenacted with
2 amendments by the Agricultural Marketing Agree-
3 ment Act of 1937, any article which originates in
4 Mexico, if Mexico is a NAFTA country.

5 (2) QUALIFICATION OF ARTICLES.—The deter-
6 mination of whether an article originates in Mexico
7 shall be made in accordance with section 202, except
8 that operations performed in, or materials obtained
9 from, any country other than the United States or
10 Mexico shall be treated as if performed in or ob-
11 tained from a country other than a NAFTA country.

12 (c) TARIFF RATE QUOTAS.—In implementing the
13 tariff rate quotas set out in the United States Schedule
14 to Annex 302.2 of the Agreement, the President shall take
15 such action as may be necessary to ensure that imports
16 of agricultural goods do not disrupt the orderly marketing
17 of commodities in the United States.

18 (d) PEANUTS.—

19 (1) EFFECT OF THE AGREEMENT.—

20 (A) IN GENERAL.—Nothing in the Agree-
21 ment or this Act reduces or eliminates—

22 (i) any penalty required under section
23 358e(d) of the Agricultural Adjustment
24 Act of 1938 (7 U.S.C. 1359a(d)); or

1 (ii) any requirement under Marketing
2 Agreement No. 146, Regulating the Qual-
3 ity of Domestically Produced Peanuts, on
4 peanuts in the domestic market, pursuant
5 to section 108B(f) of the Agricultural Act
6 of 1949 (7 U.S.C. 1445c-3(f)).

7 (B) REENTRY OF EXPORTED PEANUTS.—
8 Paragraph (6) of section 358e(d) of the Agri-
9 cultural Adjustment Act of 1938 (7 U.S.C.
10 1359a(d)(6)) is amended to read as follows:

11 “(6) REENTRY OF EXPORTED PEANUTS.—

12 “(A) PENALTY.—If any additional peanuts
13 exported by a handler are reentered into the
14 United States in commercial quantities as de-
15 termined by the Secretary, the importer of the
16 peanuts shall be subject to a penalty at a rate
17 equal to 140 percent of the loan level for quota
18 peanuts on the quantity of peanuts reentered.

19 “(B) RECORDS.—Each person, firm, or
20 handler who imports peanuts into the United
21 States shall maintain such records and docu-
22 ments as are required by the Secretary to en-
23 sure compliance with this subsection.”.

24 (2) CONSULTATIONS ON IMPORTS.—It is the
25 sense of Congress that the United States should re-

1 quest consultations in the Working Group on Emer-
2 gency Action, established in the Understanding Be-
3 tween the Parties to the North American Free
4 Trade Agreement Concerning Chapter Eight—
5 Emergency Action, if imports of peanuts exceed the
6 in-quota quantity under a tariff rate quota set out
7 in the United States Schedule to Annex 302.2 of the
8 Agreement concerning whether—

9 (A) the increased imports of peanuts con-
10 stitute a substantial cause of, or contribute im-
11 portantly to, serious injury, or threat of serious
12 injury, to the domestic peanut industry; and

13 (B) recourse under Chapter Eight of the
14 Agreement or Article XIX of the General
15 Agreement on Tariffs and Trade is appropriate.

16 (e) FRESH FRUITS, VEGETABLES, AND CUT FLOW-
17 ERS.—

18 (1) IN GENERAL.—The Secretary of Agriculture
19 shall collect and compile the information specified
20 under paragraph (3), if reasonably available, from
21 appropriate Federal departments and agencies and
22 the relevant counterpart ministries of the Govern-
23 ment of Mexico.

24 (2) DESIGNATION OF AN OFFICE.—The Sec-
25 retary of Agriculture shall designate an office within

1 the United States Department of Agriculture to be
2 responsible for maintaining and disseminating, in a
3 timely manner, the data accumulated for verifying
4 citrus, fruit, vegetable, and cut flower trade between
5 the United States and Mexico. The information shall
6 be made available to the public and the NAFTA Ag-
7 riculture Committee Working Groups.

8 (3) INFORMATION COLLECTED.—The informa-
9 tion to be collected, if reasonably available, in-
10 cludes—

11 (A) monthly fresh fruit, fresh vegetable,
12 fresh citrus, and processed citrus product im-
13 port and export data;

14 (B) monthly citrus juice production and
15 export data;

16 (C) data on inspections of shipments of cit-
17 rus, vegetables, and cut flowers entering the
18 United States from Mexico; and

19 (D) in the case of fruits, vegetables, and
20 cut flowers entering the United States from
21 Mexico, data regarding—

22 (i) planted and harvested acreage; and

23 (ii) wholesale prices, quality, and
24 grades.

25 (f) END-USE CERTIFICATES.—

1 (1) IN GENERAL.—The Secretary of Agriculture
2 (referred to in this subsection as the “Secretary”)
3 shall implement, in coordination with the Commis-
4 sioner of Customs, a program requiring that end-use
5 certificates be included in the documentation cover-
6 ing the entry into, or the withdrawal from a ware-
7 house for consumption in, the customs territory of
8 the United States—

9 (A) of any wheat that is a product of any
10 foreign country or instrumentality that re-
11 quires, as of the effective date of this sub-
12 section, end-use certificates for imports of
13 wheat that is a product of the United States
14 (referred to in this subsection as “United
15 States-produced wheat”); and

16 (B) of any barley that is a product of any
17 foreign country or instrumentality that re-
18 quires, as of the effective date of this sub-
19 section, end-use certificates for imports of bar-
20 ley that is a product of the United States (re-
21 ferred to in this subsection as “United States-
22 produced barley”).

23 (2) REGULATIONS.—The Secretary shall pre-
24 scribe by regulation such requirements regarding the
25 information to be included in end-use certificates as

1 may be necessary and appropriate to carry out this
2 subsection.

3 (3) PRODUCER PROTECTION DETERMINA-
4 TION.—At any time after the effective date of the
5 requirements established under paragraph (1), the
6 Secretary may, subject to paragraph (5), suspend
7 the requirements when making a determination,
8 after consultation with domestic producers, that the
9 program implemented under this subsection has di-
10 rectly resulted in—

11 (A) the reduction of income to the United
12 States producers of agricultural commodities; or

13 (B) the reduction of the competitiveness of
14 United States agricultural commodities in the
15 world export markets.

16 (4) SUSPENSION OF REQUIREMENTS.—

17 (A) WHEAT.—If a foreign country or in-
18 strumentality that requires end-use certificates
19 for imports of United States-produced wheat as
20 of the effective date of the requirement under
21 paragraph (1)(A) eliminates the requirement,
22 the Secretary shall suspend the requirement
23 under paragraph (1)(A) beginning 30 calendar
24 days after suspension by the foreign country or
25 instrumentality.

1 (B) BARLEY.—If a foreign country or in-
2 strumentality that requires end-use certificates
3 for imports of United States-produced barley as
4 of the effective date of the requirement under
5 paragraph (1)(B) eliminates the requirement,
6 the Secretary shall suspend the requirement
7 under paragraph (1)(B) beginning 30 calendar
8 days after suspension by the foreign country or
9 instrumentality.

10 (5) REPORT TO CONGRESS.—The Secretary
11 shall not suspend the requirements established under
12 paragraph (1) under circumstances identified in
13 paragraph (3) before the Secretary submits a report
14 to Congress detailing the determination made under
15 paragraph (3) and the reasons for making the deter-
16 mination.

17 (6) COMPLIANCE.—It shall be a violation of
18 section 1001 of title 18, United States Code, for a
19 person to engage in fraud or knowingly violate this
20 subsection or a regulation implementing this sub-
21 section.

22 (7) EFFECTIVE DATE.—This subsection shall
23 become effective on the date that is 120 days after
24 the date of enactment of this Act.

1 (g) AGRICULTURAL FELLOWSHIP PROGRAM.—Sec-
2 tion 1542(d) of the Food, Agriculture, Conservation, and
3 Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622
4 note) is amended by adding at the end the following new
5 paragraph:

6 “(3) AGRICULTURAL FELLOWSHIPS FOR NAFTA
7 COUNTRIES.—

8 “(A) IN GENERAL.—The Secretary shall
9 grant fellowships to individuals from countries
10 that are parties to the North American Free
11 Trade Agreement (referred to in this paragraph
12 as ‘NAFTA’) to study agriculture in the United
13 States, and to individuals in the United States
14 to study agriculture in other NAFTA countries.

15 “(B) PURPOSE.—The purpose of fellow-
16 ships granted under this paragraph is—

17 “(i) to allow the recipients to expand
18 their knowledge and understanding of agri-
19 cultural systems and practices in other
20 NAFTA countries;

21 “(ii) to facilitate the improvement of
22 agricultural systems in NAFTA countries;
23 and

1 “(iii) to establish and expand agricul-
2 tural trade linkages between the United
3 States and other NAFTA countries.

4 “(C) ELIGIBLE RECIPIENTS.—The Sec-
5 retary may provide fellowships under this para-
6 graph to agricultural producers and consult-
7 ants, government officials, and other individuals
8 from the private and public sectors.

9 “(D) ACCEPTANCE OF GIFTS.—The Sec-
10 retary may accept money, funds, property, and
11 services of every kind by gift, devise, bequest,
12 grant, or otherwise, and may in any manner,
13 dispose of all of the holdings and use the re-
14 ceipts generated from the disposition to carry
15 out this paragraph. Receipts under this para-
16 graph shall remain available until expended.”.

17 “(E) AUTHORIZATION OF APPROPRIA-
18 TION.—There are authorized to be appropriated
19 such sums as are necessary to carry out this
20 paragraph.”.

21 (h) ASSISTANCE FOR AFFECTED FARMWORKERS.—

22 (1) IN GENERAL.—Subject to paragraph (3), if
23 at any time the Secretary of Agriculture determines
24 that the implementation of the Agreement has
25 caused low-income migrant or seasonal farmworkers

1 to lose income, the Secretary may make available
2 grants, not to exceed \$20,000,000 for any fiscal
3 year, to public agencies or private organizations with
4 tax-exempt status under section 501(c)(3) of the In-
5 ternal Revenue Code of 1986, that have experience
6 in providing emergency services to low-income mi-
7 grant or seasonal farmworkers. Emergency services
8 to be provided with assistance received under this
9 subsection may include such types of assistance as
10 the Secretary determines to be necessary and appro-
11 priate.

12 (2) DEFINITION.—As used in this subsection,
13 the term “low-income migrant or seasonal farm-
14 worker” shall have the same meaning as provided in
15 section 2281(b) of the Food, Agriculture, Conserva-
16 tion, and Trade Act of 1990 (42 U.S.C. 5177a(b)).

17 (3) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated
19 \$20,000,000 for each fiscal year to carry out this
20 subsection.

21 (i) BIENNIAL REPORT ON EFFECTS OF THE AGREE-
22 MENT ON AMERICAN AGRICULTURE.—

23 (1) IN GENERAL.—The Secretary of Agriculture
24 shall prepare a biennial report on the effects of the
25 Agreement on United States producers of agricul-

1 tural commodities and on rural communities located
2 in the United States.

3 (2) CONTENTS OF REPORT.—The report re-
4 quired under this subsection shall include—

5 (A) an assessment of the effects of imple-
6 menting the Agreement on the various agricul-
7 tural commodities affected by the Agreement,
8 on a commodity-by-commodity basis;

9 (B) an assessment of the effects of imple-
10 menting the Agreement on investments made in
11 United States agriculture and on rural commu-
12 nities located in the United States;

13 (C) an assessment of the effects of imple-
14 menting the Agreement on employment in Unit-
15 ed States agriculture, including any gains or
16 losses of jobs in businesses directly or indirectly
17 related to United States agriculture; and

18 (D) such other information and data as
19 the Secretary determines appropriate.

20 (3) SUBMISSION OF REPORT.—The Secretary
21 shall furnish the report required under this sub-
22 section to the Committee on Agriculture, Nutrition,
23 and Forestry of the Senate and to the Committee on
24 Agriculture of the House of Representatives. The re-
25 port shall be due every 2 years and shall be submit-

1 ted by March 1 of the year in which the report is
2 due. The first report shall be due by March 1, 1997,
3 and the final report shall be due by March 1, 2011.

4 **Subtitle C—Intellectual Property**

5 **SEC. 331. TREATMENT OF INVENTIVE ACTIVITY.**

6 Section 104 of title 35, United States Code, is
7 amended to read as follows:

8 **“§ 104. Invention made abroad**

9 “(a) IN GENERAL.—In proceedings in the Patent and
10 Trademark Office, in the courts, and before any other
11 competent authority, an applicant for a patent, or a pat-
12 entee, may not establish a date of invention by reference
13 to knowledge or use thereof, or other activity with respect
14 thereto, in a foreign country other than a NAFTA coun-
15 try, except as provided in sections 119 and 365 of this
16 title. Where an invention was made by a person, civil or
17 military, while domiciled in the United States or a
18 NAFTA country and serving in any other country in con-
19 nection with operations by or on behalf of the United
20 States or a NAFTA country, the person shall be entitled
21 to the same rights of priority in the United States with
22 respect to such invention as if such invention had been
23 made in the United States or a NAFTA country. To the
24 extent that any information in a NAFTA country concern-
25 ing knowledge, use, or other activity relevant to proving

1 or disproving a date of invention has not been made avail-
2 able for use in a proceeding in the Office, a court, or any
3 other competent authority to the same extent as such in-
4 formation could be made available in the United States,
5 the Commissioner, court, or such other authority shall
6 draw appropriate inferences, or take other action per-
7 mitted by statute, rule, or regulation, in favor of the party
8 that requested the information in the proceeding.

9 “(b) DEFINITION.—As used in this section, the term
10 ‘NAFTA country’ has the meaning given that term in sec-
11 tion 2(4) of the North American Free Trade Agreement
12 Implementation Act.”.

13 **SEC. 332. RENTAL RIGHTS IN SOUND RECORDINGS.**

14 Section 4 of the Record Rental Amendment of 1984
15 (17 U.S.C. 109 note) is amended by striking out sub-
16 section (c).

17 **SEC. 333. NONREGISTRABILITY OF MISLEADING GEO-**
18 **GRAPHIC INDICATIONS.**

19 (a) MARKS NOT REGISTRABLE ON THE PRINCIPAL
20 REGISTER.—Section 2 of the Act entitled “An Act to pro-
21 vide for the registration and protection of trademarks used
22 in commerce, to carry out the provisions of certain inter-
23 national conventions, and for other purposes”, approved
24 July 5, 1946, commonly referred to as the Trademark Act
25 of 1946 (15 U.S.C. 1052(e)), is amended—

1 (1) by amending subsection (e) to read as fol-
2 lows:

3 “(e) Consists of a mark which (1) when used on or
4 in connection with the goods of the applicant is merely
5 descriptive or deceptively misdescriptive of them, (2) when
6 used on or in connection with the goods of the applicant
7 is primarily geographically descriptive of them, except as
8 indications of regional origin may be registrable under sec-
9 tion 4, (3) when used on or in connection with the goods
10 of the applicant is primarily geographically deceptively
11 misdescriptive of them, or (4) is primarily merely a sur-
12 name.”; and

13 (2) in subsection (f)—

14 (A) by striking out “and (d)” and insert-
15 ing “(d), and (e)(3)”; and

16 (B) by adding at the end the following new
17 sentence: “Nothing in this section shall prevent
18 the registration of a mark which, when used on
19 or in connection with the goods of the appli-
20 cant, is primarily geographically deceptively
21 misdescriptive of them, and which became dis-
22 tinctive of the applicant’s goods in commerce
23 before the date of the enactment of the North
24 American Free Trade Agreement Implementa-
25 tion Act.”.

1 (b) SUPPLEMENTAL REGISTER.—Section 23(a) of
2 the Trademark Act of 1946 (15 U.S.C. 1091(a)) is
3 amended—

4 (1) by striking out “and (d)” and inserting
5 “(d), and (e)(3)”; and

6 (2) by adding at the end the following new sen-
7 tence: “Nothing in this section shall prevent the reg-
8 istration on the supplemental register of a mark, ca-
9 pable of distinguishing the applicant’s goods or serv-
10 ices and not registrable on the principal register
11 under this Act, that is declared to be unregistrable
12 under section 2(e)(3), if such mark has been in law-
13 ful use in commerce by the owner thereof, on or in
14 connection with any goods or services, since before
15 the date of the enactment of the North American
16 Free Trade Agreement Implementation Act.”.

17 **SEC. 334. MOTION PICTURES IN THE PUBLIC DOMAIN.**

18 (a) IN GENERAL.—Chapter 1 of title 17, United
19 States Code, is amended by inserting after section 104 the
20 following new section:

21 **“§ 104A. Copyright in certain motion pictures**

22 “(a) RESTORATION OF COPYRIGHT.—Subject to sub-
23 sections (b) and (c)—

24 “(1) any motion picture that is first fixed or
25 published in the territory of a NAFTA country as

1 defined in section 2(4) of the North American Free
2 Trade Agreement Implementation Act to which
3 Annex 1705.7 of the North American Free Trade
4 Agreement applies, and

5 “(2) any work included in such motion picture
6 that is first fixed in or published with such motion
7 picture,

8 that entered the public domain in the United States be-
9 cause it was first published on or after January 1, 1978,
10 and before March 1, 1989, without the notice required by
11 section 401, 402, or 403 of this title, the absence of which
12 has not been excused by the operation of section 405 of
13 this title, as such sections were in effect during that pe-
14 riod, shall have copyright protection under this title for
15 the remainder of the term of copyright protection to which
16 it would have been entitled in the United States had it
17 been published with such notice.

18 “(b) EFFECTIVE DATE OF PROTECTION.—The pro-
19 tection provided under subsection (a) shall become effec-
20 tive, with respect to any motion picture or work included
21 in such motion picture meeting the criteria of that sub-
22 section, 1 year after the date on which the North Amer-
23 ican Free Trade Agreement enters into force with respect
24 to, and the United States applies the Agreement to, the
25 country in whose territory the motion picture was first

1 fixed or published if, before the end of that 1-year period,
2 the copyright owner in the motion picture or work files
3 with the Copyright Office a statement of intent to have
4 copyright protection restored under subsection (a). The
5 Copyright Office shall publish in the Federal Register
6 promptly after that effective date a list of motion pictures,
7 and works included in such motion pictures, for which pro-
8 tection is provided under subsection (a).

9 “(c) USE OF PREVIOUSLY OWNED COPIES.—A na-
10 tional or domiciliary of the United States who, before the
11 date of the enactment of the North American Free Trade
12 Agreement Implementation Act, made or acquired copies
13 of a motion picture, or other work included in such motion
14 picture, that is subject to protection under subsection (a),
15 may sell or distribute such copies or continue to perform
16 publicly such motion picture and other work without liabil-
17 ity for such sale, distribution, or performance, for a period
18 of 1 year after the date on which the list of motion pic-
19 tures, and works included in such motion pictures, that
20 are subject to protection under subsection (a) is published
21 in the Federal Register under subsection (b).”.

22 (b) CONFORMING AMENDMENT.—The table of sec-
23 tions at the beginning of chapter 1 of title 17, United
24 States Code, is amended by inserting after the item relat-
25 ing to section 104 the following new item:

“104A. Copyright in certain motion pictures.”.

1 **SEC. 335. EFFECTIVE DATES.**

2 (a) IN GENERAL.—Subject to subsections (b) and (c),
3 the amendments made by this subtitle take effect on the
4 date the Agreement enters into force with respect to the
5 United States.

6 (b) SECTION 331.—The amendments made by sec-
7 tion 331 shall apply to all patent applications that are
8 filed on or after the date of the enactment of this Act:
9 *Provided*, That an applicant for a patent, or a patentee,
10 may not establish a date of invention by reference to
11 knowledge or use thereof, or other activity with respect
12 thereto, in a NAFTA country, except as provided in sec-
13 tions 119 and 365 of title 35, United States Code, that
14 is earlier than the date of the enactment of this Act.

15 (c) SECTION 333.—The amendments made by section
16 333 shall apply only to trademark applications filed on
17 or after the date of the enactment of this Act.

18 **Subtitle D—Temporary Entry of**
19 **Business Persons**

20 **SEC. 341. TEMPORARY ENTRY.**

21 (a) NONIMMIGRANT TRADERS AND INVESTORS.—
22 Upon a basis of reciprocity secured by the Agreement, an
23 alien who is a citizen of Canada or Mexico, and the spouse
24 and children of any such alien if accompanying or follow-
25 ing to join such alien, may, if otherwise eligible for a visa
26 and if otherwise admissible into the United States under

1 the Immigration and Nationality Act (8 U.S.C. 1101 et
2 seq.), be considered to be classifiable as a nonimmigrant
3 under section 101(a)(15)(E) of such Act (8 U.S.C.
4 1101(a)(15)(E)) if entering solely for a purpose specified
5 in Section B of Annex 1603 of the Agreement, but only
6 if any such purpose shall have been specified in such
7 Annex on the date of entry into force of the Agreement.
8 For purposes of this section, the term “citizen of Mexico”
9 means “citizen” as defined in Annex 1608 of the Agree-
10 ment.

11 (b) NONIMMIGRANT PROFESSIONALS AND ANNUAL
12 NUMERICAL LIMIT.—Section 214 of the Immigration and
13 Nationality Act (8 U.S.C. 1184) is amended by redesi-
14 gnating subsection (e) as paragraph (1) of subsection (e)
15 and adding after such paragraph (1), as redesignated, the
16 following new paragraphs:

17 “(2) An alien who is a citizen of Canada or Mexico,
18 and the spouse and children of any such alien if accom-
19 panying or following to join such alien, who seeks to enter
20 the United States under and pursuant to the provisions
21 of Section D of Annex 1603 of the North American Free
22 Trade Agreement (in this subsection referred to as
23 ‘NAFTA’) to engage in business activities at a profes-
24 sional level as provided for in such Annex, may be admit-
25 ted for such purpose under regulations of the Attorney

1 General promulgated after consultation with the Secretar-
2 ies of State and Labor. For purposes of this Act, including
3 the issuance of entry documents and the application of
4 subsection (b), such alien shall be treated as if seeking
5 classification, or classifiable, as a nonimmigrant under
6 section 101(a)(15). The admission of an alien who is a
7 citizen of Mexico shall be subject to paragraphs (3), (4),
8 and (5). For purposes of this paragraph and paragraphs
9 (3), (4), and (5), the term “citizen of Mexico” means “citi-
10 zen” as defined in Annex 1608 of NAFTA.

11 “(3) The Attorney General shall establish an annual
12 numerical limit on admissions under paragraph (2) of
13 aliens who are citizens of Mexico, as set forth in Appendix
14 1603.D.4 of Annex 1603 of the NAFTA. Subject to para-
15 graph (4), the annual numerical limit—

16 “(A) beginning with the second year that
17 NAFTA is in force, may be increased in accordance
18 with the provisions of paragraph 5(a) of Section D
19 of such Annex, and

20 “(B) shall cease to apply as provided for in
21 paragraph 3 of such Appendix.

22 “(4) The annual numerical limit referred to in para-
23 graph (3) may be increased or shall cease to apply (other
24 than by operation of paragraph 3 of such Appendix) only
25 if—

1 “(A) the President has obtained advice regard-
2 ing the proposed action from the appropriate advi-
3 sory committees established under section 135 of the
4 Trade Act of 1974 (19 U.S.C. 2155);

5 “(B) the President has submitted a report to
6 the Committee on the Judiciary of the Senate and
7 the Committee on the Judiciary of the House of
8 Representatives that sets forth—

9 “(i) the action proposed to be taken and
10 the reasons therefor, and

11 “(ii) the advice obtained under subpara-
12 graph (A);

13 “(C) a period of at least 60 calendar days that
14 begins on the first day on which the President has
15 met the requirements of subparagraphs (A) and (B)
16 with respect to such action has expired; and

17 “(D) the President has consulted with such
18 committees regarding the proposed action during the
19 period referred to in subparagraph (C).

20 “(5) During the period that the provisions of Appen-
21 dix 1603.D.4 of Annex 1603 of the NAFTA apply, the
22 entry of an alien who is a citizen of Mexico under and
23 pursuant to the provisions of Section D of Annex 1603
24 of NAFTA shall be subject to the attestation requirement
25 of section 212(m), in the case of a registered nurse, or

1 the application requirement of section 212(n), in the case
2 of all other professions set out in Appendix 1603.D.1 of
3 Annex 1603 of NAFTA, and the petition requirement of
4 subsection (c), to the extent and in the manner prescribed
5 in regulations promulgated by the Secretary of Labor,
6 with respect to sections 212(m) and 212(n), and the At-
7 torney General, with respect to subsection (c).”.

8 (c) LABOR DISPUTES.—Section 214 of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1184) is amended by
10 adding at the end the following new subsection:

11 “(j) Notwithstanding any other provision of this Act,
12 an alien who is a citizen of Canada or Mexico who seeks
13 to enter the United States under and pursuant to the pro-
14 visions of Section B, Section C, or Section D of Annex
15 1603 of the North American Free Trade Agreement, shall
16 not be classified as a nonimmigrant under such provisions
17 if there is in progress a strike or lockout in the course
18 of a labor dispute in the occupational classification at the
19 place or intended place of employment, unless such alien
20 establishes, pursuant to regulations promulgated by the
21 Attorney General, that the alien’s entry will not affect ad-
22 versely the settlement of the strike or lockout or the em-
23 ployment of any person who is involved in the strike or
24 lockout. Notice of a determination under this subsection
25 shall be given as may be required by paragraph 3 of article

1 1603 of such Agreement. For purposes of this subsection,
2 the term ‘citizen of Mexico’ means ‘citizen’ as defined in
3 Annex 1608 of such Agreement.”.

4 **SEC. 342. EFFECTIVE DATE.**

5 The provisions of this subtitle take effect on the date
6 the Agreement enters into force with respect to the United
7 States.

8 **Subtitle E—Standards**

9 **PART 1—STANDARDS AND MEASURES**

10 **SEC. 351. STANDARDS AND SANITARY AND PHYTOSANITARY**
11 **MEASURES.**

12 (a) IN GENERAL.—Title IV of the Trade Agreements
13 Act of 1979 (19 U.S.C. 2531 et seq.) is amended by in-
14 serting at the end the following new subtitle:

15 **“Subtitle E—Standards and Meas-**
16 **ures Under the North American**
17 **Free Trade Agreement**

18 **“CHAPTER 1—SANITARY AND**

19 **PHYTOSANITARY MEASURES**

20 **“SEC. 461. GENERAL.**

21 “Nothing in this chapter may be construed—

22 “(1) to prohibit a Federal agency or State
23 agency from engaging in activity related to sanitary
24 or phytosanitary measures to protect human, ani-
25 mal, or plant life or health; or

1 “(2) to limit the authority of a Federal agency
2 or State agency to determine the level of protection
3 of human, animal, or plant life or health the agency
4 considers appropriate.

5 **“SEC. 462. INQUIRY POINT.**

6 “‘The standards information center maintained under
7 section 414 shall, in addition to the functions specified
8 therein, make available to the public relevant documents,
9 at such reasonable fees as the Secretary of Commerce may
10 prescribe, and information regarding—

11 “(1) any sanitary or phytosanitary measure of
12 general application, including any control or inspec-
13 tion procedure or approval procedure proposed,
14 adopted, or maintained by a Federal or State agen-
15 cy;

16 “(2) the procedures of a Federal or State agen-
17 cy for risk assessment, and factors the agency con-
18 siders in conducting the assessment and in establish-
19 ing the levels of protection that the agency considers
20 appropriate;

21 “(3) the membership and participation of the
22 Federal Government and State governments in inter-
23 national and regional sanitary and phytosanitary or-
24 ganizations and systems, and in bilateral and multi-
25 lateral arrangements regarding sanitary and

1 phytosanitary measures, and the provisions of those
2 systems and arrangements; and

3 “(4) the location of notices of the type required
4 under article 719 of the NAFTA, or where the infor-
5 mation contained in such notices can be obtained.

6 **“SEC. 463. CHAPTER DEFINITIONS.**

7 “Notwithstanding section 451, for purposes of this
8 chapter—

9 “(1) ANIMAL.—The term ‘animal’ includes fish,
10 bees, and wild fauna.

11 “(2) APPROVAL PROCEDURE.—The term ‘ap-
12 proval procedure’ means any registration, notifica-
13 tion, or other mandatory administrative procedure
14 for—

15 “(A) approving the use of an additive for
16 a stated purpose or under stated conditions, or

17 “(B) establishing a tolerance for a stated
18 purpose or under stated conditions for a con-
19 taminant,

20 in a food, beverage, or feedstuff prior to permitting
21 the use of the additive or the marketing of a food,
22 beverage, or feedstuff containing the additive or con-
23 taminant.

1 “(3) CONTAMINANT.—The term ‘contaminant’
2 includes pesticide and veterinary drug residues and
3 extraneous matter.

4 “(4) CONTROL OR INSPECTION PROCEDURE.—
5 The term ‘control or inspection procedure’ means
6 any procedure used, directly or indirectly, to deter-
7 mine that a sanitary or phytosanitary measure is
8 fulfilled, including sampling, testing, inspection,
9 evaluation, verification, monitoring, auditing, assur-
10 ance of conformity, accreditation, registration, cer-
11 tification, or other procedure involving the physical
12 examination of a good, of the packaging of a good,
13 or of the equipment or facilities directly related to
14 production, marketing, or use of a good, but does
15 not mean an approval procedure.

16 “(5) PLANT.—The term ‘plant’ includes wild
17 flora.

18 “(6) RISK ASSESSMENT.—The term ‘risk as-
19 sessment’ means an evaluation of—

20 “(A) the potential for the introduction, es-
21 tablishment or spread of a pest or disease and
22 associated biological and economic con-
23 sequences; or

24 “(B) the potential for adverse effects on
25 human or animal life or health arising from the

1 presence of an additive, contaminant, toxin or
2 disease-causing organism in a food, beverage, or
3 feedstuff.

4 “(7) SANITARY OR PHYTOSANITARY MEAS-
5 URE.—

6 “(A) IN GENERAL.—The term ‘sanitary or
7 phytosanitary measure’ means a measure to—

8 “(i) protect animal or plant life or
9 health in the United States from risks
10 arising from the introduction, establish-
11 ment, or spread of a pest or disease;

12 “(ii) protect human or animal life or
13 health in the United States from risks
14 arising from the presence of an additive,
15 contaminant, toxin, or disease-causing or-
16 ganism in a food, beverage, or feedstuff;

17 “(iii) protect human life or health in
18 the United States from risks arising from
19 a disease-causing organism or pest carried
20 by an animal or plant, or a product there-
21 of; or

22 “(iv) prevent or limit other damage in
23 the United States arising from the intro-
24 duction, establishment, or spread of a pest.

1 “(B) FORM.—The form of a sanitary or
2 phytosanitary measure includes—

3 “(i) end product criteria;

4 “(ii) a product-related processing or
5 production method;

6 “(iii) a testing, inspection, certifi-
7 cation, or approval procedure;

8 “(iv) a relevant statistical method;

9 “(v) a sampling procedure;

10 “(vi) a method of risk assessment;

11 “(vii) a packaging and labeling re-
12 quirement directly related to food safety;

13 and

14 “(viii) a quarantine treatment, such
15 as a relevant requirement associated with
16 the transportation of animals or plants or
17 with material necessary for their survival
18 during transportation.

19 **“CHAPTER 2—STANDARDS-RELATED**
20 **MEASURES**

21 **“SEC. 471. GENERAL.**

22 “(a) NO BAR TO ENGAGING IN STANDARDS ACTIV-
23 ITY.—Nothing in this chapter shall be construed—

24 “(1) to prohibit a Federal agency from engag-
25 ing in activity related to standards-related measures,

1 including any such measure relating to safety, the
2 protection of human, animal, or plant life or health,
3 the environment or consumers; or

4 “(2) to limit the authority of a Federal agency
5 to determine the level it considers appropriate of
6 safety or of protection of human, animal, or plant
7 life or health, the environment or consumers.

8 “(b) EXCLUSION.—This chapter does not apply to—

9 “(1) technical specifications prepared by a Fed-
10 eral agency for production or consumption require-
11 ments of the agency; or

12 “(2) sanitary or phytosanitary measures under
13 chapter 1.

14 **“SEC. 472. INQUIRY POINT.**

15 “The standards information center maintained under
16 section 414 shall, in addition to the functions specified
17 therein, make available to the public relevant documents,
18 at such reasonable fees as the Secretary of Commerce may
19 prescribe, and information regarding—

20 “(1) the membership and participation of the
21 Federal Government, State governments, and rel-
22 evant nongovernmental bodies in the United States
23 in international and regional standardizing bodies
24 and conformity assessment systems, and in bilateral
25 and multilateral arrangements regarding standards-

1 related measures, and the provisions of those sys-
2 tems and arrangements;

3 “(2) the location of notices of the type required
4 under article 909 of the NAFTA, or where the infor-
5 mation contained in such notice can be obtained;
6 and

7 “(3) the Federal agency procedures for assess-
8 ment of risk, and factors the agency considers in
9 conducting the assessment and establishing the lev-
10 els of protection that the agency considers appro-
11 priate.

12 **“SEC. 473. CHAPTER DEFINITIONS.**

13 “Notwithstanding section 451, for purposes of this
14 chapter—

15 “(1) APPROVAL PROCEDURE.—The term ‘ap-
16 proval procedure’ means any registration, notifica-
17 tion, or other mandatory administrative procedure
18 for granting permission for a good or service to be
19 produced, marketed, or used for a stated purpose or
20 under stated conditions.

21 “(2) CONFORMITY ASSESSMENT PROCEDURE.—
22 The term ‘conformity assessment procedure’ means
23 any procedure used, directly or indirectly, to deter-
24 mine that a technical regulation or standard is ful-
25 filled, including sampling, testing, inspection, evalua-

1 tion, verification, monitoring, auditing, assurance of
2 conformity, accreditation, registration, or approval
3 used for such a purpose, but does not mean an ap-
4 proval procedure.

5 “(3) OBJECTIVE.—The term ‘objective’ in-
6 cludes—

7 “(A) safety,

8 “(B) protection of human, animal, or plant
9 life or health, the environment or consumers,
10 including matters relating to quality and iden-
11 tifiability of goods or services, and

12 “(C) sustainable development,

13 but does not include the protection of domestic pro-
14 duction.

15 “(4) SERVICE.—The term ‘service’ means a
16 land transportation service or a telecommunications
17 service.

18 “(5) STANDARD.—The term ‘standard’
19 means—

20 “(A) characteristics for a good or a service,

21 “(B) characteristics, rules, or guidelines

22 for—

23 “(i) processes or production methods
24 relating to such good, or

1 “(ii) operating methods relating to
2 such service, and

3 “(C) provisions specifying terminology,
4 symbols, packaging, marking, or labelling for—

5 “(i) a good or its related process or
6 production methods, or

7 “(ii) a service or its related operating
8 methods,

9 for common and repeated use, including explan-
10 atory and other related provisions set out in a
11 document approved by a standardizing body,
12 with which compliance is not mandatory.

13 “(6) STANDARDS-RELATED MEASURE.—The
14 term ‘standards-related measure’ means a standard,
15 technical regulation, or conformity assessment proce-
16 dure.

17 “(7) TECHNICAL REGULATION.—The term
18 ‘technical regulation’ means—

19 “(A) characteristics or their related proc-
20 esses and production methods for a good,

21 “(B) characteristics for a service or its re-
22 lated operating methods, or

23 “(C) provisions specifying terminology,
24 symbols, packaging, marking, or labelling for—

1 “(i) a good or its related process or
2 production method, or

3 “(ii) a service or its related operating
4 method,

5 set out in a document, including applicable adminis-
6 trative, explanatory, and other related provisions,
7 with which compliance is mandatory.

8 “(8) TELECOMMUNICATIONS SERVICE.—The
9 term ‘telecommunications service’ means a service
10 provided by means of the transmission and reception
11 of signals by any electromagnetic means, but does
12 not mean the cable, broadcast, or other electro-
13 magnetic distribution of radio or television program-
14 ming to the public generally.

15 **“CHAPTER 3—SUBTITLE DEFINITIONS**

16 **“SEC. 481. DEFINITIONS.**

17 “Notwithstanding section 451, for purposes of this
18 subtitle—

19 “(1) NAFTA.—The term ‘NAFTA’ means the
20 North American Free Trade Agreement.

21 “(2) STATE.—The term ‘State’ means any of
22 the several States, the District of Columbia, and the
23 Commonwealth of Puerto Rico.”.

24 (b) TECHNICAL AMENDMENTS.—

1 (1) DEFINITION OF TRADE REPRESENTA-
2 TIVE.—Section 451(12) of the Trade Agreements
3 Act of 1979 is amended to read as follows:

4 “(12) TRADE REPRESENTATIVE.—The term
5 ‘Trade Representative’ means the United States
6 Trade Representative.”.

7 (2) CONFORMING AMENDMENTS.—Title IV of
8 the Trade Agreement Act of 1979 is further amend-
9 ed—

10 (A) by striking out “Special Representa-
11 tive” each place it appears and inserting
12 “Trade Representative”; and

13 (B) in the section heading to section 411,
14 by striking out “**SPECIAL REPRESENTATIVE**”
15 and inserting “**TRADE REPRESENTATIVE**”.

16 **SEC. 352. TRANSPORTATION.**

17 No regulation issued by the Secretary of Transpor-
18 tation implementing a recommendation of the Land
19 Transportation Standards Subcommittee established
20 under article 913(5)(a)(i) of the Agreement may take ef-
21 fect before the date 90 days after the date of issuance.

1 **PART 2—AGRICULTURAL STANDARDS**
2 **SEC. 361. AGRICULTURAL TECHNICAL AND CONFORMING**
3 **AMENDMENTS.**

4 (a) FEDERAL SEED ACT.—Section 302(e)(1) of the
5 Federal Seed Act (7 U.S.C. 1582(e)(1)) is amended by
6 inserting “or Mexico” after “Canada”.

7 (b) IMPORTATION OF ANIMALS.—The first sentence
8 of section 6 of the Act of August 30, 1890 (26 Stat. 416,
9 chapter 839; 21 U.S.C. 104), is amended by striking “:
10 *Provided*’ and all that follows through the period at the
11 end of the sentence and inserting “, except that the Sec-
12 retary of Agriculture, in accordance with such regulations
13 as the Secretary may issue, may (1) permit the importa-
14 tion of cattle, sheep, or other ruminants, and swine, from
15 Canada or Mexico, and (2) permit the importation from
16 the British Virgin Islands into the Virgin Islands of the
17 United States, for slaughter only, of cattle that have been
18 infested with or exposed to ticks on being freed from the
19 ticks.”.

20 (c) INSPECTION OF ANIMALS.—Section 10 of the Act
21 of August 30, 1890 (26 Stat. 417, chapter 839; 21 U.S.C.
22 105), is amended—

23 (1) by inserting above “SEC. 10.” the following
24 new section heading:

1 **“SEC. 10. INSPECTION OF ANIMALS.”;**

2 (2) by striking “SEC. 10. That the Secretary of
3 Agriculture shall” and inserting “(a) IN GEN-
4 ERAL.—Except as provided in subsection (b), the
5 Secretary of Agriculture shall”; and

6 (3) by adding at the end the following new sub-
7 section:

8 “(b) EXCEPTION.—The Secretary of Agriculture, in
9 accordance with such regulations as the Secretary may
10 issue, may waive any provision of subsection (a) in the
11 case of shipments between the United States and Canada
12 or Mexico.”.

13 (d) DISEASE-FREE COUNTRIES OR REGIONS.—

14 (1) TARIFF ACT OF 1930.—Section 306 of the
15 Tariff Act of 1930 (19 U.S.C. 1306) is amended—

16 (A) in subsection (a), by striking “RIN-
17 DERPEST AND FOOT-AND-MOUTH DISEASE.—If
18 the Secretary of Agriculture” and inserting “IN
19 GENERAL.—Except as provided in subsection
20 (b), if the Secretary of Agriculture”; and

21 (B) by striking subsection (b) and insert-
22 ing the following new subsection:

23 “(b) EXCEPTION.—The Secretary of Agriculture may
24 permit, subject to such terms and conditions as the Sec-
25 retary determines appropriate, the importation of cattle,
26 sheep, other ruminants, or swine (including embryos of the

1 animals), or the fresh, chilled, or frozen meat of the ani-
2 mals, from a region if the Secretary determines that the
3 region from which the animal or meat originated is, and
4 is likely to remain, free from rinderpest and foot-and-
5 mouth disease.”.

6 (2) HONEYBEE ACT.—The first section of the
7 Act of August 31, 1922 (commonly known as the
8 “Honeybee Act”) (42 Stat. 833, chapter 301; 7
9 U.S.C. 281), is amended—

10 (A) in subsection (a)—

11 (i) by striking “, or” at the end of
12 paragraph (1) and inserting a semicolon;

13 (ii) by striking the period at the end
14 of paragraph (2) and inserting “; or”; and

15 (iii) by adding at the end the follow-
16 ing new paragraph:

17 “(3) from Canada or Mexico, subject to such
18 terms and conditions as the Secretary of Agriculture
19 determines appropriate, if the Secretary determines
20 that the region of Canada or Mexico from which the
21 honeybees originated is, and is likely to remain, free
22 of diseases or parasites harmful to honeybees, and
23 undesirable species or subspecies of honeybees.”; and

24 (B) in subsection (b)—

1 (i) by inserting “(1)” after “imported
2 into the United States only from”; and

3 (ii) by inserting before the period the
4 following: “, or (2) Canada or Mexico, if
5 the Secretary of Agriculture determines
6 that the region of Canada or Mexico from
7 which the imports originate is, and is likely
8 to remain, free of undesirable species or
9 subspecies of honeybees”.

10 (e) POULTRY PRODUCTS INSPECTION ACT.—Section
11 17(d) of the Poultry Products Inspection Act (21 U.S.C.
12 466(d)) is amended—

13 (1) in paragraph (1), by inserting after “Not-
14 withstanding any other provision of law,” the follow-
15 ing: “except as provided in paragraph (2),”;

16 (2) by redesignating paragraphs (2) and (3) as
17 paragraphs (3) and (4), respectively; and

18 (3) by inserting after paragraph (1) the follow-
19 ing new paragraph:

20 “(2)(A) Notwithstanding any other provision of law,
21 all poultry, or parts or products of poultry, capable of use
22 as human food offered for importation into the United
23 States from Canada and Mexico shall—

24 “(i) comply with paragraph (1); or

1 “(ii)(I) be subject to inspection, sanitary, qual-
2 ity, species verification, and residue standards that
3 are equivalent to United States standards; and

4 “(II) have been processed in facilities and
5 under conditions that meet standards that are equiv-
6 alent to United States standards.

7 “(B) The Secretary may treat as equivalent to a
8 United States standard a standard of Canada or Mexico
9 described in subparagraph (A)(ii) if the exporting country
10 provides the Secretary with scientific evidence or other in-
11 formation, in accordance with risk assessment methodolo-
12 gies agreed to by the Secretary and the exporting country,
13 to demonstrate that the standard of the exporting country
14 achieves the level of protection that the Secretary consid-
15 ers appropriate.

16 “(C) The Secretary may—

17 “(i) determine, on a scientific basis, that the
18 standard of the exporting country does not achieve
19 the level of protection that the Secretary considers
20 appropriate; and

21 “(ii) provide the basis for the determination in
22 writing to the exporting country on request.”.

23 (f) FEDERAL MEAT INSPECTION ACT.—Section
24 20(e) of the Federal Meat Inspection Act (21 U.S.C.
25 620(e)) is amended—

1 (1) by striking “not be limited to—” and in-
2 sserting “not be limited to the following:”;

3 (2) by striking paragraph (1);

4 (3) by redesignating paragraphs (2) through
5 (6) as paragraphs (3) through (7), respectively;

6 (4) by inserting after “not be limited to the fol-
7 lowing:” (as amended by paragraph (1)) the follow-
8 ing new paragraphs:

9 “(1)(A) Subject to subparagraphs (B) and (C),
10 a certification by the Secretary that foreign plants
11 in Canada and Mexico that export carcasses or meat
12 or meat products referred to in subsection (a) have
13 complied with paragraph (2) or with requirements
14 that are equivalent to United States requirements
15 with regard to all inspection and building construc-
16 tion standards, and all other provisions of this Act
17 and regulations issued under this Act.

18 “(B) Subject to subparagraph (C), the Sec-
19 retary may treat as equivalent to a United States re-
20 quirement a requirement described in subparagraph
21 (A) if the exporting country provides the Secretary
22 with scientific evidence or other information, in ac-
23 cordance with risk assessment methodologies agreed
24 to by the Secretary and the exporting country, to
25 demonstrate that the requirement or standard of the

1 exporting country achieves the level of protection
2 that the Secretary considers appropriate.

3 “(C) The Secretary may—

4 “(i) determine, on a scientific basis, that a
5 requirement of an exporting country does not
6 achieve the level of protection that the Sec-
7 retary considers appropriate; and

8 “(ii) provide the basis for the determina-
9 tion to the exporting country in writing on re-
10 quest.

11 “(2) A certification by the Secretary that, ex-
12 cept as provided in paragraph (1), foreign plants
13 that export carcasses or meat or meat products re-
14 ferred to in subsection (a) have complied with re-
15 quirements that are at least equal to all inspection
16 and building construction standards and all other
17 provisions of this Act and regulations issued under
18 this Act.”;

19 (5) in paragraphs (3) through (7) (as redesi-
20 gnated by paragraph (3)), by striking “the” the first
21 place it appears in each paragraph and inserting
22 “The”;

23 (6) in paragraphs (3) through (5) (as so redesi-
24 gnated), by striking the semicolon at the end of
25 each paragraph and inserting a period; and

1 (7) in paragraph (6) (as so redesignated), by
2 striking “; and” at the end and inserting a period.

3 (g) PEANUT BUTTER AND PEANUT PASTE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), all peanut butter and peanut paste in the
6 United States domestic market shall be processed
7 from peanuts that meet the quality standards estab-
8 lished for peanuts under Marketing Agreement No.
9 146.

10 (2) IMPORTS.—Peanut butter and peanut paste
11 imported into the United States shall comply with
12 paragraph (1) or with sanitary measures that
13 achieve at least the same level of sanitary protection.

14 (h) ANIMAL HEALTH BIOCONTAINMENT FACILITY.—

15 (1) GRANT FOR CONSTRUCTION.—The Sec-
16 retary of Agriculture shall make a grant to a land
17 grant college or university described in paragraph
18 (2) for the construction of a facility at the college
19 or university for the conduct of research in animal
20 health, disease-transmitting insects, and toxic chemi-
21 cals that requires the use of biocontainment facilities
22 and equipment. The facility to be constructed with
23 the grant shall be known as the “Southwest Re-
24 gional Animal Health Biocontainment Facility”.

1 (2) GRANT RECIPIENT DESCRIBED.—To be eli-
2 gible for the grant under paragraph (1), a land
3 grant college or university must be—

4 (A) located in a State adjacent to the
5 international border with Mexico; and

6 (B) determined by the Secretary of Agri-
7 culture to have an established program in ani-
8 mal health research and education and to have
9 a collaborative relationship with one or more
10 colleges of veterinary medicine or universities
11 located in Mexico.

12 (3) ACTIVITIES OF THE FACILITY.—The facility
13 constructed using the grant made under paragraph
14 (1) shall be used for conducting the following activi-
15 ties:

16 (A) The biocontainment facility shall offer
17 the ability to organize multidisciplinary inter-
18 national teams working on basic and applied re-
19 search on diagnostic method development and
20 disease control strategies, including develop-
21 ment of vaccines.

22 (B) The biocontainment facility shall sup-
23 port research that will improve the scientific
24 basis for regulatory activities, decreasing the

1 need for new regulatory programs and enhanc-
2 ing international trade.

3 (C) The biocontainment facility shall allow
4 academic institutions, governmental agencies,
5 and the private sector to conduct research in
6 basic and applied research biology, epidemiol-
7 ogy, pathogenesis, host response, and diagnostic
8 methods, on disease agents that threaten the
9 livestock industries of the United States and
10 Mexico.

11 (D) The biocontainment facility may be
12 used to support research involving food safety,
13 toxicology, environmental pollutants,
14 radioisotopes, recombinant microorganisms, and
15 selected naturally resistant or transgenic ani-
16 mals.

17 (4) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated for each fis-
19 cal year such sums as are necessary to carry out this
20 subsection.

21 (i) REPORTS ON INSPECTION OF IMPORTED MEAT,
22 POULTRY, OTHER FOODS, ANIMALS, AND PLANTS.—

23 (1) DEFINITIONS.—As used in this subsection:

24 (A) IMPORTS.—The term “imports” means
25 any meat, poultry, other food, animal, or plant

1 that is imported into the United States in com-
2 mercially significant quantities.

3 (B) SECRETARY.—The term “Secretary”
4 means the Secretary of Agriculture.

5 (2) IN GENERAL.—In consultation with rep-
6 resentatives of other appropriate agencies, the Sec-
7 retary shall prepare an annual report on the impact
8 of the Agreement on the inspection of imports.

9 (3) CONTENTS OF REPORTS.—The report re-
10 quired under this subsection shall, to the maximum
11 extent practicable, include a description of—

12 (A) the quantity or, with respect to the
13 Customs Service, the number of shipments, of
14 imports from a NAFTA country that are in-
15 spected at the borders of the United States with
16 Canada and Mexico during the prior year;

17 (B) any change in the level or types of in-
18 spections of imports in each NAFTA country
19 during the prior year;

20 (C) in any case in which the Secretary has
21 determined that the inspection system of an-
22 other NAFTA country is equivalent to the in-
23 spection system of the United States, the rea-
24 sons supporting the determination of the Sec-
25 retary;

1 (D) the incidence of violations of inspec-
2 tion requirements by imports from NAFTA
3 countries during the prior year—

4 (i) at the borders of the United States
5 with Mexico or Canada; or

6 (ii) at the last point of inspection in
7 a NAFTA country prior to shipment to the
8 United States if the agency accepts inspec-
9 tion in that country;

10 (E) the incidence of violations of inspection
11 requirements of imports to the United States
12 from Mexico or Canada prior to the implemen-
13 tation of the Agreement;

14 (F) any additional cost associated with
15 maintaining an adequate inspection system of
16 imports as a result of the implementation of the
17 Agreement;

18 (G) any incidence of transshipment of im-
19 ports—

20 (i) that originate in a country other
21 than a NAFTA country;

22 (ii) that are shipped to the United
23 States through a NAFTA country during
24 the prior year; and

1 (iii) that are incorrectly represented
2 by the importer to qualify for preferential
3 treatment under the Agreement;

4 (H) the quantity and results of any mon-
5 itoring by the United States of equivalent in-
6 spection systems of imports in other NAFTA
7 countries during the prior year;

8 (I) the use by other NAFTA countries of
9 sanitary and phytosanitary measures (as de-
10 fined in the Agreement) to limit exports of
11 United States meat, poultry, other foods, ani-
12 mals, and plants to the countries during the
13 prior year; and

14 (J) any other information the Secretary
15 determines to be appropriate.

16 (4) FREQUENCY OF REPORTS.—The Secretary
17 shall submit—

18 (A) the initial report required under this
19 subsection not later than January 31, 1995;
20 and

21 (B) an annual report required under this
22 subsection not later than 1 year after the date
23 of the submission of the initial report and the
24 end of each 1-year period thereafter through
25 calendar year 2004.

1 (5) REPORT TO CONGRESS.—The Secretary
2 shall prepare and submit the report required under
3 this subsection to the Committee on Agriculture of
4 the House of Representatives and the Committee on
5 Agriculture, Nutrition, and Forestry of the Senate.

6 **Subtitle F—Corporate Average**
7 **Fuel Economy**

8 **SEC. 371. CORPORATE AVERAGE FUEL ECONOMY.**

9 (a) IN GENERAL.—Section 503(b)(2) of the Motor
10 Vehicle Information and Cost Savings Act (15 U.S.C.
11 2003(b)(2)) is amended by adding at the end the following
12 new subparagraph:

13 “(G)(i) In accordance with the schedule set out
14 in clause (ii), an automobile shall be considered do-
15 mestically manufactured in a model year if at least
16 75 percent of the cost to the manufacturer of the
17 automobile is attributable to value added in the
18 United States, Canada, or Mexico, unless the assem-
19 bly of the automobile is completed in Canada or
20 Mexico and the automobile is not imported into the
21 United States prior to the expiration of 30 days fol-
22 lowing the end of that model year.

23 “(ii) Clause (i) shall apply to all automobiles
24 manufactured by a manufacturer and sold in the

1 United States, wherever assembled, in accordance
2 with the following schedule:

3 “(I) With respect to a manufacturer that
4 initiated the assembly of automobiles in Mexico
5 before model year 1992, the manufacturer may
6 elect, at any time between January 1, 1997,
7 and January 1, 2004, to have clause (i) apply
8 to all automobiles it manufactures, beginning
9 with the model year commencing after the date
10 of such election.

11 “(II) With respect to a manufacturer initi-
12 ating the assembly of automobiles in Mexico
13 after model year 1991, clause (i) shall apply to
14 all automobiles it manufactures, beginning with
15 the model year commencing after January 1,
16 1994, or the model year commencing after the
17 date that the manufacturer initiates the assem-
18 bly of automobiles in Mexico, whichever is later.

19 “(III) With respect to a manufacturer not
20 described by subclause (I) or (II) assembling
21 automobiles in the United States or Canada but
22 not in Mexico, the manufacturer may elect, at
23 any time between January 1, 1997, and Janu-
24 ary 1, 2004, to have clause (i) apply to all auto-
25 mobiles it manufactures, beginning with the

1 model year commencing after the date of such
2 election, except that if such manufacturer initi-
3 ates the assembly of automobiles in Mexico be-
4 fore making such election, this subclause shall
5 not apply and the manufacturer shall be subject
6 to clause (II).

7 “(IV) With respect to a manufacturer not
8 assembling automobiles in the United States,
9 Canada, or Mexico, clause (i) shall apply to all
10 automobiles it manufactures, beginning with the
11 model year commencing after January 1, 1994.

12 “(V) With respect to a manufacturer au-
13 thorized to make an election under subclause
14 (I) or (III) which has not made that election
15 within the specified period, clause (i) shall
16 apply to all automobiles it manufactures, begin-
17 ning with the model year commencing after
18 January 1, 2004.

19 “(iii) The Secretary shall prescribe reasonable
20 procedures for elections under this subparagraph,
21 and the EPA Administrator may prescribe rules for
22 purposes of carrying out this subparagraph.”.

23 (b) CONFORMING AMENDMENTS.—The first sentence
24 of section 503(b)(2)(E) of the Motor Vehicle Information

1 and Cost Savings Act (15 U.S.C. 2003(b)(2)(E)) is
2 amended—

3 (1) by striking “An” and inserting “Except as
4 provided in subparagraph (G), an”, and

5 (2) in the last sentence, by striking “this sub-
6 paragraph” and inserting “this subparagraph and
7 subparagraph (G)”.

8 **Subtitle G—Government** 9 **Procurement**

10 **SEC. 381. GOVERNMENT PROCUREMENT.**

11 (a) IN GENERAL.—Section 301 of the Trade Agree-
12 ments Act of 1979 (19 U.S.C. 2511) is amended—

13 (1) in subsection (a) by striking “The Presi-
14 dent” and inserting “Subject to subsection (f) of
15 this section, the President”;

16 (2) by inserting “or the North American Free
17 Trade Agreement” after “the Agreement” in para-
18 graph (1) of subsection (b); and

19 (3) by adding at the end the following new sub-
20 sections:

21 “(e) PROCUREMENT PROCEDURES BY CERTAIN FED-
22 ERAL AGENCIES.—Notwithstanding any other provision of
23 law, the President may direct any agency of the United
24 States listed in Annex 1001.1a-2 of the North American
25 Free Trade Agreement to procure eligible products in

1 compliance with the procedural provisions of chapter 10
2 of such Agreement.

3 “(f) SMALL BUSINESS AND MINORITY PREF-
4 ERENCES.—The authority of the President under sub-
5 section (a) of this section to waive any law, regulation,
6 procedure, or practice regarding Government procurement
7 does not authorize the waiver of any small business or mi-
8 nority preference.”.

9 (b) RECIPROCAL COMPETITIVE PROCUREMENT
10 PRACTICES.—Section 302(a) of such Act (19 U.S.C.
11 2512(a)) is amended by striking “would otherwise be eligi-
12 ble products” in paragraph (1) and inserting “are prod-
13 ucts covered under the Agreement for procurement by the
14 United States”.

15 (c) DEFINITION OF ELIGIBLE PRODUCT.—Section
16 308(4)(A) of such Act (19 U.S.C. 2518(4)(A)) is amended
17 to read as follows:

18 “(A) IN GENERAL.—The term ‘eligible
19 product’ means, with respect to any foreign
20 country or instrumentality that is—

21 “(i) a party to the Agreement, a prod-
22 uct or service of that country or instru-
23 mentality which is covered under the
24 Agreement for procurement by the United
25 States; or

1 “(ii) a party to the North American
2 Free Trade Agreement, a product or serv-
3 ice of that country or instrumentality
4 which is covered under the North Amer-
5 ican Free Trade Agreement for procure-
6 ment by the United States.”.

7 (d) CONFORMING AMENDMENTS.—Section 401 of the
8 Rural Electrification Act of 1938 (7 U.S.C. 903 note) is
9 amended by inserting “, Mexico, or Canada” after “the
10 United States” each place it appears.

11 (e) EFFECTIVE DATE.—The provisions of this sub-
12 title take effect on the date the Agreement enters into
13 force with respect to the United States.

1 **TITLE IV—DISPUTE SETTLE-**
2 **MENT IN ANTIDUMPING AND**
3 **COUNTERVAILING DUTY**
4 **CASES**

5 **Subtitle A—Organizational, Admin-**
6 **istrative, and Procedural Provi-**
7 **sions Regarding the Implemen-**
8 **tation of Chapter 19 of the**
9 **Agreement**

10 **SEC. 401. REFERENCES IN SUBTITLE.**

11 Any reference in this subtitle to an Annex, chapter,
12 or article shall be considered to be a reference to the re-
13 spective Annex, chapter, or article of the Agreement.

14 **SEC. 402. ORGANIZATIONAL AND ADMINISTRATIVE PROVI-**
15 **SIONS.**

16 (a) **CRITERIA FOR SELECTION OF INDIVIDUALS TO**
17 **SERVE ON PANELS AND COMMITTEES.—**

18 (1) **IN GENERAL.—**The selection of individuals
19 under this section for—

20 (A) placement on lists prepared by the
21 interagency group under subsection (c)(2)(B)(i)
22 and (ii);

23 (B) placement on preliminary candidate
24 lists under subsection (c)(3)(A);

1 (C) placement on final candidate lists
2 under subsection (c)(4)(A);

3 (D) placement by the Trade Representative
4 on the rosters described in paragraph 1 of
5 Annex 1901.2 and paragraph 1 of Annex
6 1904.13; and

7 (E) appointment by the Trade Representa-
8 tive for service on the panels and committees
9 convened under chapter 19;

10 shall be made on the basis of the criteria provided
11 in paragraph 1 of Annex 1901.2 and paragraph 1 of
12 Annex 1904.13 and shall be made without regard to
13 political affiliation.

14 (2) ADDITIONAL CRITERIA FOR ROSTER PLACE-
15 MENTS AND APPOINTMENTS UNDER PARAGRAPH 1
16 OF ANNEX 1901.2.—Rosters described in paragraph 1
17 of Annex 1901.2 shall include, to the fullest extent
18 practicable, judges and former judges who meet the
19 criteria referred to in paragraph (1). The Trade
20 Representative shall, subject to subsection (b), ap-
21 point judges to binational panels convened under
22 chapter 19, extraordinary challenge committees con-
23 vened under chapter 19, and special committees es-
24 tablished under article 1905, where such judges
25 offer and are available to serve and such service is

1 authorized by the chief judge of the court on which
2 they sit.

3 (b) SELECTION OF CERTAIN JUDGES TO SERVE ON
4 PANELS AND COMMITTEES.—

5 (1) APPLICABILITY.—This subsection applies
6 only with respect to the selection of individuals for
7 binational panels convened under chapter 19, ex-
8 traordinary challenge committees convened under
9 chapter 19, and special committees established
10 under article 1905, who are judges of courts created
11 under article III of the Constitution of the United
12 States.

13 (2) CONSULTATION WITH CHIEF JUDGES.—The
14 Trade Representative shall consult, from time to
15 time, with the chief judges of the Federal judicial
16 circuits regarding the interest in, and availability
17 for, participation in binational panels, extraordinary
18 challenge committees, and special committees, of
19 judges within their respective circuits. If the chief
20 judge of a Federal judicial circuit determines that it
21 is appropriate for one or more judges within that
22 circuit to be included on a roster described in sub-
23 section (a)(1)(D), the chief judge shall identify all
24 such judges for the Chief Justice of the United
25 States who may, upon his or her approval, submit

1 the names of such judges to the Trade Representa-
2 tive. The Trade Representative shall include the
3 names of such judges on the roster.

4 (3) SUBMISSION OF LISTS TO CONGRESS.—The
5 Trade Representative shall submit to the Committee
6 on the Judiciary and the Committee on Ways and
7 Means of the House of Representatives and to the
8 Committee on Finance and the Committee on the
9 Judiciary of the Senate a list of all judges included
10 on a roster under paragraph (2). Such list shall be
11 submitted at the same time as the final candidate
12 lists are submitted under subsection (c)(4)(A) and
13 the final forms of amendments are submitted under
14 subsection (c)(4)(C)(iv).

15 (4) APPOINTMENT OF JUDGES TO PANELS OR
16 COMMITTEES.—At such time as the Trade Rep-
17 resentative proposes to appoint a judge described in
18 paragraph (1) to a binational panel, an extraor-
19 dinary challenge committee, or a special committee,
20 the Trade Representative shall consult with that
21 judge in order to ascertain whether the judge is
22 available for such appointment.

23 (c) SELECTION OF OTHER CANDIDATES.—

24 (1) APPLICABILITY.—This subsection applies
25 only with respect to the selection of individuals for

1 binational panels convened under chapter 19, ex-
2 traordinary challenge committees convened under
3 chapter 19, and special committees established
4 under article 1905, other than those individuals to
5 whom subsection (b) applies.

6 (2) INTERAGENCY GROUP.—

7 (A) ESTABLISHMENT.—There is estab-
8 lished within the interagency organization es-
9 tablished under section 242 of the Trade Ex-
10 pansion Act of 1962 (19 U.S.C. 1872) an inter-
11 agency group which shall—

12 (i) be chaired by the Trade Represent-
13 ative; and

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

18 (B) FUNCTIONS.—The interagency group
19 established under subparagraph (A) shall, in a
20 manner consistent with chapter 19—

21 (i) prepare by January 3 of each cal-
22 endar year—

23 (I) a list of individuals who are
24 qualified to serve as members of bina-

1 tional panels convened under chapter
2 19; and

3 (II) a list of individuals who are
4 qualified to serve on extraordinary
5 challenge committees convened under
6 chapter 19 and special committees es-
7 tablished under article 1905;

8 (ii) if the Trade Representative makes
9 a request under paragraph (4)(C)(i) with
10 respect to a final candidate list during any
11 calendar year, prepare by July 1 of such
12 calendar year a list of those individuals
13 who are qualified to be added to that final
14 candidate list;

15 (iii) exercise oversight of the adminis-
16 tration of the United States Section that is
17 authorized to be established under section
18 105; and

19 (iv) make recommendations to the
20 Trade Representative regarding the con-
21 vening of extraordinary challenge commit-
22 tees and special committees under chapter
23 19.

24 (3) PRELIMINARY CANDIDATE LISTS.—

1 (A) IN GENERAL.—The Trade Representa-
2 tive shall select individuals from the respective
3 lists prepared by the interagency group under
4 paragraph (2)(B)(i) for placement on—

5 (i) a preliminary candidate list of indi-
6 viduals eligible to serve as members of bi-
7 national panels under Annex 1901.2; and

8 (ii) a preliminary candidate list of in-
9 dividuals eligible for selection as members
10 of extraordinary challenge committees
11 under Annex 1904.13 and special commit-
12 tees under article 1905.

13 (B) SUBMISSION OF LISTS TO CONGRES-
14 SIONAL COMMITTEES.—

15 (i) IN GENERAL.—No later than Jan-
16 uary 3 of each calendar year, the Trade
17 Representative shall submit to the Com-
18 mittee on Finance of the Senate and the
19 Committee on Ways and Means of the
20 House of Representatives (hereafter in this
21 section referred to as the “appropriate
22 Congressional Committees”) the prelimi-
23 nary candidate lists of those individuals se-
24 lected by the Trade Representative under
25 subparagraph (A) to be candidates eligible

1 to serve on panels or committees convened
2 pursuant to chapter 19 during the 1-year
3 period beginning on April 1 of such cal-
4 endar year.

5 (ii) ADDITIONAL INFORMATION.—At
6 the time the candidate lists are submitted
7 under clause (i), the Trade Representative
8 shall submit for each individual on the list
9 a statement of professional qualifications.

10 (C) CONSULTATION.—Upon submission of
11 the preliminary candidate lists under subpara-
12 graph (B) to the appropriate Congressional
13 Committees, the Trade Representative shall
14 consult with such Committees with regard to
15 the individuals included on the preliminary can-
16 didate lists.

17 (D) REVISION OF LISTS.—The Trade Rep-
18 resentative may add and delete individuals from
19 the preliminary candidate lists submitted under
20 subparagraph (B) after consultation with the
21 appropriate Congressional Committees regard-
22 ing the additions and deletions. The Trade Rep-
23 resentative shall provide to the appropriate
24 Congressional Committees written notice of any
25 addition or deletion of an individual from the

1 preliminary candidate lists, along with the in-
2 formation described in subparagraph (B)(ii)
3 with respect to any proposed addition.

4 (4) FINAL CANDIDATE LISTS.—

5 (A) SUBMISSION OF LISTS TO CONGRES-
6 SIONAL COMMITTEES.—No later than March 31
7 of each calendar year, the Trade Representative
8 shall submit to the appropriate Congressional
9 Committees the final candidate lists of those in-
10 dividuals selected by the Trade Representative
11 to be candidates eligible to serve on panels and
12 committees convened under chapter 19 during
13 the 1-year period beginning on April 1 of such
14 calendar year. An individual may be included on
15 a final candidate list only if such individual was
16 included in the preliminary candidate list or if
17 written notice of the addition of such individual
18 to the preliminary candidate list was submitted
19 to the appropriate Congressional Committees at
20 least 15 days before the date on which that
21 final candidate list is submitted to such Com-
22 mittees under this subparagraph.

23 (B) FINALITY OF LISTS.—Except as pro-
24 vided in subparagraph (C), no additions may be
25 made to the final candidate lists after the final

1 candidate lists are submitted to the appropriate
2 Congressional Committees under subparagraph
3 (A).

4 (C) AMENDMENT OF LISTS.—

5 (i) IN GENERAL.—If, after the Trade
6 Representative has submitted the final
7 candidate lists to the appropriate Congres-
8 sional Committees under subparagraph (A)
9 for a calendar year and before July 1 of
10 such calendar year, the Trade Representa-
11 tive determines that additional individuals
12 need to be added to a final candidate list,
13 the Trade Representative shall—

14 (I) request the interagency group
15 established under paragraph (2)(A) to
16 prepare a list of individuals who are
17 qualified to be added to such can-
18 didate list;

19 (II) select individuals from the
20 list prepared by the interagency group
21 under paragraph (2)(B)(ii) to be in-
22 cluded in a proposed amendment to
23 such final candidate list; and

24 (III) by no later than July 1 of
25 such calendar year, submit to the ap-

1 appropriate Congressional Committees
2 the proposed amendments to such
3 final candidate list developed by the
4 Trade Representative under subclause
5 (II), along with the information de-
6 scribed in paragraph (3)(B)(ii).

7 (ii) CONSULTATION WITH CONGRES-
8 SIONAL COMMITTEES.—Upon submission
9 of a proposed amendment under clause
10 (i)(III) to the appropriate Congressional
11 Committees, the Trade Representative
12 shall consult with the appropriate Congres-
13 sional Committees with regard to the indi-
14 viduals included in the proposed amend-
15 ment.

16 (iii) ADJUSTMENT OF PROPOSED
17 AMENDMENT.—The Trade Representative
18 may add and delete individuals from any
19 proposed amendment submitted under
20 clause (i)(III) after consulting with the ap-
21 propriate Congressional Committees with
22 regard to the additions and deletions. The
23 Trade Representative shall provide to the
24 appropriate Congressional Committees
25 written notice of any addition or deletion

1 of an individual from the proposed amend-
2 ment.

3 (iv) FINAL AMENDMENT.—

4 (I) IN GENERAL.—If the Trade
5 Representative submits under clause
6 (i)(III) in any calendar year a pro-
7 posed amendment to a final candidate
8 list, the Trade Representative shall,
9 no later than September 30 of such
10 calendar year, submit to the appro-
11 priate Congressional Committees the
12 final form of such amendment. On
13 October 1 of such calendar year, such
14 amendment shall take effect and, sub-
15 ject to subclause (II), the individuals
16 included in the final form of such
17 amendment shall be added to the final
18 candidate list.

19 (II) INCLUSION OF INDIVID-
20 UALS.—An individual may be included
21 in the final form of an amendment
22 submitted under subclause (I) only if
23 such individual was included in the
24 proposed form of such amendment or
25 if written notice of the addition of

1 such individual to the proposed form
2 of such amendment was submitted to
3 the appropriate Congressional Com-
4 mittees at least 15 days before the
5 date on which the final form of such
6 amendment is submitted to such Com-
7 mittees under subclause (I).

8 (III) ELIGIBILITY FOR SERV-
9 ICE.—Individuals added to a final
10 candidate list under subclause (I)
11 shall be eligible to serve on panels or
12 committees convened under chapter
13 19 during the 6-month period begin-
14 ning on October 1 of the calendar
15 year in which such addition occurs.

16 (IV) FINALITY OF AMEND-
17 MENT.—No additions may be made to
18 the final form of an amendment de-
19 scribed in subclause (I) after the final
20 form of such amendment is submitted
21 to the appropriate Congressional
22 Committees under subclause (I).

23 (5) TREATMENT OF RESPONSES.—For purposes
24 of applying section 1001 of title 18, United States
25 Code, the written or oral responses of individuals to

1 inquiries of the interagency group established under
2 paragraph (2)(A) or of the Trade Representative re-
3 garding their personal and professional qualifica-
4 tions, and financial and other relevant interests, that
5 bear on their suitability for the placements and ap-
6 pointments described in subsection (a)(1), shall be
7 treated as matters within the jurisdiction of an
8 agency of the United States.

9 (d) SELECTION AND APPOINTMENT.—

10 (1) AUTHORITY OF TRADE REPRESENTATIVE.—

11 The Trade Representative is the only officer of the
12 United States Government authorized to act on be-
13 half of the United States Government in making any
14 selection or appointment of an individual to—

15 (A) the rosters described in paragraph 1 of
16 Annex 1901.2 and paragraph 1 of Annex
17 1904.13; or

18 (B) the panels or committees convened
19 under chapter 19;

20 that is to be made solely or jointly by the United
21 States Government under the terms of the Agree-
22 ment.

23 (2) RESTRICTIONS ON SELECTION AND AP-
24 POINTMENT.—Except as provided in paragraph

25 (3)—

1 (A) the Trade Representative may—

2 (i) select an individual for placement
3 on the rosters described in paragraph 1 of
4 Annex 1901.2 and paragraph 1 of Annex
5 1904.13 during the 1-year period begin-
6 ning on April 1 of any calendar year;

7 (ii) appoint an individual to serve as
8 one of those members of any panel or com-
9 mittee convened under chapter 19 during
10 such 1-year period who, under the terms of
11 the Agreement, are to be appointed solely
12 by the United States Government; or

13 (iii) act to make a joint appointment
14 with the Government of a NAFTA coun-
15 try, under the terms of the Agreement, of
16 any individual who is a citizen or national
17 of the United States to serve as any other
18 member of such a panel or committee;

19 only if such individual is on the appropriate
20 final candidate list that was submitted to the
21 appropriate Congressional Committees under
22 subsection (c)(4)(A) during such calendar year
23 or on such list as it may be amended under
24 subsection (c)(4)(C)(iv)(I), or on the list sub-
25 mitted under subsection (b)(3) to the congres-

1 sional committees referred to in such sub-
2 section; and

3 (B) no individual may—

4 (i) be selected by the United States
5 Government for placement on the rosters
6 described in paragraph 1 of Annex 1901.2
7 and paragraph 1 of Annex 1904.13; or

8 (ii) be appointed solely or jointly by
9 the United States Government to serve as
10 a member of a panel or committee con-
11 vened under chapter 19;

12 during the 1-year period beginning on April 1
13 of any calendar year for which the Trade Rep-
14 resentative has not met the requirements of
15 subsection (a), and of subsection (b) or (c) (as
16 the case may be).

17 (3) EXCEPTIONS.—Notwithstanding subsection
18 (c)(3) (other than subparagraph (B)), (c)(4), or
19 paragraph (2)(A) of this subsection, individuals in-
20 cluded on the preliminary candidate lists submitted
21 to the appropriate Congressional Committees under
22 subsection (c)(3)(B) may—

23 (A) be selected by the Trade Representa-
24 tive for placement on the rosters described in
25 paragraph 1 of Annex 1901.2 and paragraph 1

1 of Annex 1904.13 during the 3-month period
2 beginning on the date on which the Agreement
3 enters into force with respect to the United
4 States; and

5 (B) be appointed solely or jointly by the
6 Trade Representative under the terms of the
7 Agreement to serve as members of panels or
8 committees that are convened under chapter 19
9 during such 3-month period.

10 (e) TRANSITION.—If the Agreement enters into force
11 between the United States and a NAFTA country after
12 January 3, 1994, the provisions of subsection (c) shall be
13 applied with respect to the calendar year in which such
14 entering into force occurs—

15 (1) by substituting “the date that is 30 days
16 after the date on which the Agreement enters into
17 force with respect to the United States” for “Janu-
18 ary 3 of each calendar year” in subsections
19 (c)(2)(B)(i) and (c)(3)(B)(i); and

20 (2) by substituting “the date that is 3 months
21 after the date on which the Agreement enters into
22 force with respect to the United States” for “March
23 31 of each calendar year” in subsection (c)(4)(A).

24 (f) IMMUNITY.—With the exception of acts described
25 in section 777(f)(3) of the Tariff Act of 1930 (19 U.S.C.

1 1677f(f)(3)), individuals serving on panels or committees
2 convened pursuant to chapter 19, and individuals des-
3 igned to assist the individuals serving on such panels
4 or committees, shall be immune from suit and legal proc-
5 5 ess relating to acts performed by such individuals in their
6 official capacity and within the scope of their functions
7 as such panelists or committee members or assistants to
8 such panelists or committee members.

9 (g) REGULATIONS.—The administering authority
10 under title VII of the Tariff Act of 1930, the International
11 Trade Commission, and the Trade Representative may
12 promulgate such regulations as are necessary or appro-
13 priate to carry out actions in order to implement their re-
14 spective responsibilities under chapter 19. Initial regula-
15 tions to carry out such functions shall be issued before
16 the date on which the Agreement enters into force with
17 respect to the United States.

18 (h) REPORT TO CONGRESS.—At such time as the
19 final candidate lists are submitted under subsection
20 (c)(4)(A) and the final forms of amendments are submit-
21 ted under subsection (c)(4)(C)(iv), the Trade Representa-
22 tive shall submit to the Committee on the Judiciary and
23 the Committee on Ways and Means of the House of Rep-
24 resentatives, and to the Committee on Finance and the
25 Committee on the Judiciary of the Senate, a report re-

1 garding the efforts made to secure the participation of
2 judges and former judges on binational panels, extraor-
3 dinary challenge committees, and special committees es-
4 tablished under chapter 19.

5 **SEC. 403. TESTIMONY AND PRODUCTION OF PAPERS IN EX-**
6 **TRAORDINARY CHALLENGES.**

7 (a) AUTHORITY OF EXTRAORDINARY CHALLENGE
8 COMMITTEE TO OBTAIN INFORMATION.—If an extraor-
9 dinary challenge committee (hereafter in this section re-
10 ferred to as the “committee”) is convened under para-
11 graph 13 of article 1904, and the allegations before the
12 committee include a matter referred to in paragraph
13 13(a)(i) of article 1904, for the purposes of carrying out
14 its functions and duties under Annex 1904.13, the com-
15 mittee—

16 (1) shall have access to, and the right to copy,
17 any document, paper, or record pertinent to the sub-
18 ject matter under consideration, in the possession of
19 any individual, partnership, corporation, association,
20 organization, or other entity;

21 (2) may summon witnesses, take testimony, and
22 administer oaths;

23 (3) may require any individual, partnership,
24 corporation, association, organization, or other entity

1 to produce documents, books, or records relating to
2 the matter in question; and

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

8 Any member of the committee may sign subpoenas, and
9 members of the committee, when authorized by the com-
10 mittee, may administer oaths and affirmations, examine
11 witnesses, take testimony, and receive evidence.

12 (b) WITNESSES AND EVIDENCE.—The attendance of
13 witnesses who are authorized to be summoned, and the
14 production of documentary evidence authorized to be or-
15 dered, under subsection (a) may be required from any
16 place in the United States at any designated place of hear-
17 ing. In the case of disobedience to a subpoena authorized
18 under subsection (a), the committee may request the At-
19 torney General of the United States to invoke the aid of
20 any district or territorial court of the United States in
21 requiring the attendance and testimony of witnesses and
22 the production of documentary evidence. Such court, with-
23 in the jurisdiction of which such inquiry is carried on,
24 may, in case of contumacy or refusal to obey a subpoena
25 issued to any individual, partnership, corporation, associa-

1 tion, organization, or other entity, issue an order requiring
2 such individual or entity to appear before the committee,
3 or to produce documentary evidence if so ordered or to
4 give evidence concerning the matter in question. Any fail-
5 ure to obey such order of the court may be punished by
6 such court as a contempt thereof.

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

11 (d) DEPOSITIONS.—The committee may order testi-
12 mony to be taken by deposition at any stage of the com-
13 mittee review. Such deposition may be taken before any
14 person designated by the committee and having power to
15 administer oaths. Such testimony shall be reduced to writ-
16 ing by the person taking the deposition, or under the di-
17 rection of such person, and shall then be subscribed by
18 the deponent. Any individual, partnership, corporation, as-
19 sociation, organization, or other entity may be compelled
20 to appear and be deposed and to produce documentary evi-
21 dence in the same manner as witnesses may be compelled
22 to appear and testify and produce documentary evidence
23 before the committee, as provided in this section.

1 **SEC. 404. REQUESTS FOR REVIEW OF DETERMINATIONS BY**
2 **COMPETENT INVESTIGATING AUTHORITIES**
3 **OF NAFTA COUNTRIES.**

4 (a) DEFINITIONS.—As used in this section:

5 (1) COMPETENT INVESTIGATING AUTHORITY.—

6 The term “competent investigating authority”
7 means the competent investigating authority, as de-
8 fined in article 1911, of a NAFTA country.

9 (2) UNITED STATES SECRETARY.—The term
10 “United States Secretary” means that officer of the
11 United States referred to in article 1908.

12 (b) REQUESTS FOR REVIEW BY THE UNITED
13 STATES.—In the case of a final determination of a com-
14 petent investigating authority, requests by the United
15 States for binational panel review of such determination
16 under article 1904 shall be made by the United States
17 Secretary.

18 (c) REQUESTS FOR REVIEW BY A PERSON.—In the
19 case of a final determination of a competent investigating
20 authority, a person, within the meaning of paragraph 5
21 of article 1904, may request a binational panel review of
22 such determination by filing such a request with the
23 United States Secretary within the time limit provided for
24 in paragraph 4 of article 1904. The receipt of such request
25 by the United States Secretary shall be deemed to be a
26 request for binational panel review within the meaning of

1 article 1904. The request for such panel review shall be
2 without prejudice to any challenge before a binational
3 panel of the basis for a particular request for review.

4 (d) SERVICE OF REQUEST FOR REVIEW.—Whenever
5 binational panel review of a final determination made by
6 a competent investigating authority is requested under
7 this section, the United States Secretary shall serve a copy
8 of the request on all persons who would otherwise be enti-
9 tled under the law of the importing country to commence
10 proceedings for judicial review of the determination.

11 **SEC. 405. RULES OF PROCEDURE FOR PANELS AND COM-**
12 **MITTEES.**

13 (a) RULES OF PROCEDURE FOR BINATIONAL PAN-
14 ELS.—The administering authority shall prescribe rules,
15 negotiated in accordance with paragraph 14 of article
16 1904, governing, with respect to binational panel re-
17 views—

18 (1) requests for such reviews, complaints, other
19 pleadings, and other papers;

20 (2) the amendment, filing, and service of such
21 pleadings and papers;

22 (3) the joinder, suspension, and termination of
23 such reviews; and

24 (4) other appropriate procedural matters.

1 (b) RULES OF PROCEDURE FOR EXTRAORDINARY
2 CHALLENGE COMMITTEES.—The administering authority
3 shall prescribe rules, negotiated in accordance with para-
4 graph 2 of Annex 1904.13, governing the procedures for
5 reviews by extraordinary challenge committees.

6 (c) RULES OF PROCEDURE FOR SAFEGUARDING THE
7 PANEL REVIEW SYSTEM.—The administering authority
8 shall prescribe rules, negotiated in accordance with Annex
9 1905.6, governing the procedures for special committees
10 described in such Annex.

11 (d) PUBLICATION OF RULES.—The rules prescribed
12 under subsections (a), (b), and (c) shall be published in
13 the Federal Register.

14 (e) ADMINISTERING AUTHORITY.—As used in this
15 section, the term “administering authority” has the mean-
16 ing given such term in section 771(1) of the Tariff Act
17 of 1930 (19 U.S.C. 1677(1)).

18 **SEC. 406. SUBSIDY NEGOTIATIONS.**

19 In the case of any trade agreement which may be en-
20 tered into by the President with a NAFTA country, the
21 negotiating objectives of the United States with respect
22 to subsidies shall include—

23 (1) achievement of increased discipline on do-
24 mestic subsidies provided by a foreign government,
25 including—

1 (A) the provision of capital, loans, or loan
2 guarantees on terms inconsistent with commer-
3 cial considerations;

4 (B) the provision of goods or services at
5 preferential rates;

6 (C) the granting of funds or forgiveness of
7 debt to cover operating losses sustained by a
8 specific industry; and

9 (D) the assumption of any costs or ex-
10 penses of manufacture, production, or distribu-
11 tion;

12 (2) achievement of increased discipline on ex-
13 port subsidies provided by a foreign government,
14 particularly with respect to agricultural products;
15 and

16 (3) maintenance of effective remedies against
17 subsidized imports, including, where appropriate,
18 countervailing duties.

19 **SEC. 407. IDENTIFICATION OF INDUSTRIES FACING SUB-**
20 **SIDIZED IMPORTS.**

21 (a) PETITIONS.—Any entity, including a trade asso-
22 ciation, firm, certified or recognized union, or group of
23 workers, that is representative of a United States industry
24 and has reason to believe—

25 (1) that—

1 (A) as a result of implementation of provi-
2 sions of the Agreement, the industry is likely to
3 face increased competition from subsidized im-
4 ports, from a NAFTA country, with which it di-
5 rectly competes; or

6 (B) the industry is likely to face increased
7 competition from subsidized imports with which
8 it directly competes from any other country des-
9 ignated by the President, following consulta-
10 tions with the Congress, as benefiting from a
11 reduction of tariffs or other trade barriers
12 under a trade agreement that enters into force
13 with respect to the United States after January
14 1, 1994; and

15 (2) that the industry is likely to experience a
16 deterioration of its competitive position before more
17 effective rules and disciplines relating to the use of
18 government subsidies have been developed with re-
19 spect to the country concerned;

20 may file with the Trade Representative a petition that
21 such industry be identified under this section.

22 (b) IDENTIFICATION OF INDUSTRY.—Within 90 days
23 after receipt of a petition under subsection (a), the Trade
24 Representative, in consultation with the Secretary of Com-
25 merce, shall decide whether to identify the industry on the

1 basis that there is a reasonable likelihood that the industry
2 may face both the subsidization described in subsection
3 (a)(1) and the deterioration described in subsection (a)(2).

4 (c) ACTION AFTER IDENTIFICATION.—At the request
5 of an entity that is representative of an industry identified
6 under subsection (b), the Trade Representative shall—

7 (1) compile and make available to the industry
8 information under section 308 of the Trade Act of
9 1974;

10 (2) recommend to the President that an inves-
11 tigation by the International Trade Commission be
12 requested under section 332 of the Tariff Act of
13 1930; or

14 (3) take actions described in both paragraphs
15 (1) and (2).

16 The industry may request the Trade Representative to
17 take appropriate action to update (as often as annually)
18 any information obtained under paragraph (1) or (2), or
19 both, as the case may be, until an agreement on more ef-
20 fective rules and disciplines relating to government sub-
21 sidies is reached between the United States and the
22 NAFTA countries.

23 (d) INITIATION OF ACTION UNDER OTHER LAW.—

24 (1) IN GENERAL.—The Trade Representative
25 and the Secretary of Commerce shall review infor-

1 mation obtained under subsection (c) and consult
2 with the industry identified under subsection (b)
3 with a view to deciding whether any action is appro-
4 priate—

5 (A) under section 301 of the Trade Act of
6 1974, including the initiation of an investiga-
7 tion under section 302(c) of that Act (in the
8 case of the Trade Representative); or

9 (B) under subtitle A of title VII of the
10 Tariff Act of 1930, including the initiation of
11 an investigation under section 702(a) of that
12 Act (in the case of the Secretary of Commerce).

13 (2) CRITERIA FOR INITIATION.—In determining
14 whether to initiate any investigation under section
15 301 of the Trade Act of 1974 or any other trade
16 law, other than title VII of the Tariff Act of 1930,
17 the Trade Representative, after consultation with
18 the Secretary of Commerce—

19 (A) shall seek the advice of the advisory
20 committees established under section 135 of the
21 Trade Act of 1974;

22 (B) shall consult with the Committee on
23 Finance of the Senate and the Committee on
24 Ways and Means of the House of Representa-
25 tives;

1 (C) shall coordinate with the interagency
2 organization established under section 242 of
3 the Trade Expansion Act of 1962; and

4 (D) may ask the President to request ad-
5 vice from the International Trade Commission.

6 (3) TITLE III ACTIONS.—In the event an inves-
7 tigation is initiated under section 302(c) of the
8 Trade Act of 1974 as a result of a review under this
9 subsection and the Trade Representative, following
10 such investigation (including any applicable dispute
11 settlement proceedings under the Agreement or any
12 other trade agreement), determines to take action
13 under section 301(a) of such Act, the Trade Rep-
14 resentative shall give preference to actions that most
15 directly affect the products that benefit from govern-
16 mental subsidies and were the subject of the inves-
17 tigation, unless there are no significant imports of
18 such products or the Trade Representative otherwise
19 determines that application of the action to other
20 products would be more effective.

21 (e) EFFECT OF DECISIONS.—Any decision, whether
22 positive or negative, or any action by the Trade Represent-
23 ative or the Secretary of Commerce under this section
24 shall not in any way—

1 (1) prejudice the right of any industry to file a
2 petition under any trade law;

3 (2) prejudice, affect, or substitute for, any pro-
4 ceeding, investigation, determination, or action by
5 the Secretary of Commerce, the International Trade
6 Commission, or the Trade Representative pursuant
7 to such a petition, or

8 (3) prejudice, affect, substitute for, or obviate
9 any proceeding, investigation, or determination
10 under section 301 of the Trade Act of 1974, title
11 VII of the Tariff Act of 1930, or any other trade
12 law.

13 (f) *STANDING*.—Nothing in this section may be con-
14 strued to alter in any manner the requirements in effect
15 before the date of the enactment of this Act for standing
16 under any law of the United States or to add any addi-
17 tional requirements for standing under any law of the
18 United States.

19 **SEC. 408. TREATMENT OF AMENDMENTS TO ANTIDUMPING**
20 **AND COUNTERVAILING DUTY LAW.**

21 Any amendment enacted after the Agreement enters
22 into force with respect to the United States that is made
23 to—

24 (1) section 303 or title VII of the Tariff Act of
25 1930, or any successor statute, or

1 (2) any other statute which—

2 (A) provides for judicial review of final de-
3 terminations under such section, title, or suc-
4 cessor statute, or

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

7 shall apply to goods from a NAFTA country only to the
8 extent specified in the amendment.

9 **Subtitle B—Conforming**
10 **Amendments and Provisions**

11 **SEC. 411. JUDICIAL REVIEW IN ANTIDUMPING DUTY AND**
12 **COUNTERVAILING DUTY CASES.**

13 Section 516A of the Tariff Act of 1930 (19 U.S.C.
14 1516a) is amended as follows:

15 (1) Subsection (a)(5) (relating to time limits for
16 commencing review) is amended to read as follows:

17 “(5) TIME LIMITS IN CASES INVOLVING MER-
18 CHANDISE FROM FREE TRADE AREA COUNTRIES.—

19 Notwithstanding any other provision of this sub-
20 section, in the case of a determination to which the
21 provisions of subsection (g) apply, an action under
22 this subsection may not be commenced, and the time
23 limits for commencing an action under this sub-
24 section shall not begin to run, until the day specified
25 in whichever of the following subparagraphs applies:

1 “(A) For a determination described in
2 paragraph (1)(B) or clause (i), (ii) or (iii) of
3 paragraph (2)(B), the 31st day after the date
4 on which notice of the determination is pub-
5 lished in the Federal Register.

6 “(B) For a determination described in
7 clause (vi) of paragraph (2)(B), the 31st day
8 after the date on which the government of the
9 relevant FTA country receives notice of the de-
10 termination.

11 “(C) For a determination with respect to
12 which binational panel review has commenced
13 in accordance with subsection (g)(8), the day
14 after the date as of which—

15 “(i) the binational panel has dismissed
16 binational panel review of the determina-
17 tion for lack of jurisdiction, and

18 “(ii) any interested party seeking re-
19 view of the determination under paragraph
20 (1), (2), or (3) of this subsection has pro-
21 vided timely notice under subsection
22 (g)(3)(B).

23 If such an interested party files a summons and
24 complaint under this subsection after dismissal
25 by the binational panel, and if a request for an

1 extraordinary challenge committee is made with
2 respect to the decision by the binational panel
3 to dismiss—

4 “(I) judicial review under this sub-
5 section shall be stayed during consider-
6 ation by the committee of the request, and

7 “(II) the United States Court of
8 International Trade shall dismiss the ac-
9 tion if the committee vacates or remands
10 the binational panel decision to dismiss.

11 “(D) For a determination for which review
12 by the United States Court of International
13 Trade is provided for—

14 “(i) under subsection (g)(12)(B), the
15 day after the date of publication in the
16 Federal Register of notice that article
17 1904 of the NAFTA has been suspended,
18 or

19 “(ii) under subsection (g)(12)(D), the
20 day after the date that notice of settlement
21 is published in the Federal Register.”.

22 (2) Subsection (b)(3) (relating to the standards
23 of review) is amended—

24 (A) by inserting “NAFTA OR” after “DECI-
25 SIONS BY” in the heading; and

1 (B) by inserting “of the NAFTA or” after
2 “article 1904”.

3 (3) Subsection (f) (relating to definitions) is
4 amended—

5 (A) by amending paragraphs (6) and (7)
6 to read as follows:

7 “(6) UNITED STATES SECRETARY.—The term
8 ‘United States Secretary’ means—

9 “(A) the secretary for the United States
10 Section referred to in article 1908 of the
11 NAFTA, and

12 “(B) the secretary of the United States
13 Section provided for in article 1909 of the
14 Agreement.

15 “(7) RELEVANT FTA SECRETARY.—The term
16 ‘relevant FTA Secretary’ means the Secretary—

17 “(A) referred to in article 1908 of the
18 NAFTA, or

19 “(B) provided for in paragraph 5 of article
20 1909 of the Agreement,
21 of the relevant FTA country.”; and

22 (B) by adding at the end the following new
23 paragraphs:

24 “(8) NAFTA.—The term ‘NAFTA’ means the
25 North American Free Trade Agreement.

1 “(9) RELEVANT FTA COUNTRY.—The term ‘rel-
2 evant FTA country’ means the free trade area coun-
3 try to which an antidumping or countervailing duty
4 proceeding pertains.

5 “(10) FREE TRADE AREA COUNTRY.—The term
6 ‘free trade area country’ means the following:

7 “(A) Canada for such time as the NAFTA
8 is in force with respect to, and the United
9 States applies the NAFTA to, Canada.

10 “(B) Mexico for such time as the NAFTA
11 is in force with respect to, and the United
12 States applies the NAFTA to, Mexico.

13 “(C) Canada for such time as—

14 “(i) it is not a free trade area country
15 under subparagraph (A); and

16 “(ii) the Agreement is in force with
17 respect to, and the United States applies
18 the Agreement to, Canada.”.

19 (4) Subsection (g) (relating to review of coun-
20 tervailing and antidumping duty determinations) is
21 amended as follows:

22 (A) The subsection heading is amended by
23 striking out “CANADIAN MERCHANDISE” and
24 inserting “FREE TRADE AREA COUNTRY MER-
25 CHANDISE”.

1 (B) Paragraph (1) is amended by striking
2 out “Canadian merchandise” and inserting
3 “free trade area country merchandise”.

4 (C) Paragraph (2) is amended by inserting
5 “of the NAFTA or” after “article 1904”.

6 (D) Paragraph (3)(A) is amended—

7 (i) by striking out “nor Canada” and
8 inserting “nor the relevant FTA country”
9 in each of clauses (i) and (ii);

10 (ii) by inserting “of the NAFTA or”
11 before “of the Agreement” in each of
12 clauses (i) and (iii);

13 (iii) by striking out “or” at the end of
14 clause (iii);

15 (iv) by amending clause (iv)—

16 (I) by striking out “under para-
17 graph (2)(A)”;

18 (II) by striking out the period
19 and inserting a comma; and

20 (v) by adding at the end of subpara-
21 graph (A) the following:

22 “(v) a determination as to which bina-
23 tional panel review has terminated pursu-
24 ant to paragraph 12 of article 1905 of the
25 NAFTA, or

1 “(vi) a determination as to which ex-
2 traordinary challenge committee review has
3 terminated pursuant to paragraph 12 of
4 article 1905 of the NAFTA.”.

5 (E) The first and second sentences of
6 paragraph (3)(B) are amended to read as fol-
7 lows: “A determination described in subpara-
8 graph (A)(i) or (iv) is reviewable under sub-
9 section (a) only if the party seeking to com-
10 mence review has provided timely notice of its
11 intent to commence such review to—

12 “(i) the United States Secretary and
13 the relevant FTA Secretary;

14 “(ii) all interested parties who were
15 parties to the proceeding in connection
16 with which the matter arises; and

17 “(iii) the administering authority or
18 the Commission, as appropriate.

19 Such notice is timely provided if the notice is
20 delivered no later than the date that is 20 days
21 after the date described in subparagraph (A) or
22 (B) of subsection (a)(5) that is applicable to
23 such determination, except that, if the time for
24 requesting binational panel review is suspended
25 under paragraph (8)(A)(ii) of this subsection,

1 any unexpired time for providing notice of in-
2 tent to commence judicial review shall, during
3 the pendency of any such suspension, also be
4 suspended.”.

5 (F) Paragraph (4)(A) is amended—

6 (i) in the first sentence—

7 (I) by inserting “the North
8 American Free Trade Agreement Im-
9 plementation Act implementing the bi-
10 national dispute settlement system
11 under chapter 19 of the NAFTA, or”
12 after “or amendment made by,”;

13 (II) by inserting a comma before
14 “violates”;

15 (III) by inserting “only” after
16 “may be brought”; and

17 (IV) by inserting “, which shall
18 have jurisdiction of such action” after
19 “Circuit”; and

20 (ii) by striking the last sentence.

21 (G) Paragraph (5) is amended—

22 (i) by inserting “of the NAFTA or”
23 after “article 1904” in each of subpara-
24 graphs (A), (B), and (C)(i);

1 (ii) by striking out “, the Canadian
2 Secretary,” in subparagraph (C)(ii) and in-
3 serting “, the relevant FTA Secretary,”;
4 and

5 (iii) by inserting “of the NAFTA or”
6 after “chapter 19” in subparagraph
7 (C)(iii).

8 (H) Paragraph (6) is amended by inserting
9 “of the NAFTA or” after “article 1904”.

10 (I) Paragraph (7) is amended—

11 (i) by inserting “OF THE NAFTA OR
12 THE AGREEMENT” before the period in the
13 paragraph heading;

14 (ii) by striking out “IN GENERAL.—”
15 in the heading to subparagraph (A) and in-
16 serting “ACTION UPON REMAND.—”; and

17 (iii) by inserting “the NAFTA or” be-
18 fore “the Agreement” in subparagraph
19 (A).

20 (J) Paragraph (8)(A) is amended—

21 (i) by inserting “(i) GENERAL
22 RULE.—” before “An interested party”;

23 (ii) by inserting “of the NAFTA or”
24 after “article 1904(4)”;

1 (iii) by indenting the text so as to
2 align it with new clause (ii) (as added by
3 clause (iv) of this subparagraph); and

4 (iv) by adding at the end the following
5 new clause:

6 “(ii) SUSPENSION OF TIME TO RE-
7 QUEST BINATIONAL PANEL REVIEW UNDER
8 THE NAFTA.—Notwithstanding clause (i),
9 the time for requesting binational panel re-
10 view shall be suspended during the pend-
11 ency of any stay of binational panel review
12 that is issued pursuant to paragraph 11(a)
13 of article 1905 of the NAFTA.”.

14 (K) Paragraph (8)(B)(ii) is amended by
15 striking out “Canadian Secretary,” and insert-
16 ing “relevant FTA Secretary,”.

17 (L) Paragraph (8)(C) is amended by strik-
18 ing out “under article 1904 of the Agreement
19 of a determination” and inserting “of a deter-
20 mination under article 1904 of the NAFTA or
21 the Agreement”.

22 (M) Paragraph (9) is amended by inserting
23 “of the NAFTA or” after “chapter 19”.

24 (N) Paragraph (10) is amended by striking
25 out “Government of Canada” and all that fol-

1 lows thereafter and inserting “Government of
2 the relevant FTA country received notice of the
3 determination under paragraph 4 of article
4 1904 of the NAFTA or the Agreement.”.

5 (O) The following new paragraphs are
6 added at the end:

7 “(11) SUSPENSION AND TERMINATION OF SUS-
8 PENSION OF ARTICLE 1904 OF THE NAFTA.—

9 “(A) SUSPENSION OF ARTICLE 1904.—If a
10 special committee established under article
11 1905 of the NAFTA issues an affirmative find-
12 ing, the Trade Representative may, in accord-
13 ance with paragraph 8(a) or 9, as appropriate,
14 of article 1905 of the NAFTA, suspend the op-
15 eration of article 1904 of the NAFTA.

16 “(B) TERMINATION OF SUSPENSION OF
17 ARTICLE 1904.—If a special committee is recon-
18 vened and makes an affirmative determination
19 described in paragraph 10(b) of article 1905 of
20 the NAFTA, any suspension of the operation of
21 article 1904 of the NAFTA shall terminate.

22 “(12) JUDICIAL REVIEW UPON TERMINATION
23 OF BINATIONAL PANEL OR COMMITTEE REVIEW
24 UNDER THE NAFTA.—

1 “(A) NOTICE OF SUSPENSION OR TERMI-
2 NATION OF SUSPENSION OF ARTICLE 1904.—

3 “(i) Upon notification by the Trade
4 Representative or the Government of a
5 country described in subsection (f)(10)(A)
6 or (B) that the operation of article 1904 of
7 the NAFTA has been suspended in accord-
8 ance with paragraph 8(a) or 9 of article
9 1905 of the NAFTA, the United States
10 Secretary shall publish in the Federal Reg-
11 ister a notice of suspension of article 1904
12 of the NAFTA.

13 “(ii) Upon notification by the Trade
14 Representative or the Government of a
15 country described in subsection (f)(10)(A)
16 or (B) that the suspension of the operation
17 of article 1904 of the NAFTA is termi-
18 nated in accordance with paragraph 10 of
19 article 1905 of the NAFTA, the United
20 States Secretary shall publish in the Fed-
21 eral Register a notice of termination of
22 suspension of article 1904 of the NAFTA.

23 “(B) TRANSFER OF FINAL DETERMINA-
24 TIONS FOR JUDICIAL REVIEW UPON SUSPEN-
25 SION OF ARTICLE 1904.—If the operation of ar-

1 title 1904 of the NAFTA is suspended in ac-
2 cordance with paragraph 8(a) or 9 of article
3 1905 of the NAFTA—

4 “(i) upon the request of an authorized
5 person described in subparagraph (C), any
6 final determination that is the subject of a
7 binational panel review or an extraordinary
8 challenge committee review shall be trans-
9 ferred to the United States Court of Inter-
10 national Trade (in accordance with rules
11 issued by the Court) for review under sub-
12 section (a); or

13 “(ii) in a case in which—

14 “(I) a binational panel review
15 was completed fewer than 30 days be-
16 fore the suspension, and

17 “(II) extraordinary challenge
18 committee review has not been re-
19 quested,

20 upon the request of an authorized person
21 described in subparagraph (C) which is
22 made within 60 days after the completion
23 of the binational panel review, the final de-
24 termination that was the subject of the bi-
25 national panel review shall be transferred

1 to the United States Court of International
2 Trade (in accordance with rules issued by
3 the Court) for review under subsection (a).

4 “(C) PERSONS AUTHORIZED TO REQUEST
5 TRANSFER OF FINAL DETERMINATIONS FOR JU-
6 DICIAL REVIEW.—A request that a final deter-
7 mination be transferred to the Court of Inter-
8 national Trade under subparagraph (B) may be
9 made by—

10 “(i) if the United States made an alle-
11 gation under paragraph 1 of article 1905
12 of the NAFTA and the operation of article
13 1904 of the NAFTA was suspended pursu-
14 ant to paragraph 8(a) of article 1905 of
15 the NAFTA—

16 “(I) the government of the rel-
17 evant country described in subsection
18 (f)(10)(A) or (B),

19 “(II) an interested party that
20 was a party to the panel or committee
21 review, or

22 “(III) an interested party that
23 was a party to the proceeding in con-
24 nection with which panel review was
25 requested, but only if the time period

1 for filing notices of appearance in the
2 panel review has not expired, or

3 “(ii) if a country described in sub-
4 section (f)(10)(A) or (B) made an allega-
5 tion under paragraph 1 of article 1905 of
6 the NAFTA and the operation of article
7 1904 of the NAFTA was suspended pursu-
8 ant to paragraph 9 of article 1905 of the
9 NAFTA—

10 “(I) the government of that
11 country,

12 “(II) an interested party that is
13 a person of that country and that was
14 a party to the panel or committee re-
15 view, or

16 “(III) an interested party that is
17 a person of that country and that was
18 a party to the proceeding in connec-
19 tion with which panel review was re-
20 quested, but only if the time period
21 for filing notices of appearance in the
22 panel review has not expired.

23 “(D)(i) TRANSFER FOR JUDICIAL REVIEW
24 UPON SETTLEMENT.—If the Trade Representa-
25 tive achieves a settlement with the government

1 of a country described in subsection (f)(10)(A)
2 or (B) pursuant to paragraph 7 of article 1905
3 of the NAFTA, and referral for judicial review
4 is among the terms of such settlement, any
5 final determination that is the subject of a bi-
6 national panel review or an extraordinary chal-
7 lenge committee review shall, upon a request
8 described in clause (ii), be transferred to the
9 United States Court of International Trade (in
10 accordance with rules issued by the Court) for
11 review under subsection (a).

12 “(ii) A request referred to in clause (i) is
13 a request made by—

14 “(I) the country referred to in clause
15 (i),

16 “(II) an interested party that was a
17 party to the panel or committee review, or

18 “(III) an interested party that was a
19 party to the proceeding in connection with
20 which panel review was requested, but only
21 if the time for filing notices of appearance
22 in the panel review has not expired.”.

1 **SEC. 412. CONFORMING AMENDMENTS TO OTHER PROVI-**
2 **SIONS OF THE TARIFF ACT OF 1930.**

3 (a) REGULATIONS FOR APPRAISEMENT AND CLASSI-
4 FICATION; FINALITY AND DECISION.—Sections 502(b)
5 and 514(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)
6 and 1514(b)) are each amended by inserting “the North
7 American Free Trade Agreement or” before “the United
8 States-Canada Free-Trade Agreement”.

9 (b) DEFINITION.—Section 771 of the Tariff Act of
10 1930 (19 U.S.C. 1677) is amended—

11 (1) by redesignating as paragraph (21) (and
12 placing in numerical sequence) the second paragraph
13 that is designated as paragraph (18) (relating to the
14 definition of the United States-Canada Agreement)
15 in such section; and

16 (2) by inserting after paragraph (21) (as redес-
17 igned by paragraph (1) of this subsection) the fol-
18 lowing new paragraph:

19 “(22) NAFTA.—The term ‘NAFTA’ means the
20 North American Free Trade Agreement.”.

21 (c) DISCLOSURE OF PROPRIETARY INFORMATION IN
22 TITLE VII PROCEEDINGS.—Section 777(f) of the Tariff
23 Act of 1930 (19 U.S.C. 1677f(f)) is amended—

24 (1) by inserting “THE NORTH AMERICAN FREE
25 TRADE AGREEMENT OR” before “THE UNITED
26 STATES-CANADA AGREEMENT” in the heading;

1 (2) by inserting “the NAFTA or” before “the
2 United States-Canada Agreement” each place it ap-
3 pears in paragraph (1)(A);

4 (3) in the second sentence of paragraph
5 (1)(A)—

6 (A) by inserting “or extraordinary chal-
7 lenge committee” after “binational panel”; and

8 (B) by inserting “or committee” after “the
9 panel”;

10 (4) in paragraph (1)(B)—

11 (A) by inserting “the NAFTA or” before
12 “the Agreement” in clauses (iii) and (iv); and

13 (B) by striking out “Government of Can-
14 ada designated by an authorized agency of Can-
15 ada” in clause (iv) and inserting “Government
16 of a free trade area country (as defined in sec-
17 tion 516A(f)(10)) designated by an authorized
18 agency of such country”;

19 (5) in paragraph (2) by inserting “, including
20 any extraordinary challenge,” after “binational panel
21 proceeding”;

22 (6) in paragraph (3)—

23 (A) by inserting “or extraordinary chal-
24 lenge committee” after “binational panel”, and

1 (B) by inserting “the NAFTA or” before
2 “the United States-Canada Agreement”;

3 (7) by striking out “agency of Canada” in each
4 of paragraphs (3) and (4) and inserting “agency of
5 a free trade area country (as defined in section
6 516A(f)(10))”; and

7 (8) in the first sentence of paragraph (4) by in-
8 serting “, except a judge appointed to a binational
9 panel or an extraordinary challenge committee under
10 section 402(b) of the North American Free Trade
11 Agreement Implementation Act,” after “Any per-
12 son”.

13 **SEC. 413. CONSEQUENTIAL AMENDMENT TO FREE-TRADE**
14 **AGREEMENT ACT OF 1988.**

15 Section 410(a) of the United States-Canada Free-
16 Trade Agreement Implementation Act of 1988 (19 U.S.C.
17 2112 note) is amended by adding at the end the following
18 new sentence: “In calculating the 7-year period referred
19 to in paragraph (1), any time during which Canada is a
20 NAFTA country (as defined in section 2(4) of the North
21 American Free Trade Agreement Implementation Act)
22 shall be disregarded.”.

1 **SEC. 414. CONFORMING AMENDMENTS TO TITLE 28, UNITED**
2 **STATES CODE.**

3 (a) COURT OF INTERNATIONAL TRADE.—Chapter 95
4 of title 28, United States Code, is amended—

5 (1) in section 1581(i) by inserting “the North
6 American Free Trade Agreement or” before “the
7 United States-Canada Free-Trade Agreement”;

8 (2) in section 1584—

9 (A) by amending the section heading to
10 read as follows:

11 **“§ 1584. Civil actions under the North American Free**
12 **Trade Agreement or the United States-**
13 **Canada Free-Trade Agreement”**; and

14 (B) by striking out “777(d)” and inserting
15 “777(f)”;

16 (3) in the table of contents for such chapter by
17 amending the entry for section 1584 to read as fol-
18 lows:

“1584. Civil actions under the North American Free Trade Agreement or the
United States-Canada Free-Trade Agreement.”.

19 (b) PARTICULAR PROCEEDINGS.—Sections 2201(a)
20 and 2643(c)(5) of title 28, United States Code, are each
21 amended by striking out “Canadian merchandise,” and in-
22 serting “merchandise of a free trade area country (as de-
23 fined in section 516A(f)(10) of the Tariff Act of 1930),”.

1 **SEC. 415. EFFECT OF TERMINATION OF NAFTA COUNTRY**
2 **STATUS.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (b), on the date on which a country ceases to be a NAFTA
5 country, the provisions of this title (other than this sec-
6 tion) and the amendments made by this title shall cease
7 to have effect with respect to that country.

8 (b) TRANSITION PROVISIONS.—

9 (1) PROCEEDINGS REGARDING PROTECTIVE OR-
10 DERS AND UNDERTAKINGS.—If on the date on which
11 a country ceases to be a NAFTA country an inves-
12 tigation or enforcement proceeding concerning the
13 violation of a protective order issued under section
14 777(f) of the Tariff Act of 1930 (as amended by
15 this subtitle) or an undertaking of the Government
16 of that country is pending, the investigation or pro-
17 ceeding shall continue, and sanctions may continue
18 to be imposed, in accordance with the provisions of
19 such section 777(f).

20 (2) BINATIONAL PANEL AND EXTRAORDINARY
21 CHALLENGE COMMITTEE REVIEWS.—If on the date
22 on which a country ceases to be a NAFTA coun-
23 try—

24 (A) a binational panel review under article
25 1904 of the Agreement is pending, or has been
26 requested; or

1 (B) an extraordinary challenge committee
2 review under article 1904 of the Agreement is
3 pending, or has been requested;
4 with respect to a determination which involves a
5 class or kind of merchandise and to which section
6 516A(g)(2) of the Tariff Act of 1930 applies, such
7 determination shall be reviewable under section
8 516A(a) of the Tariff Act of 1930. In the case of
9 a determination to which the provisions of this para-
10 graph apply, the time limits for commencing an ac-
11 tion under 516A(a) of the Tariff Act of 1930 shall
12 not begin to run until the date on which the Agree-
13 ment ceases to be in force with respect to that coun-
14 try.

15 **SEC. 416. EFFECTIVE DATE.**

16 The provisions of this title and the amendments made
17 by this title take effect on the date the Agreement enters
18 into force with respect to the United States, but shall not
19 apply—

20 (1) to any final determination described in
21 paragraph (1)(B), or (2)(B)(i), (ii), or (iii), of sec-
22 tion 516A(a) of the Tariff Act of 1930 notice of
23 which is published in the Federal Register before
24 such date, or to a determination described in para-
25 graph (2)(B)(vi) of section 516A(a) of such Act no-

1 tice of which is received by the Government of Can-
2 ada or Mexico before such date; or

3 (2) to any binational panel review under the
4 United States-Canada Free-Trade Agreement, or
5 any extraordinary challenge arising out of any such
6 review, that was commenced before such date.

7 **TITLE V—NAFTA TRANSITIONAL**
8 **ADJUSTMENT ASSISTANCE**
9 **AND OTHER PROVISIONS**
10 **Subtitle A—NAFTA Transitional**
11 **Adjustment Assistance Program**

12 **SEC. 501. SHORT TITLE.**

13 This subtitle may be cited as the “NAFTA Worker
14 Security Act”.

15 **SEC. 502. ESTABLISHMENT OF NAFTA TRANSITIONAL AD-**
16 **JUSTMENT ASSISTANCE PROGRAM.**

17 Chapter 2 of title II of the Trade Act of 1974 (19
18 U.S.C. 2271 et seq.) is amended by adding at the end
19 the following new subchapter:

20 **“Subchapter D—NAFTA Transitional**
21 **Adjustment Assistance Program**

22 **“SEC. 250. ESTABLISHMENT OF TRANSITIONAL PROGRAM.**

23 **“(a) GROUP ELIGIBILITY REQUIREMENTS.—**

24 **“(1) CRITERIA.—**A group of workers (including
25 workers in any agricultural firm or subdivision of an

1 agricultural firm) shall be certified as eligible to
2 apply for adjustment assistance under this sub-
3 chapter pursuant to a petition filed under subsection
4 (b) if the Secretary determines that a significant
5 number or proportion of the workers in such work-
6 ers' firm or an appropriate subdivision of the firm
7 have become totally or partially separated, or are
8 threatened to become totally or partially separated,
9 and either—

10 “(A) that—

11 “(i) the sales or production, or both,
12 of such firm or subdivision have decreased
13 absolutely,

14 “(ii) imports from Mexico or Canada
15 of articles like or directly competitive with
16 articles produced by such firm or subdivi-
17 sion have increased, and

18 “(iii) the increase in imports under
19 clause (ii) contributed importantly to such
20 workers' separation or threat of separation
21 and to the decline in the sales or produc-
22 tion of such firm or subdivision; or

23 “(B) that there has been a shift in produc-
24 tion by such workers' firm or subdivision to
25 Mexico or Canada of articles like or directly

1 competitive with articles which are produced by
2 the firm or subdivision.

3 “(2) DEFINITION OF CONTRIBUTED IMPOR-
4 TANTLY.—The term ‘contributed importantly’, as
5 used in paragraph (1)(A)(iii), means a cause which
6 is important but not necessarily more important
7 than any other cause.

8 “(3) REGULATIONS.—The Secretary shall issue
9 regulations relating to the application of the criteria
10 described in paragraph (1) in making preliminary
11 findings under subsection (b) and determinations
12 under subsection (c).

13 “(b) PRELIMINARY FINDINGS AND BASIC ASSIST-
14 ANCE.—

15 “(1) FILING OF PETITIONS.—A petition for cer-
16 tification of eligibility to apply for adjustment assist-
17 ance under this subchapter may be filed by a group
18 of workers (including workers in any agricultural
19 firm or subdivision of an agricultural firm) or by
20 their certified or recognized union or other duly au-
21 thorized representative with the Governor of the
22 State in which such workers’ firm or subdivision
23 thereof is located.

1 “(2) FINDINGS AND ASSISTANCE.—Upon re-
2 receipt of a petition under paragraph (1), the Gov-
3 ernor shall—

4 “(A) notify the Secretary that the Gov-
5 ernor has received the petition;

6 “(B) within 10 days after receiving the pe-
7 tition—

8 “(i) make a preliminary finding as to
9 whether the petition meets the criteria de-
10 scribed in subsection (a)(1) (and for pur-
11 poses of this clause the criteria described
12 under subparagraph (A)(iii) of such sub-
13 section shall be disregarded), and

14 “(ii) transmit the petition, together
15 with a statement of the finding under
16 clause (i) and reasons therefor, to the Sec-
17 retary for action under subsection (c); and

18 “(C) if the preliminary finding under sub-
19 paragraph (B)(i) is affirmative, ensure that
20 rapid response and basic readjustment services
21 authorized under other Federal law are made
22 available to the workers.

23 “(c) REVIEW OF PETITIONS BY SECRETARY; CER-
24 TIFICATIONS.—

1 “(1) IN GENERAL.—The Secretary, within 30
2 days after receiving a petition under subsection (b),
3 shall determine whether the petition meets the cri-
4 teria described in subsection (a)(1). Upon a deter-
5 mination that the petition meets such criteria, the
6 Secretary shall issue to workers covered by the peti-
7 tion a certification of eligibility to apply for assist-
8 ance described in subsection (d).

9 “(2) DENIAL OF CERTIFICATION.—Upon denial
10 of certification with respect to a petition under para-
11 graph (1), the Secretary shall review the petition in
12 accordance with the requirements of subchapter A to
13 determine if the workers may be certified under such
14 subchapter.

15 “(d) COMPREHENSIVE ASSISTANCE.—Workers cov-
16 ered by certification issued by the Secretary under sub-
17 section (c) shall be provided, in the same manner and to
18 the same extent as workers covered under a certification
19 under subchapter A, the following:

20 “(1) Employment services described in section
21 235.

22 “(2) Training described in section 236, except
23 that notwithstanding the provisions of section
24 236(a)(2)(A), the total amount of payments for

1 training under this subchapter for any fiscal year
2 shall not exceed \$30,000,000.

3 “(3) Trade readjustment allowances described
4 in sections 231 through 234, except that—

5 “(A) the provisions of sections
6 231(a)(5)(C) and 231(c), authorizing the pay-
7 ment of trade readjustment allowances upon a
8 finding that it is not feasible or appropriate to
9 approve a training program for a worker, shall
10 not be applicable to payment of such allowances
11 under this subchapter; and

12 “(B) notwithstanding the provisions of sec-
13 tion 233(b), in order for a worker to qualify for
14 trade readjustment allowances under this sub-
15 chapter, the worker shall be enrolled in a train-
16 ing program approved by the Secretary under
17 section 236(a) by the later of—

18 “(i) the last day of the 16th week of
19 such worker’s initial unemployment com-
20 pensation benefit period, or

21 “(ii) the last day of the 6th week after
22 the week in which the Secretary issues a
23 certification covering such worker.

24 In cases of extenuating circumstances relating to en-
25 rollment in a training program, the Secretary may

1 extend the time for enrollment for a period not to
2 exceed 30 days .

3 “(4) Job search allowances described in section
4 237.

5 “(5) Relocation allowances described in section
6 238.

7 “(e) ADMINISTRATION.—The provisions of sub-
8 chapter C shall apply to the administration of the program
9 under this subchapter in the same manner and to the
10 same extent as such provisions apply to the administration
11 of the program under subchapters A and B, except that
12 the agreement between the Secretary and the States de-
13 scribed in section 239 shall specify the procedures that
14 will be used to carry out the certification process under
15 subsection (c) and the procedures for providing relevant
16 data by the Secretary to assist the States in making pre-
17 liminary findings under subsection (b).”.

18 **SEC. 503. CONFORMING AMENDMENTS.**

19 (a) REFERENCES.—Sections 221(a), 222(a), and
20 223(a) of the Trade Act of 1974 (19 U.S.C. 2271(a),
21 2272(a), and 2273(a)) are each amended by striking out
22 “assistance under this chapter” and inserting “assistance
23 under this subchapter”.

24 (b) BENEFIT INFORMATION.—Section 225(b) of the
25 Trade Act of 1974 (19 U.S.C. 2275(b)) is amended by

1 inserting “or subchapter D” after “subchapter A” each
2 place it appears.

3 (c) NONDUPLICATION OF ASSISTANCE.—Subchapter
4 C of chapter 2 of title II of the Trade Act of 1974 is
5 amended by adding at the end the following new section:

6 **“SEC. 249A. NONDUPLICATION OF ASSISTANCE.**

7 “No worker may receive assistance relating to a sepa-
8 ration pursuant to certifications under both subchapters
9 A and D of this chapter.”.

10 (d) JUDICIAL REVIEW.—Section 284 of the Trade
11 Act of 1974 (19 U.S.C. 2395(a)) is amended by inserting
12 “or section 250(c)” after “section 223”.

13 (e) TABLE OF CONTENTS.—The table of contents for
14 chapter 2 of title II of the Trade Act of 1974 is amend-
15 ed—

16 (1) by inserting after the item relating to sec-
17 tion 249 the following new item:

“Sec. 249A. Nonduplication of assistance.”;

18 and

19 (2) by adding at the end thereof the following
20 new items:

“SUBCHAPTER D—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

“Sec. 250. Establishment of transitional program.”.

21 **SEC. 504. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 245 of the Trade Act of 1974 (19 U.S.C.
23 2317) is amended—

1 (1) by striking “There” and inserting “(a) IN
2 GENERAL.—There”,

3 (2) by inserting “, other than subchapter D”
4 after “chapter”, and

5 (3) by adding at the end the following new sub-
6 section:

7 “(b) SUBCHAPTER D.—There are authorized to be
8 appropriated to the Department of Labor, for each of fis-
9 cal years 1994, 1995, 1996, 1997, and 1998, such sums
10 as may be necessary to carry out the purposes of sub-
11 chapter D of this chapter.”.

12 **SEC. 505. TERMINATION OF TRANSITION PROGRAM.**

13 Subsection (c) of section 285 of the Trade Act of
14 1974 (19 U.S.C. 2271 preceding note) is amended—

15 (1) by striking “No” and inserting “(1) Except
16 as provided in paragraph (2), no”; and

17 (2) by adding at the end the following new
18 paragraph:

19 “(2)(A) Except as provided in subparagraph (B), no
20 assistance, vouchers, allowances, or other payments may
21 be provided under subchapter D of chapter 2 after the
22 day that is the earlier of—

23 “(i) September 30, 1998, or

24 “(ii) the date on which legislation, establishing
25 a program providing dislocated workers with com-

1 prehensive assistance substantially similar to the as-
2 sistance provided by such subchapter D, becomes ef-
3 fective.

4 “(B) Notwithstanding subparagraph (A), if, on or be-
5 fore the day described in subparagraph (A), a worker—

6 “(i) is certified as eligible to apply for assist-
7 ance, under subchapter D of chapter 2; and

8 “(ii) is otherwise eligible to receive assistance in
9 accordance with section 250,

10 such worker shall continue to be eligible to receive such
11 assistance for any week for which the worker meets the
12 eligibility requirements of such section.”.

13 **SEC. 506. EFFECTIVE DATE.**

14 (a) **IN GENERAL.**—The amendments made by sec-
15 tions 501, 502, 503, 504, and 505 shall take effect on
16 the date the Agreement enters into force with respect to
17 the United States.

18 (b) **COVERED WORKERS.**—

19 (1) **GENERAL RULE.**—Except as provided in
20 paragraph (2), no worker shall be certified as eligi-
21 ble to receive assistance under subchapter D of
22 chapter 2 of title II of the Trade Act of 1974 (as
23 added by this subtitle) whose last total or partial
24 separation from a firm (or appropriate subdivision of
25 a firm) occurred before such date of entry into force.

1 (2) REACHBACK.—Notwithstanding paragraph
2 (1), any worker—

3 (A) whose last total or partial separation
4 from a firm (or appropriate subdivision of a
5 firm) occurs—

6 (i) after the date of the enactment of
7 this Act, and

8 (ii) before such date of entry into
9 force, and

10 (B) who would otherwise be eligible to re-
11 ceive assistance under subchapter D of chapter
12 2 of title II of the Trade Act of 1974,

13 shall be eligible to receive such assistance in the
14 same manner as if such separation occurred on or
15 after such date of entry into force.

16 **SEC. 507. TREATMENT OF SELF-EMPLOYMENT ASSISTANCE**
17 **PROGRAMS.**

18 (a) GENERAL RULE.—Section 3306 of the Internal
19 Revenue Code of 1986 is amended by adding at the end
20 the following new subsection:

21 “(t) SELF-EMPLOYMENT ASSISTANCE PROGRAM.—
22 For the purposes of this chapter, the term ‘self-employ-
23 ment assistance program’ means a program under
24 which—

1 “(1) individuals who meet the requirements de-
2 scribed in paragraph (3) are eligible to receive an al-
3 lowance in lieu of regular unemployment compensa-
4 tion under the State law for the purpose of assisting
5 such individuals in establishing a business and be-
6 coming self-employed;

7 “(2) the allowance payable to individuals pursu-
8 ant to paragraph (1) is payable in the same amount,
9 at the same interval, on the same terms, and subject
10 to the same conditions, as regular unemployment
11 compensation under the State law, except that—

12 “(A) State requirements relating to avail-
13 ability for work, active search for work, and re-
14 fusal to accept work are not applicable to such
15 individuals;

16 “(B) State requirements relating to dis-
17 qualifying income are not applicable to income
18 earned from self-employment by such individ-
19 uals; and

20 “(C) such individuals are considered to be
21 unemployed for the purposes of Federal and
22 State laws applicable to unemployment com-
23 pensation,

24 as long as such individuals meet the requirements
25 applicable under this subsection;

1 “(3) individuals may receive the allowance
2 described in paragraph (1) if such individuals—

3 “(A) are eligible to receive regular unem-
4 ployment compensation under the State law, or
5 would be eligible to receive such compensation
6 except for the requirements described in sub-
7 paragraph (A) or (B) of paragraph (2);

8 “(B) are identified pursuant to a State
9 worker profiling system as individuals likely to
10 exhaust regular unemployment compensation;
11 and

12 “(C) are participating in self-employment
13 assistance activities which—

14 “(i) include entrepreneurial training,
15 business counseling, and technical assist-
16 ance; and

17 “(ii) are approved by the State agen-
18 cy; and

19 “(D) are actively engaged on a full-time
20 basis in activities (which may include training)
21 relating to the establishment of a business and
22 becoming self-employed;

23 “(4) the aggregate number of individuals receiv-
24 ing the allowance under the program does not at any
25 time exceed 5 percent of the number of individuals

1 receiving regular unemployment compensation under
2 the State law at such time;

3 “(5) the program does not result in any cost to
4 the Unemployment Trust Fund (established by sec-
5 tion 904(a) of the Social Security Act) in excess of
6 the cost that would be incurred by such State and
7 charged to such Fund if the State had not partici-
8 pated in such program; and

9 “(6) the program meets such other require-
10 ments as the Secretary of Labor determines to be
11 appropriate.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 3304(a)(4) of such Code is amend-
14 ed—

15 (A) in subparagraph (D), by striking “;
16 and” and inserting a semicolon;

17 (B) in subparagraph (E), by striking the
18 semicolon and inserting “; and”; and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(F) amounts may be withdrawn for the
22 payment of allowances under a self-employment
23 assistance program (as defined in section
24 3306(t));”.

25 (2) Section 3306(f) of such Code is amended—

1 (A) in paragraph (3), by striking “; and”
2 and inserting a semicolon;

3 (B) in paragraph (4), by striking the pe-
4 riod and inserting “; and”; and

5 (C) by adding at the end the following new
6 paragraph:

7 “(5) amounts may be withdrawn for the pay-
8 ment of allowances under a self-employment assist-
9 ance program (as defined in subsection (t)).”.

10 (3) Section 303(a)(5) of the Social Security Act
11 (42 U.S.C. 503(a)(5)) is amended by striking “;
12 and” and inserting “: *Provided further*, That
13 amounts may be withdrawn for the payment of al-
14 lowances under a self-employment assistance pro-
15 gram (as defined in section 3306(t) of the Internal
16 Revenue Code of 1986); and”.

17 (c) STATE REPORTS.—Any State operating a self-em-
18 ployment program authorized by the Secretary of Labor
19 under this section shall report annually to the Secretary
20 on the number of individuals who participate in the self-
21 employment assistance program, the number of individ-
22 uals who are able to develop and sustain businesses, the
23 operating costs of the program, compliance with program
24 requirements, and any other relevant aspects of program
25 operations requested by the Secretary.

1 (d) REPORT TO CONGRESS.—Not later than 4 years
2 after the date of the enactment of this Act, the Secretary
3 of Labor shall submit a report to the Congress with re-
4 spect to the operation of the program authorized under
5 this section. Such report shall be based on the reports re-
6 ceived from the States pursuant to subsection (c) and in-
7 clude such other information as the Secretary of Labor
8 determines is appropriate.

9 (e) EFFECTIVE DATE; SUNSET.—

10 (1) EFFECTIVE DATE.—The provisions of this
11 section and the amendments made by this section
12 shall take effect on the date of the enactment of this
13 Act.

14 (2) SUNSET.—The authority provided by this
15 section, and the amendments made by this section,
16 shall terminate 5 years after the date of the enact-
17 ment of this Act.

18 **Subtitle B—Provisions Relating to**
19 **Performance Under the Agreement**

20 **SEC. 511. DISCRIMINATORY TAXES.**

21 It is the sense of the Congress that when a State,
22 province, or other governmental entity of a NAFTA coun-
23 try discriminatorily enforces sales or other taxes so as to
24 afford protection to domestic production or domestic serv-
25 ices providers, such enforcement is in violation of the terms

1 of the Agreement. When such discriminatory enforcement
2 adversely affects United States producers of goods or
3 United States service providers, the Trade Representative
4 should pursue all appropriate remedies to obtain removal
5 of such discriminatory enforcement, including invocation
6 of the provisions of the Agreement.

7 **SEC. 512. REVIEW OF THE OPERATION AND EFFECTS OF**
8 **THE AGREEMENT.**

9 (a) STUDY.—By not later than July 1, 1997, the
10 President shall provide to the Congress a comprehensive
11 study on the operation and effects of the Agreement. The
12 study shall include an assessment of the following factors:

13 (1) The net effect of the Agreement on the
14 economy of the United States, including with respect
15 to the United States gross national product, employ-
16 ment, balance of trade, and current account balance.

17 (2) The industries (including agricultural indus-
18 tries) in the United States that have significantly in-
19 creased exports to Mexico or Canada as a result of
20 the Agreement, or in which imports into the United
21 States from Mexico or Canada have increased sig-
22 nificantly as a result of the Agreement, and the ex-
23 tent of any change in the wages, employment, or
24 productivity in each such industry as a result of the
25 Agreement.

1 (3) The extent to which investment in new or
2 existing production or other operations in the United
3 States has been redirected to Mexico as a result of
4 the Agreement, and the effect on United States em-
5 ployment of such redirection.

6 (4) The extent of any increase in investment,
7 including foreign direct investment and increased in-
8 vestment by United States investors, in new or exist-
9 ing production or other operations in the United
10 States as a result of the Agreement, and the effect
11 on United States employment of such investment.

12 (5) The extent to which the Agreement has con-
13 tributed to—

14 (A) improvement in real wages and work-
15 ing conditions in Mexico,

16 (B) effective enforcement of labor and en-
17 vironmental laws in Mexico, and

18 (C) the reduction or abatement of pollution
19 in the region of the United States-Mexico bor-
20 der.

21 (b) SCOPE.—In assessing the factors listed in sub-
22 section (a), to the extent possible, the study shall distin-
23 guish between the consequences of the Agreement and
24 events that likely would have occurred without the Agree-
25 ment. In addition, the study shall evaluate the effects of

1 the Agreement relative to aggregate economic changes
2 and, to the extent possible, relative to the effects of other
3 factors, including—

4 (1) international competition,

5 (2) reductions in defense spending,

6 (3) the shift from traditional manufacturing to
7 knowledge and information based economic activity,
8 and

9 (4) the Federal debt burden.

10 (c) RECOMMENDATIONS OF THE PRESIDENT.—The
11 study shall include any appropriate recommendations by
12 the President with respect to the operation and effects of
13 the Agreement, including recommendations with respect to
14 the specific factors listed in subsection (a).

15 (d) RECOMMENDATIONS OF CERTAIN COMMIT-
16 TEES.—The President shall provide the study to the Com-
17 mittee on Ways and Means of the House of Representa-
18 tives and the Committee on Finance of the Senate and
19 any other committee that has jurisdiction over any provi-
20 sion of United States law that was either enacted or
21 amended by the North American Free Trade Agreement
22 Implementation Act. Each such committee may hold hear-
23 ings and make recommendations to the President with re-
24 spect to the operation and effects of the Agreement.

1 **SEC. 513. ACTIONS AFFECTING UNITED STATES CULTURAL**
2 **INDUSTRIES.**

3 Section 182 of the Trade Act of 1974 (19 U.S.C.
4 2242) is amended by adding at the end the following new
5 subsection:

6 “(f) SPECIAL RULE FOR ACTIONS AFFECTING UNIT-
7 ED STATES CULTURAL INDUSTRIES.—

8 “(1) IN GENERAL.—By no later than the date
9 that is 30 days after the date on which the annual
10 report is submitted to Congressional committees
11 under section 181(b), the Trade Representative shall
12 identify any act, policy, or practice of Canada
13 which—

14 “(A) affects cultural industries,

15 “(B) is adopted or expanded after Decem-
16 ber 17, 1992, and

17 “(C) is actionable under article 2106 of
18 the North American Free Trade Agreement.

19 “(2) SPECIAL RULES FOR IDENTIFICATIONS.—
20 For purposes of section 302(b)(2)(A), an act, policy,
21 or practice identified under this subsection shall be
22 treated as an act, policy, or practice that is the basis
23 for identification of a country under subsection
24 (a)(2), unless the United States has already taken
25 action pursuant to article 2106 of the North Amer-
26 ican Free Trade Agreement in response to such act,

1 policy, or practice. In deciding whether to identify
2 an act, policy, or practice under paragraph (1), the
3 Trade Representative shall—

4 “(A) consult with and take into account
5 the views of representatives of the relevant do-
6 mestic industries, appropriate committees es-
7 tablished pursuant to section 135, and appro-
8 priate officers of the Federal Government, and

9 “(B) take into account the information
10 from such sources as may be available to the
11 Trade Representative and such information as
12 may be submitted to the Trade Representative
13 by interested persons, including information
14 contained in reports submitted under section
15 181(b).

16 “(3) CULTURAL INDUSTRIES.—For purposes of
17 this subsection, the term ‘cultural industries’ means
18 persons engaged in any of the following activities:

19 “(A) The publication, distribution, or sale
20 of books, magazines, periodicals, or newspapers
21 in print or machine readable form but not in-
22 cluding the sole activity of printing or type-
23 setting any of the foregoing.

24 “(B) The production, distribution, sale, or
25 exhibition of film or video recordings.

1 “(C) The production, distribution, sale, or
2 exhibition of audio or video music recordings.

3 “(D) The publication, distribution, or sale
4 of music in print or machine readable form.

5 “(E) Radio communications in which the
6 transmissions are intended for direct reception
7 by the general public, and all radio, television,
8 and cable broadcasting undertakings and all
9 satellite programming and broadcast network
10 services.”.

11 **SEC. 514. REPORT ON IMPACT OF NAFTA ON MOTOR VEHI-**
12 **CLE EXPORTS TO MEXICO.**

13 (a) FINDINGS.—The Congress makes the following
14 findings:

15 (1) Trade in motor vehicles and motor vehicle
16 parts is one of the most restricted areas of trade be-
17 tween the United States and Mexico.

18 (2) The elimination of Mexico’s restrictive bar-
19 riers to trade in motor vehicles and motor vehicle
20 parts over a 10-year period under the Agreement
21 should increase substantially United States exports
22 of such products to Mexico.

23 (3) The Department of Commerce estimates
24 that the Agreement provides the opportunity to in-
25 crease United States exports of motor vehicles and

1 motor vehicle parts by \$1,000,000,000 during the
2 first year of the Agreement's implementation with
3 the potential for additional increases over the 10-
4 year transition period.

5 (4) The United States automotive industry has
6 estimated that United States exports of motor vehi-
7 cles to Mexico should increase to more than 60,000
8 units during the first year of the Agreement's imple-
9 mentation, which is substantially above the current
10 level of 4,000 units.

11 (b) TRADE REPRESENTATIVE REPORT.—No later
12 than July 1, 1995, and annually thereafter through 1999,
13 the Trade Representative shall submit a report to the
14 Committee on Finance of the Senate and the Committee
15 on Ways and Means of the House of Representatives on
16 how effective the provisions of the Agreement are with re-
17 spect to increasing United States exports of motor vehicles
18 and motor vehicle parts to Mexico. Each report shall iden-
19 tify and determine the following:

20 (1) The patterns of trade in motor vehicles and
21 motor vehicle parts between the United States and
22 Mexico during the preceding 12-month period.

23 (2) The level of tariff and nontariff barriers
24 that were in force during the preceding 12-month
25 period.

1 (3) The amount by which United States exports
2 of motor vehicles and motor vehicle parts to Mexico
3 have increased from the preceding 12-month period
4 as a result of the elimination of Mexican tariff and
5 nontariff barriers under the Agreement.

6 (4) Whether any such increase in United States
7 exports meets the levels of new export opportunities
8 anticipated under the Agreement.

9 (5) If the anticipated levels of new United
10 States export opportunities are not reached, what
11 actions the Trade Representative is prepared to take
12 to realize the benefits anticipated under the Agree-
13 ment, including possible initiation of additional ne-
14 negotiations with Mexico for the purpose of seeking
15 modifications of the Agreement.

16 **SEC. 515. CENTER FOR THE STUDY OF WESTERN HEMI-**
17 **SPHERIC TRADE.**

18 (a) AMENDMENT TO THE CBI.—The Caribbean
19 Basin Economic Recovery Act (19 U.S.C. 2701 et seq.)
20 is amended by inserting after section 218 the following
21 new section:

22 **“SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMI-**
23 **SPHERIC TRADE.**

24 “(a) ESTABLISHMENT.—The Commissioner of Cus-
25 toms, after consultation with appropriate officials in the

1 State of Texas, is authorized and directed to make grants
2 to an institution (or a consortium of such institutions) to
3 assist such institution in planning, establishing, and oper-
4 ating a Center for the Study of Western Hemispheric
5 Trade (hereafter in this section referred to as the ‘Cen-
6 ter’). The Commissioner of Customs shall make the first
7 grant not later than December 1, 1994, and the Center
8 shall be established not later than February 1, 1995.

9 “(b) SCOPE OF THE CENTER.—The Center shall be
10 a year-round program operated by an institution located
11 in the State of Texas (or a consortium of such institu-
12 tions), the purpose of which is to promote and study trade
13 between and among Western Hemisphere countries. The
14 Center shall conduct activities designed to examine—

15 “(1) the impact of the NAFTA on the econo-
16 mies in, and trade within, the Western Hemisphere,

17 “(2) the negotiation of any future free trade
18 agreements, including possible accessions to the
19 NAFTA; and

20 “(3) adjusting tariffs, reducing nontariff bar-
21 riers, improving relations among customs officials,
22 and promoting economic relations among countries
23 in the Western Hemisphere.

24 “(c) CONSULTATION; SELECTION CRITERIA.—The
25 Commissioner of Customs shall consult with appropriate

1 officials of the State of Texas and private sector authori-
2 ties with respect to selecting, planning, and establishing
3 the Center. In selecting the appropriate institution, the
4 Commissioner of Customs shall give consideration to—

5 “(1) the institution’s ability to carry out the
6 programs and activities described in this section;
7 and

8 “(2) any resources the institution can provide
9 the Center in addition to Federal funds provided
10 under this program.

11 “(d) PROGRAMS AND ACTIVITIES.—The Center shall
12 conduct the following activities:

13 “(1) Provide forums for international discussion
14 and debate for representatives from countries in the
15 Western Hemisphere regarding issues which affect
16 trade and other economic relations within the hemi-
17 sphere, including the impact of the NAFTA on indi-
18 vidual economies and the desirability and feasibility
19 of possible accessions to the NAFTA by such coun-
20 tries.

21 “(2) Conduct studies and research projects on
22 subjects which affect Western Hemisphere trade, in-
23 cluding tariffs, customs, regional and national eco-
24 nomics, business development and finance, produc-
25 tion and personnel management, manufacturing, ag-

1 riculture, engineering, transportation, immigration,
2 telecommunications, medicine, science, urban stud-
3 ies, border demographics, social anthropology, and
4 population.

5 “(3) Publish materials, disseminate informa-
6 tion, and conduct seminars and conferences to sup-
7 port and educate representatives from countries in
8 the Western Hemisphere who seek to do business
9 with or invest in other Western Hemisphere coun-
10 tries.

11 “(4) Provide grants, fellowships, endowed
12 chairs, and financial assistance to outstanding schol-
13 ars and authorities from Western Hemisphere coun-
14 tries.

15 “(5) Provide grants, fellowships, and other fi-
16 nancial assistance to qualified graduate students,
17 from Western Hemisphere countries, to study at the
18 Center.

19 “(6) Implement academic exchange programs
20 and other cooperative research and instructional
21 agreements with the complementary North/South
22 Center at the University of Miami at Coral Gables.

23 “(e) DEFINITIONS.—For purposes of this section—

24 “(1) NAFTA.—The term ‘NAFTA’ means the
25 North American Free Trade Agreement.

1 “(2) WESTERN HEMISPHERE COUNTRIES.—The
2 terms ‘Western Hemisphere countries’, ‘countries in
3 the Western Hemisphere’, and ‘Western Hemi-
4 sphere’ mean Canada, the United States, Mexico,
5 countries located in South America, beneficiary
6 countries (as defined by section 212), the Common-
7 wealth of Puerto Rico, and the United States Virgin
8 Islands.

9 “(f) FEES FOR SEMINARS AND PUBLICATIONS.—
10 Notwithstanding any other provision of law, a grant made
11 under this section may provide that the Center may charge
12 a reasonable fee for attendance at seminars and con-
13 ferences and for copies of publications, studies, reports,
14 and other documents the Center publishes. The Center
15 may waive such fees in any case in which it determines
16 imposing a fee would impose a financial hardship and the
17 purposes of the Center would be served by granting such
18 a waiver.

19 “(g) DURATION OF GRANT.—The Commissioner of
20 Customs is directed to make grants to any institution or
21 institutions selected as the Center for fiscal years 1994,
22 1995, 1996, and 1997.

23 “(h) REPORT.—The Commissioner of Customs shall,
24 no later than July 1, 1994, and annually thereafter for
25 years for which grants are made, submit a written report

1 to the Committee on Finance of the Senate and the Com-
2 mittee on Ways and Means of the House of Representa-
3 tives. The first report shall include—

4 “(1) a statement identifying the institution or
5 institutions selected as the Center,

6 “(2) the reasons for selecting the institution or
7 institutions as the Center, and

8 “(3) the plan of such institution or institutions
9 for operating the Center.

10 Each subsequent report shall include information with re-
11 spect to the operations of the Center, the collaboration of
12 the Center with, and dissemination of information to, Gov-
13 ernment policymakers and the business community with
14 respect to the study of Western Hemispheric trade by the
15 Center, and the plan and efforts of the Center to continue
16 operations after grants under this section have expired.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated \$10,000,000 for fiscal
19 year 1994, and such sums as may be necessary in the 3
20 succeeding fiscal years to carry out the purposes of section
21 219 of the Caribbean Basin Economic Recovery Act (as
22 added by subsection (a)).

23 **SEC. 516. EFFECTIVE DATE.**

24 (a) IN GENERAL.—Except as provided in subsection
25 (b), the provisions of this subtitle shall take effect on the

1 date the Agreement enters into force with respect to the
2 United States.

3 (b) EXCEPTION.—Section 515 shall take effect on the
4 date of the enactment of this Act.

5 **Subtitle C—Funding**

6 **PART 1—CUSTOMS USER FEES**

7 **SEC. 521. FEES FOR CERTAIN CUSTOMS SERVICES.**

8 (a) IN GENERAL.—Section 13031 of the Consolidated
9 Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.
10 58c) is amended—

11 (1) by amending paragraph (5) of subsection
12 (a) to read as follows:

13 “(5)(A) For fiscal years 1994, 1995, 1996, and
14 1997, for the arrival of each passenger aboard a
15 commercial vessel or commercial aircraft from out-
16 side the customs territory of the United States,
17 \$6.50.

18 “(B) For fiscal year 1998 and each fiscal year
19 thereafter, for the arrival of each passenger aboard
20 a commercial vessel or commercial aircraft from a
21 place outside the United States (other than a place
22 referred to in subsection (b)(1)(A) of this section),
23 \$5.”

24 (2) by adding at the end of paragraph (1) of
25 subsection (b), the following flush sentence:

1 “Subparagraph (A) shall not apply to fiscal years
2 1994, 1995, 1996, and 1997.”,

3 (3) in subsection (f)—

4 (A) in paragraph (1), by striking “except”
5 and all that follows through the end period and
6 inserting: “except—

7 “(A) the portion of such fees that is re-
8 quired under paragraph (3) for the direct reim-
9 bursement of appropriations, and

10 “(B) the portion of such fees that is deter-
11 mined by the Secretary to be excess fees under
12 paragraph (5).”,

13 (B) in paragraph (3)(A), by striking the
14 first parenthetical and inserting “(other than
15 the fees under subsection (a) (9) and (10) and
16 the excess fees determined by the Secretary
17 under paragraph (5))”,

18 (C) in paragraph (4), by striking “under
19 subsection (a)” and inserting “under subsection
20 (a) (other than the excess fees determined by
21 the Secretary under paragraph (5))”, and

22 (D) by adding at the end thereof the fol-
23 lowing new paragraph:

24 “(5) At the close of each of fiscal years 1994,
25 1995, 1996, and 1997, the Secretary of the Treas-

1 ury shall determine the amount of the fees collected
2 under paragraph (5)(A) of subsection (a) for that
3 fiscal year that exceeds the amount of such fees that
4 would have been collected for such fiscal year if the
5 fees that were in effect on the day before the effec-
6 tive date of this paragraph applied to such fiscal
7 year. The amount of the excess fees determined
8 under the preceding sentence shall be deposited in
9 the Customs User Fee Account and shall be avail-
10 able for reimbursement of inspectional costs (includ-
11 ing passenger processing costs) not otherwise reim-
12 bursed under this section, and shall be available only
13 to the extent provided in appropriations Acts.”, and

14 (4) in paragraph (3) of subsection (j), by strik-
15 ing “September 30, 1998” and inserting “September
16 30, 2003.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date the Agreement
19 enters into force with respect to the United States.

PART 2—INTERNAL REVENUE CODE**AMENDMENTS****SEC. 522. AUTHORITY TO DISCLOSE CERTAIN TAX INFORMATION TO THE UNITED STATES CUSTOMS SERVICE.**

(a) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

“(14) DISCLOSURE OF RETURN INFORMATION TO UNITED STATES CUSTOMS SERVICE.—The Secretary may, upon written request from the Commissioner of the United States Customs Service, disclose to officers and employees of the Department of the Treasury such return information with respect to taxes imposed by chapters 1 and 6 as the Secretary may prescribe by regulations, solely for the purpose of, and only to the extent necessary in—

“(A) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 (19 U.S.C. 1509), or

“(B) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits.”

1 (b) CONFORMING AMENDMENTS.—Paragraphs
2 (3)(A) and (4) of section 6103(p) of such Code are each
3 amended by striking “or (13)” each place it appears and
4 inserting “(13), or (14)”.

5 (c) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The amendments made by
7 this section shall take effect on the date the Agree-
8 ment enters into force with respect to the United
9 States.

10 (2) REGULATIONS.—Not later than 90 days
11 after the date of the enactment of this Act, the Sec-
12 retary of the Treasury or his delegate shall issue
13 temporary regulations to carry out section
14 6103(l)(14) of the Internal Revenue Code of 1986,
15 as added by this section.

16 **SEC. 523. USE OF ELECTRONIC FUND TRANSFER SYSTEM**
17 **FOR COLLECTION OF CERTAIN TAXES.**

18 (a) GENERAL RULE.—Section 6302 of the Internal
19 Revenue Code of 1986 (relating to mode or time of collec-
20 tion) is amended by redesignating subsection (h) as sub-
21 section (i) and by inserting after subsection (g) the follow-
22 ing new subsection:

23 “(h) USE OF ELECTRONIC FUND TRANSFER SYSTEM
24 FOR COLLECTION OF CERTAIN TAXES.—

25 “(1) ESTABLISHMENT OF SYSTEM.—

1 “(A) IN GENERAL.—The Secretary shall
2 prescribe such regulations as may be necessary
3 for the development and implementation of an
4 electronic fund transfer system which is re-
5 quired to be used for the collection of deposi-
6 tory taxes. Such system shall be designed in
7 such manner as may be necessary to ensure
8 that such taxes are credited to the general ac-
9 count of the Treasury on the date on which
10 such taxes would otherwise have been required
11 to be deposited under the Federal tax deposit
12 system.

13 “(B) EXEMPTIONS.—The regulations pre-
14 scribed under subparagraph (A) may contain
15 such exemptions as the Secretary may deem
16 appropriate.

17 “(2) PHASE-IN REQUIREMENTS.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the regulations referred to in
20 paragraph (1)—

21 “(i) shall contain appropriate proce-
22 dures to assure that an orderly conversion
23 from the Federal tax deposit system to the
24 electronic fund transfer system is accom-
25 plished, and

1 “(ii) may provide for a phase-in of
2 such electronic fund transfer system by
3 classes of taxpayers based on the aggre-
4 gate undeposited taxes of such taxpayers
5 at the close of specified periods and any
6 other factors the Secretary may deem ap-
7 propriate.

8 “(B) PHASE-IN REQUIREMENTS.—The
9 phase-in of the electronic fund transfer system
10 shall be designed in such manner as may be
11 necessary to ensure that—

12 “(i) during each fiscal year beginning
13 after September 30, 1993, at least the ap-
14 plicable required percentage of the total
15 depository taxes imposed by chapters 21,
16 22, and 24 shall be collected by means of
17 electronic fund transfer, and

18 “(ii) during each fiscal year beginning
19 after September 30, 1993, at least the ap-
20 plicable required percentage of the total
21 other depository taxes shall be collected by
22 means of electronic fund transfer.

23 “(C) APPLICABLE REQUIRED PERCENT-
24 AGE.—

1 “(i) In the case of the depository
2 taxes imposed by chapters 21, 22, and 24,
3 the applicable required percentage is—

4 “(I) 3 percent for fiscal year
5 1994,

6 “(II) 16.9 percent for fiscal year
7 1995,

8 “(III) 20.1 percent for fiscal year
9 1996,

10 “(IV) 58.3 percent for fiscal
11 years 1997 and 1998, and

12 “(V) 94 percent for fiscal year
13 1999 and all fiscal years thereafter.

14 “(ii) In the case of other depository
15 taxes, the applicable required percentage
16 is—

17 “(I) 3 percent for fiscal year
18 1994,

19 “(II) 20 percent for fiscal year
20 1995,

21 “(III) 30 percent for fiscal year
22 1996,

23 “(IV) 60 percent for fiscal years
24 1997 and 1998, and

1 “(V) 94 percent for fiscal year
2 1999 and all fiscal years thereafter.

3 “(3) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) DEPOSITORY TAX.—The term ‘depos-
6 itory tax’ means any tax if the Secretary is au-
7 thorized to require deposits of such tax.

8 “(B) ELECTRONIC FUND TRANSFER.—The
9 term ‘electronic fund transfer’ means any trans-
10 fer of funds, other than a transaction originated
11 by check, draft, or similar paper instrument,
12 which is initiated through an electronic termi-
13 nal, telephonic instrument, or computer or mag-
14 netic tape so as to order, instruct, or authorize
15 a financial institution or other financial
16 intermediary to debit or credit an account.

17 “(4) COORDINATION WITH OTHER ELECTRONIC
18 FUND TRANSFER REQUIREMENTS.—

19 “(A) COORDINATION WITH CERTAIN EX-
20 CISE TAXES.—In determining whether the re-
21 quirements of subparagraph (B) of paragraph
22 (2) are met, taxes required to be paid by elec-
23 tronic fund transfer under sections 5061(e) and
24 5703(b) shall be disregarded.

1 “(B) ADDITIONAL REQUIREMENT.—Under
 2 regulations, any tax required to be paid by elec-
 3 tronic fund transfer under section 5061(e) or
 4 5703(b) shall be paid in such a manner as to
 5 ensure that the requirements of the second sen-
 6 tence of paragraph (1)(A) of this subsection are
 7 satisfied.”

8 (b) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendments made by
 10 this section shall take effect on the date the Agree-
 11 ment enters into force with respect to the United
 12 States.

13 (2) REGULATIONS.—Not later than 210 days
 14 after the date of enactment of this Act, the Sec-
 15 retary of the Treasury or his delegate shall prescribe
 16 temporary regulations under section 6302(h) of the
 17 Internal Revenue Code of 1986 (as added by this
 18 section).

19 **Subtitle D—Implementation of**
 20 **NAFTA Supplemental Agreements**

21 **PART 1—AGREEMENTS RELATING TO LABOR AND**

22 **ENVIRONMENT**

23 **SEC. 531. AGREEMENT ON LABOR COOPERATION.**

24 (a) COMMISSION FOR LABOR COOPERATION.—

1 (1) MEMBERSHIP.—The United States is au-
2 thorized to participate in the Commission for Labor
3 Cooperation in accordance with the North American
4 Agreement on Labor Cooperation.

5 (2) CONTRIBUTIONS TO BUDGET.—There are
6 authorized to be appropriated to the President (or
7 such agency as the President may designate)
8 \$2,000,000 for each of fiscal years 1994 and 1995
9 for United States contributions to the annual budget
10 of the Commission for Labor Cooperation pursuant
11 to Article 43 of the North American Agreement on
12 Labor Cooperation. Funds authorized to be appro-
13 priated for such contributions by this paragraph are
14 in addition to any funds otherwise available for such
15 contributions. Funds authorized to be appropriated
16 by this paragraph are authorized to be made avail-
17 able until expended.

18 (b) DEFINITIONS.—As used in this section—

19 (1) the term “Commission for Labor Coopera-
20 tion” means the commission established by Part
21 Three of the North American Agreement on Labor
22 Cooperation; and

23 (2) the term “North American Agreement on
24 Labor Cooperation” means the North American
25 Agreement on Labor Cooperation Between the Gov-

1 ernment of the United States of America, the Gov-
2 ernment of Canada, and the Government of the
3 United Mexican States (signed at Mexico City,
4 Washington, and Ottawa on September 8, 9, 12, and
5 14, 1993).

6 **SEC. 532. AGREEMENT ON ENVIRONMENTAL COOPERA-**
7 **TION.**

8 (a) COMMISSION FOR ENVIRONMENTAL COOPERA-
9 TION.—

10 (1) MEMBERSHIP.—The United States is au-
11 thorized to participate in the Commission for Envi-
12 ronmental Cooperation in accordance with the North
13 American Agreement on Environmental Cooperation.

14 (2) CONTRIBUTIONS TO BUDGET.—There are
15 authorized to be appropriated to the President (or
16 such agency as the President may designate)
17 \$5,000,000 for each of fiscal years 1994 and 1995
18 for United States contributions to the annual budget
19 of the Commission for Environmental Cooperation
20 pursuant to Article 43 of the North American
21 Agreement on Environmental Cooperation. Funds
22 authorized to be appropriated for such contributions
23 by this paragraph are in addition to any funds oth-
24 erwise available for such contributions. Funds au-

1 thorized to be appropriated by this paragraph are
2 authorized to be made available until expended.

3 (b) DEFINITIONS.—As used in this section—

4 (1) the term “Commission for Environmental
5 Cooperation” means the commission established by
6 Part Three of the North American Agreement on
7 Environmental Cooperation; and

8 (2) the term “North American Agreement on
9 Environmental Cooperation” means the North
10 American Agreement on Environmental Cooperation
11 Between the Government of the United States of
12 America, the Government of Canada, and the Gov-
13 ernment of the United Mexican States (signed at
14 Mexico City, Washington, and Ottawa on September
15 8, 9, 12, and 14, 1993).

16 **SEC. 533. AGREEMENT ON BORDER ENVIRONMENT CO-**
17 **OPERATION COMMISSION.**

18 (a) BORDER ENVIRONMENT COOPERATION COMMIS-
19 SION.—

20 (1) MEMBERSHIP.—The United States is au-
21 thorized to participate in the Border Environment
22 Cooperation Commission in accordance with the
23 Border Environment Cooperation Agreement.

24 (2) CONTRIBUTIONS TO THE COMMISSION
25 BUDGET.—There are authorized to be appropriated

1 to the President (or such agency as the President
2 may designate) \$5,000,000 for fiscal year 1994 and
3 each fiscal year thereafter for United States con-
4 tributions to the budget of the Border Environment
5 Cooperation Commission pursuant to section 7 of
6 Article III of Chapter I of the Border Environment
7 Cooperation Agreement. Funds authorized to be ap-
8 propriated for such contributions by this paragraph
9 are in addition to any funds otherwise available for
10 such contributions. Funds authorized to be appro-
11 priated by this paragraph are authorized to be made
12 available until expended.

13 (b) CIVIL ACTIONS INVOLVING THE COMMISSION.—
14 For the purpose of any civil action which may be brought
15 within the United States by or against the Border Envi-
16 ronment Cooperation Commission in accordance with the
17 Border Environment Cooperation Agreement (including
18 an action brought to enforce an arbitral award against the
19 Commission), the Commission shall be deemed to be an
20 inhabitant of the Federal judicial district in which its prin-
21 cipal office within the United States, or its agent ap-
22 pointed for the purpose of accepting service or notice of
23 service, is located. Any such action to which the Commis-
24 sion is a party shall be deemed to arise under the laws
25 of the United States, and the district courts of the United

1 States (including the courts enumerated in section 460 of
2 title 28, United States Code) shall have original jurisdic-
3 tion of any such action. When the Commission is a defend-
4 ant in any action in a State court, it may at any time
5 before trial remove the action into the appropriate district
6 court of the United States by following the procedure for
7 removal provided in section 1446 of title 28, United States
8 Code.

9 (c) DEFINITIONS.—As used in this section—

10 (1) the term “Border Environment Cooperation
11 Agreement” means the November 1993 Agreement
12 Between the Government of the United States of
13 America and the Government of the United Mexican
14 States Concerning the Establishment of a Border
15 Environment Cooperation Commission and a North
16 American Development Bank;

17 (2) the terms “Border Environment Coopera-
18 tion Commission” and “Commission” mean the com-
19 mission established pursuant to Chapter I of the
20 Border Environment Cooperation Agreement; and

21 (3) the term “United States” means the United
22 States, its territories and possessions, and the Com-
23 monwealth of Puerto Rico.

PART 2—NORTH AMERICAN DEVELOPMENT**BANK AND RELATED PROVISIONS****SEC. 541. NORTH AMERICAN DEVELOPMENT BANK.**

(a) ACCEPTANCE OF MEMBERSHIP.—The President is hereby authorized to accept membership for the United States in the North American Development Bank (hereafter in this part referred to as the “Bank”) provided for in Chapter II of the Border Environment Cooperation Agreement (hereafter in this part referred to as the “Cooperation Agreement”).

(b) SUBSCRIPTION OF STOCK.—**(1) SUBSCRIPTION AUTHORITY.—**

(A) IN GENERAL.—The Secretary of the Treasury may subscribe on behalf of the United States up to 150,000 shares of the capital stock of the Bank.

(B) EFFECTIVENESS OF SUBSCRIPTION.—

Except as provided in paragraph (3), any such subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For payment by the Secretary of the Treasury of the subscription of the United States for shares described in paragraph (1), there are authorized to be appropriated \$1,500,000,000

1 (\$225,000,000 of which may be used for paid-in
2 capital and \$1,275,000,000 of which may be used
3 for callable capital) without fiscal year limitation.

4 (3) FUNDING; LIMITATION ON CALLABLE CAP-
5 ITAL SUBSCRIPTIONS.—

6 (A) FUNDING.—For fiscal year 1995, the
7 Secretary of the Treasury shall pay to the Bank
8 out of any sums in the Treasury not otherwise
9 appropriated the sum of \$56,250,000 for the
10 paid-in portion of the United States share of
11 the capital stock of the Bank, 10 percent of
12 which may be transferred by the Bank to the
13 President pursuant to section 543 to pay for
14 the cost of direct and guaranteed Federal loans.

15 (B) LIMITATION ON CALLABLE CAPITAL
16 SUBSCRIPTIONS.—For fiscal year 1995, the
17 Secretary of the Treasury shall subscribe to the
18 callable capital portion of the United States
19 share of the capital stock of the Bank in an
20 amount not to exceed \$318,750,000.

21 (4) DISPOSITION OF NET INCOME DISTRIBUTED
22 BY THE FACILITY.—Any payment made to the
23 United States by the Bank as a distribution of net
24 income shall be covered into the Treasury as a mis-
25 cellaneous receipt.

1 (c) COMPENSATION OF BOARD MEMBERS.—No per-
2 son shall be entitled to receive any salary or other com-
3 pensation from the Bank or the United States for services
4 as a Board member.

5 (d) APPLICABILITY OF BRETTON WOODS AGREE-
6 MENTS ACT.—The provisions of section 4 of the Bretton
7 Woods Agreements Act shall apply with respect to the
8 Bank to the same extent as with respect to the Inter-
9 national Bank for Reconstruction and Development and
10 the International Monetary Fund.

11 (e) RESTRICTIONS.—Unless authorized by law, nei-
12 ther the President nor any person or agency shall, on be-
13 half of the United States—

14 (1) subscribe to additional shares of stock of
15 the Bank;

16 (2) vote for or agree to any amendment of the
17 Cooperation Agreement which increases the obliga-
18 tions of the United States, or which changes the
19 purpose or functions of the Bank; or

20 (3) make a loan or provide other financing to
21 the Bank.

22 (f) FEDERAL RESERVE BANKS AS DEPOSITORIES.—
23 Any Federal Reserve bank that is requested to do so by
24 the Bank shall act as its depository or as its fiscal agent,
25 and the Board of Governors of the Federal Reserve Sys-

1 tem shall supervise and direct the carrying out of these
2 functions by the Federal Reserve banks.

3 (g) JURISDICTION OF UNITED STATES COURTS AND
4 ENFORCEMENT OF ARBITRAL AWARDS.—For the purpose
5 of any civil action which may be brought within the United
6 States, its territories or possessions, or the Commonwealth
7 of Puerto Rico, by or against the Bank in accordance with
8 the Cooperation Agreement, including an action brought
9 to enforce an arbitral award against the Bank, the Bank
10 shall be deemed to be an inhabitant of the Federal judicial
11 district in which its principal office within the United
12 States or its agency appointed for the purpose of accepting
13 service or notice of service is located, and any such action
14 to which the Bank shall be a party shall be deemed to
15 arise under the laws of the United States, and the district
16 courts of the United States, including the courts enumer-
17 ated in section 460 of title 28, United States Code, shall
18 have original jurisdiction of any such action. When the
19 Bank is a defendant in any action in a State court, it may
20 at any time before trial remove the action into the appro-
21 priate district court of the United States by following the
22 procedure for removal provided in section 1446 of title 28,
23 United States Code.

1 (h) EXEMPTION FROM SECURITIES LAWS FOR CER-
2 TAIN SECURITIES ISSUED BY THE BANK; REPORTS RE-
3 QUIRED.—

4 (1) EXEMPTIONS FROM LIMITATIONS AND RE-
5 STRICTIONS ON THE POWER OF NATIONAL BANKING
6 ASSOCIATIONS TO DEAL IN AND UNDERWRITE IN-
7 VESTMENT SECURITIES OF THE BANK.—The seventh
8 sentence of the seventh undesignated paragraph of
9 section 5136 of the Revised Statutes of the United
10 States (12 U.S.C. 24), is amended by inserting “the
11 North American Development Bank,” after “Inter-
12 American Development Bank,”.

13 (2) EXEMPTION FROM SECURITIES LAWS FOR
14 CERTAIN SECURITIES ISSUED BY THE BANK; RE-
15 PORTS REQUIRED.—Any securities issued by the
16 Bank (including any guarantee by the Bank, wheth-
17 er or not limited in scope) in connection with the
18 raising of funds for inclusion in the Bank’s capital
19 resources as defined in Section 4 of Article II of
20 Chapter II of the Cooperation Agreement, and any
21 securities guaranteed by the Bank as to both the
22 principal and interest to which the commitment in
23 Section 3(d) of Article II of Chapter II of the Co-
24 operation Agreement is expressly applicable, shall be
25 deemed to be exempted securities within the mean-

1 ing of section 3(a)(2) of the Securities Act of 1933
2 (15 U.S.C. 77c), and section 3(a)(12) of the Securi-
3 ties Exchange Act of 1934 (15 U.S.C. 78c). The
4 Bank shall file with the Securities and Exchange
5 Commission such annual and other reports with re-
6 gard to such securities as the Commission shall de-
7 termine to be appropriate in view of the special char-
8 acter of the Bank and its operations and necessary
9 in the public interest or for the protection of inves-
10 tors.

11 (3) AUTHORITY OF SECURITIES AND EXCHANGE
12 COMMISSION TO SUSPEND EXEMPTION; REPORTS TO
13 THE CONGRESS.—The Securities and Exchange
14 Commission, acting in consultation with the Na-
15 tional Advisory Council on International Monetary
16 and Financial Problems, is authorized to suspend
17 the provisions of paragraph (2) at any time as to
18 any or all securities issued or guaranteed by the
19 Bank during the period of such suspension. The
20 Commission shall include in its annual reports to
21 Congress such information as it shall deem advisable
22 with regard to the operations and effect of this sub-
23 section and in connection therewith shall include any
24 views submitted for such purpose by any association
25 of dealers registered with the Commission.

1 **SEC. 542. STATUS, IMMUNITIES, AND PRIVILEGES.**

2 Article VIII of Chapter II of the Cooperation Agree-
3 ment shall have full force and effect in the United States,
4 its territories and possessions, and the Commonwealth of
5 Puerto Rico, upon entry into force of the Cooperation
6 Agreement.

7 **SEC. 543. COMMUNITY ADJUSTMENT AND INVESTMENT**
8 **PROGRAM.**

9 (a) THE PRESIDENT.—(1) The President may enter
10 into an agreement with the Bank that facilitates imple-
11 mentation by the President of a program for community
12 adjustment and investment in support of the Agreement
13 pursuant to chapter II of the Cooperation Agreement
14 (hereafter in this section referred to as the “community
15 adjustment and investment program”).

16 (2) The President may receive from the Bank 10 per-
17 cent of the paid-in capital actually paid to the Bank by
18 the United States for the President to carry out, without
19 further appropriations, through Federal agencies and
20 their loan and loan guarantee programs, the community
21 adjustment and investment program, pursuant to an
22 agreement between the President and the Bank.

23 (3) The President may select one or more Federal
24 agencies that make loans or guarantees the repayment of
25 loans to assist in carrying out the community adjustment
26 and investment program, and may transfer the funds re-

1 ceived from the Bank to such agency or agencies for the
2 purpose of assisting in carrying out the community adjust-
3 ment and investment program.

4 (4)(A) Each Federal agency selected by the President
5 to assist in carrying out the community adjustment and
6 investment program shall use the funds transferred to it
7 by the President from the Bank to pay for the costs of
8 direct and guaranteed loans, as defined in section 502 of
9 the Congressional Budget Act of 1974, and, as appro-
10 priate, other costs associated with such loans, all subject
11 to the restrictions and limitations that apply to such agen-
12 cy's existing loan or loan guarantee program.

13 (B) Funds transferred to an agency under subpara-
14 graph (A) shall be in addition to the amount of funds au-
15 thorized in any appropriations Act to be expended by that
16 agency for its loan or loan guarantee program.

17 (5) The President shall—

18 (A) establish guidelines for the loans and loan
19 guarantees to be made under the community adjust-
20 ment and investment program;

21 (B) endorse the grants made by the Bank for
22 the community adjustment and investment program,
23 as provided in Article I, section 1(b), and Article III,
24 section 11(a), of Chapter II of the Cooperation
25 Agreement; and

1 (C) endorse any loans or guarantees made by
2 the Bank for the community adjustment and invest-
3 ment program, as provided in Article I, section 1(b),
4 and Article III, section 6(a) and (c) of Chapter II
5 of the Cooperation Agreement.

6 (b) ADVISORY COMMITTEE.—

7 (1) ESTABLISHMENT.—The President shall es-
8 tablish an advisory committee to be known as the
9 Community Adjustment and Investment Program
10 Advisory Committee (in this section referred to as
11 the “Advisory Committee”) in accordance with the
12 provisions of the Federal Advisory Committee Act.

13 (2) MEMBERSHIP.—

14 (A) IN GENERAL.—The Advisory Commit-
15 tee shall consist of 9 members of the public, ap-
16 pointed by the President, who, collectively, rep-
17 resent—

18 (i) community groups whose constitu-
19 encies include low-income families;

20 (ii) any scientific, professional, busi-
21 ness, nonprofit, or public interest organiza-
22 tion or association which is neither affili-
23 ated with, nor under the direction of, a
24 government;

25 (iii) for-profit business interests; and

1 (iv) other appropriate entities with
2 relevant expertise.

3 (B) REPRESENTATION.—Each of the cat-
4 egories described in clauses (i) through (iv) of
5 subparagraph (A) shall be represented by no
6 fewer than 1 and no more than 3 members of
7 the Advisory Committee.

8 (3) FUNCTION.—It shall be the function of the
9 Advisory Committee—

10 (A) to provide advice to the President re-
11 garding the implementation of the community
12 adjustment and investment program, including
13 advice on the guidelines to be established by the
14 President for the loans and loan guarantees to
15 be made pursuant to subsection (a)(4), advice
16 on identifying the needs for adjustment assist-
17 ance and investment in support of the goals and
18 objectives of the Agreement, taking into ac-
19 count economic and geographic considerations,
20 and advice on such other matters as may be re-
21 quested by the President; and

22 (B) to review on a regular basis the oper-
23 ation of the community adjustment and invest-
24 ment program and provide the President with
25 the conclusions of its review.

1 (4) TERMS OF MEMBERS.—

2 (A) IN GENERAL.—Each member of the
3 Advisory Committee shall serve at the pleasure
4 of the President.

5 (B) CHAIRPERSON.—The President shall
6 appoint a chairperson from among the members
7 of the Advisory Committee.

8 (C) MEETINGS.—The Advisory Committee
9 shall meet at least annually and at such other
10 times as requested by the President or the
11 chairperson. A majority of the members of the
12 Advisory Committee shall constitute a quorum.

13 (D) REIMBURSEMENT FOR EXPENSES.—
14 The members of the Advisory Committee may
15 receive reimbursement for travel, per diem, and
16 other necessary expenses incurred in the per-
17 formance of their duties, in accordance with the
18 Federal Advisory Committee Act.

19 (E) STAFF AND FACILITIES.—The Advi-
20 sory Committee may utilize the facilities and
21 services of employees of any Federal agency
22 without cost to the Advisory Committee, and
23 any such agency is authorized to provide serv-
24 ices as requested by the Committee.

1 (c) OMBUDSMAN.—The President shall appoint an
2 ombudsman to provide the public with an opportunity to
3 participate in the carrying out of the community adjust-
4 ment and investment program.

5 (1) FUNCTION.—It shall be the function of the
6 ombudsman—

7 (A) to establish procedures for receiving
8 comments from the general public on the oper-
9 ation of the community adjustment and invest-
10 ment program, to receive such comments, and
11 to provide the President with summaries of the
12 public comments; and

13 (B) to perform an independent inspection
14 and programmatic audit of the operation of the
15 community adjustment and investment program
16 and to provide the President with the conclu-
17 sions of its investigation and audit.

18 (2) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated to the
20 President, or such agency as the President may des-
21 ignate, \$25,000 for fiscal year 1995 and for each
22 fiscal year thereafter, for the costs of the ombuds-
23 man.

24 (d) REPORTING REQUIREMENT.—The President
25 shall submit to the appropriate congressional committees

1 an annual report on the community adjustment and in-
2 vestment program (if any) that is carried out pursuant
3 to this section. Each report shall state the amount of the
4 loans made or guaranteed during the 12-month period
5 ending on the day before the date of the report.

6 **SEC. 544. DEFINITION.**

7 For purposes of this part, the term “Border Environ-
8 ment Cooperation Agreement” (referred to in this part as
9 the “Cooperation Agreement”) means the November 1993
10 Agreement Between the Government of the United States
11 of America and the Government of the United Mexican
12 States Concerning the Establishment of a Border Envi-
13 ronment Cooperation Commission and a North American
14 Development Bank.

15 **TITLE VI—CUSTOMS**
16 **MODERNIZATION**

17 **SEC. 601. REFERENCE.**

18 Whenever in subtitle A, B, or C an amendment or
19 repeal is expressed in terms of an amendment to, or repeal
20 of, a part, section, subsection, or other provision, the ref-
21 erence shall be considered to be made a part, section, sub-
22 section, or other provision of the Tariff Act of 1930 (19
23 U.S.C. 1202 et seq.).

1 **Subtitle A—Improvements in**
2 **Customs Enforcement**

3 **SEC. 611. PENALTIES FOR VIOLATIONS OF ARRIVAL, RE-**
4 **PORTING, ENTRY, AND CLEARANCE REQUIRE-**
5 **MENTS.**

6 Section 436 (19 U.S.C. 1436) is amended—

7 (1) by amending subsection (a)—

8 (A) by striking out “433” in paragraph (1)
9 and inserting “431, 433, or 434 of this Act or
10 section 4197 of the Revised Statutes of the
11 United States (46 U.S.C. App. 91)”,

12 (B) by amending paragraph (2) to read as
13 follows:

14 “(2) to present or transmit, electronically or
15 otherwise, any forged, altered, or false document,
16 paper, information, data or manifest to the Customs
17 Service under section 431(e), 433(d), or 434 of this
18 Act or section 4197 of the Revised Statutes of the
19 United States (46 U.S.C. App. 91) without revealing
20 the facts; or”, and

21 (C) by amending paragraph (3) to read as
22 follows:

23 “(3) to fail to make entry or to obtain clearance
24 as required by section 434 or 644 of this Act, sec-
25 tion 4197 of the Revised Statutes of the United

1 States (46 U.S.C. App. 91), or section 1109 of the
2 Federal Aviation Act of 1958 (49 U.S.C. App.
3 1509); or”; and

4 (2) by striking out “**AND ENTRY**” in the sec-
5 tion heading and inserting “**ENTRY, AND CLEAR-**
6 **ANCE**”.

7 **SEC. 612. FAILURE TO DECLARE.**

8 Section 497(a) (19 U.S.C. 1497(a)) is amended—

9 (1) by inserting “or transmitted” after “made”
10 in paragraph (1)(A); and

11 (2) by amending paragraph (2)(A) to read as
12 follows:

13 “(A) if the article is a controlled sub-
14 stance, either \$500 or an amount equal to
15 1,000 percent of the value of the article, which-
16 ever amount is greater; and”.

17 **SEC. 613. CUSTOMS TESTING LABORATORIES; DETENTION**
18 **OF MERCHANDISE.**

19 (a) AMENDMENT.—Section 499 (19 U.S.C. 1499) is
20 amended to read as follows:

21 **“SEC. 499. EXAMINATION OF MERCHANDISE.**

22 “(a) ENTRY EXAMINATION.—

23 “(1) IN GENERAL.—Imported merchandise that
24 is required by law or regulation to be inspected, ex-
25 amined, or appraised shall not be delivered from cus-

1 toms custody (except under such bond or other secu-
2 rity as may be prescribed by the Secretary to assure
3 compliance with all applicable laws, regulations, and
4 instructions which the Secretary or the Customs
5 Service is authorized to enforce) until the merchan-
6 dise has been inspected, appraised, or examined and
7 is reported by the Customs Service to have been
8 truly and correctly invoiced and found to comply
9 with the requirements of the laws of the United
10 States.

11 “(2) EXAMINATION.—The Customs Service—

12 “(A) shall designate the packages or quan-
13 tities of merchandise covered by any invoice or
14 entry which are to be opened and examined for
15 the purpose of appraisement or otherwise;

16 “(B) shall order such packages or quan-
17 tities to be sent to such place as is designated
18 by the Secretary by regulation for such pur-
19 pose;

20 “(C) may require such additional packages
21 or quantities as the Secretary considers nec-
22 essary for such purpose; and

23 “(D) shall inspect a sufficient number of
24 shipments, and shall examine a sufficient num-

1 ber of entries, to ensure compliance with the
2 laws enforced by the Customs Service.

3 “(3) UNSPECIFIED ARTICLES.—If any package
4 contains any article not specified in the invoice or
5 entry and, in the opinion of the Customs Service, the
6 article was omitted from the invoice or entry—

7 “(A) with fraudulent intent on the part of
8 the seller, shipper, owner, agent, importer of
9 record, or entry filer, the contents of the entire
10 package in which such article is found shall be
11 subject to seizure; or

12 “(B) without fraudulent intent, the value
13 of the article shall be added to the entry and
14 the duties, fees, and taxes thereon paid accord-
15 ingly.

16 “(4) DEFICIENCY.—If a deficiency is found in
17 quantity, weight, or measure in the examination of
18 any package, the person finding the deficiency shall
19 make a report thereof to the Customs Service. The
20 Customs Service shall make allowance for the defi-
21 ciency in the liquidation of duties.

22 “(5) INFORMATION REQUIRED FOR RELEASE.—
23 If an examination is conducted, any information re-
24 quired for release shall be provided, either electroni-
25 cally or in paper form, to the Customs Service at the

1 port of examination. The absence of such informa-
2 tion does not limit the authority of the Customs
3 Service to conduct an examination.

4 “(b) TESTING LABORATORIES.—

5 “(1) ACCREDITATION OF PRIVATE TESTING
6 LABORATORIES.—The Customs Service shall estab-
7 lish and implement a procedure, under regulations
8 promulgated by the Secretary, for accrediting pri-
9 vate laboratories within the United States which
10 may be used to perform tests (that would otherwise
11 be performed by Customs Service laboratories) to es-
12 tablish the characteristics, quantities, or composition
13 of imported merchandise. Such regulations—

14 “(A) shall establish the conditions required
15 for the laboratories to receive and maintain ac-
16 creditation for purposes of this subsection;

17 “(B) shall establish the conditions regard-
18 ing the suspension and revocation of accredita-
19 tion, which may include the imposition of a
20 monetary penalty not to exceed \$100,000 and
21 such penalty is in addition to the recovery, from
22 a gauger or laboratory accredited under para-
23 graph (1), of any loss of revenue that may have
24 occurred, but the Customs Service—

1 “(i) may seek to recover lost revenue
2 only in cases where the gauger or labora-
3 tory intentionally falsified the analysis or
4 gauging report in collusion with the im-
5 porter; and

6 “(ii) shall neither assess penalties nor
7 seek to recover lost revenue because of a
8 good faith difference of professional opin-
9 ion; and

10 “(C) may provide for the imposition of a
11 reasonable charge for accreditation and periodic
12 reaccreditation.

13 The collection of any charge for accreditation and
14 reaccreditation under this section is not prohibited
15 by section 13031(e)(6) of the Consolidated Omnibus
16 Budget Reconciliation Act of 1985 (19 U.S.C.
17 58c(e)(6)).

18 “(2) APPEAL OF ADVERSE ACCREDITATION DE-
19 CISIONS.—A laboratory applying for accreditation,
20 or that is accredited, under this section may contest
21 any decision or order of the Customs Service deny-
22 ing, suspending, or revoking accreditation, or impos-
23 ing a monetary penalty, by commencing an action in
24 accordance with chapter 169 of title 28, United
25 States Code, in the Court of International Trade

1 within 60 days after issuance of the decision or
2 order.

3 “(3) TESTING BY ACCREDITED LABORA-
4 TORIES.—When requested by an importer of record
5 of merchandise, the Customs Service shall authorize
6 the release to the importer of a representative sam-
7 ple of the merchandise for testing, at the expense of
8 the importer, by a laboratory accredited under para-
9 graph (1). The testing results from a laboratory ac-
10 credited under paragraph (1) that are submitted by
11 an importer of record with respect to merchandise in
12 an entry shall, in the absence of testing results ob-
13 tained from a Customs Service laboratory, be accept-
14 ed by the Customs Service if the importer of record
15 certifies that the sample tested was taken from the
16 merchandise in the entry. Nothing in this subsection
17 shall be construed to limit in any way or preclude
18 the authority of the Customs Service to test or ana-
19 lyze any sample or merchandise independently.

20 “(4) AVAILABILITY OF TESTING PROCEDURE,
21 METHODOLOGIES, AND INFORMATION.—Testing pro-
22 cedures and methodologies used by the Customs
23 Service, and information resulting from any testing
24 conducted by the Customs Service, shall be made
25 available as follows:

1 “(A) Testing procedures and methodologies
2 shall be made available upon request to any
3 person unless the procedures or methodologies
4 are—

5 “(i) proprietary to the holder of a
6 copyright or patent related to such proce-
7 dures or methodologies, or

8 “(ii) developed by the Customs Serv-
9 ice for enforcement purposes.

10 “(B) Information resulting from testing
11 shall be made available upon request to the im-
12 porter of record and any agent thereof unless
13 the information reveals information which is—

14 “(i) proprietary to the holder of a
15 copyright or patent; or

16 “(ii) developed by the Customs Serv-
17 ice for enforcement purposes.

18 “(5) MISCELLANEOUS PROVISIONS.—For pur-
19 poses of this subsection—

20 “(A) any reference to a private laboratory
21 includes a reference to a private gauger; and

22 “(B) accreditation of private laboratories
23 extends only to the performance of functions by
24 such laboratories that are within the scope of
25 those responsibilities for determinations of the

1 elements relating to admissibility, quantity,
2 composition, or characteristics of imported mer-
3 chandise that are vested in, or delegated to, the
4 Customs Service.

5 “(c) DETENTIONS.—Except in the case of merchan-
6 dise with respect to which the determination of admissibil-
7 ity is vested in an agency other than the Customs Service,
8 the following apply:

9 “(1) IN GENERAL.—Within the 5-day period
10 (excluding weekends and holidays) following the date
11 on which merchandise is presented for customs ex-
12 amination, the Customs Service shall decide whether
13 to release or detain the merchandise. Merchandise
14 which is not released within such 5-day period shall
15 be considered to be detained merchandise.

16 “(2) NOTICE OF DETENTION.—The Customs
17 Service shall issue a notice to the importer or other
18 party having an interest in detained merchandise no
19 later than 5 days, excluding weekends and holidays,
20 after the decision to detain the merchandise is made.
21 The notice shall advise the importer or other inter-
22 ested party of—

23 “(A) the initiation of the detention;

24 “(B) the specific reason for the detention;

1 “(C) the anticipated length of the deten-
2 tion;

3 “(D) the nature of the tests or inquiries to
4 be conducted; and

5 “(E) the nature of any information which,
6 if supplied to the Customs Service, may acceler-
7 ate the disposition of the detention.

8 “(3) TESTING RESULTS.—Upon request by the
9 importer or other party having an interest in de-
10 tained merchandise, the Customs Service shall pro-
11 vide the party with copies of the results of any test-
12 ing conducted by the Customs Service on the mer-
13 chandise and a description of the testing procedures
14 and methodologies (unless such procedures or meth-
15 odologies are proprietary to the holder of a copyright
16 or patent or were developed by the Customs Service
17 for enforcement purposes). The results and test de-
18 scription shall be in sufficient detail to permit the
19 duplication and analysis of the testing and the re-
20 sults.

21 “(4) SEIZURE AND FORFEITURE.—If otherwise
22 provided by law, detained merchandise may be seized
23 and forfeited.

24 “(5) EFFECT OF FAILURE TO MAKE DETER-
25 MINATION.—

1 “(A) The failure by the Customs Service to
2 make a final determination with respect to the
3 admissibility of detained merchandise within 30
4 days after the merchandise has been presented
5 for customs examination, or such longer period
6 if specifically authorized by law, shall be treated
7 as a decision of the Customs Service to exclude
8 the merchandise for purposes of section
9 514(a)(4).

10 “(B) For purposes of section 1581 of title
11 28, United States Code, a protest against the
12 decision to exclude the merchandise which has
13 not been allowed or denied in whole or in part
14 before the 30th day after the day on which the
15 protest was filed shall be treated as having been
16 denied on such 30th day.

17 “(C) Notwithstanding section 2639 of title
18 28, United States Code, once an action respect-
19 ing a detention is commenced, unless the Cus-
20 toms Service establishes by a preponderance of
21 the evidence that an admissibility decision has
22 not been reached for good cause, the court shall
23 grant the appropriate relief which may include,
24 but is not limited to, an order to cancel the de-
25 tention and release the merchandise.”.

1 (b) EXISTING LABORATORIES.—Accreditation under
2 section 499(b) of the Tariff Act of 1930 (as added by sub-
3 section (a)) is not required for any private laboratory (in-
4 cluding any gauger) that was accredited or approved by
5 the Customs Service as of the day before the date of the
6 enactment of this Act; but any such laboratory is subject
7 to reaccreditation under the provisions of such section and
8 the regulations promulgated thereunder.

9 **SEC. 614. RECORDKEEPING.**

10 Section 508 (19 U.S.C. 1508) is amended—

11 (1) by amending subsection (a) to read as fol-
12 lows:

13 “(a) REQUIREMENTS.—Any—

14 “(1) owner, importer, consignee, importer of
15 record, entry filer, or other party who—

16 “(A) imports merchandise into the customs
17 territory of the United States, files a drawback
18 claim, or transports or stores merchandise car-
19 ried or held under bond, or

20 “(B) knowingly causes the importation or
21 transportation or storage of merchandise car-
22 ried or held under bond into or from the cus-
23 toms territory of the United States;

24 “(2) agent of any party described in paragraph
25 (1); or

1 “(3) person whose activities require the filing of
2 a declaration or entry, or both;
3 shall make, keep, and render for examination and inspec-
4 tion records (which for purposes of this section include,
5 but are not limited to, statements, declarations, docu-
6 ments and electronically generated or machine readable
7 data) which—

8 “(A) pertain to any such activity, or to the in-
9 formation contained in the records required by this
10 Act in connection with any such activity; and

11 “(B) are normally kept in the ordinary course
12 of business.”; and

13 (2) by amending subsection (c) to read as fol-
14 lows:

15 “(c) PERIOD OF TIME.—The records required by sub-
16 sections (a) and (b) shall be kept for such period of time,
17 not to exceed 5 years from the date of entry or expor-
18 tation, as appropriate, as the Secretary shall prescribe; ex-
19 cept that records for any drawback claim shall be kept
20 until the 3rd anniversary of the date of payment of the
21 claim.”.

22 **SEC. 615. EXAMINATION OF BOOKS AND WITNESSES.**

23 Section 509 (19 U.S.C. 1509) is amended as follows:

24 (1) Subsection (a) is amended—

1 (A) by striking out “and taxes” wherever
2 it appears and inserting “, fees and taxes”;

3 (B) by amending paragraph (1) to read as
4 follows:

5 “(1) examine, or cause to be examined, upon
6 reasonable notice, any record (which for purposes of
7 this section, includes, but is not limited to, any
8 statement, declaration, document, or electronically
9 generated or machine readable data) described in
10 the notice with reasonable specificity, which may be
11 relevant to such investigation or inquiry, except
12 that—

13 “(A) if such record is required by law or
14 regulation for the entry of the merchandise
15 (whether or not the Customs Service required
16 its presentation at the time of entry) it shall be
17 provided to the Customs Service within a rea-
18 sonable time after demand for its production is
19 made, taking into consideration the number,
20 type, and age of the item demanded; and

21 “(B) if a person of whom demand is made
22 under subparagraph (A) fails to comply with
23 the demand, the person may be subject to pen-
24 alty under subsection (g);”;

1 (C) by amending that part of paragraph
2 (2) that precedes subparagraph (D) to read as
3 follows:

4 “(2) summon, upon reasonable notice—

5 “(A) the person who—

6 “(i) imported, or knowingly caused to
7 be imported, merchandise into the customs
8 territory of the United States,

9 “(ii) exported merchandise, or know-
10 ingly caused merchandise to be exported,
11 to Canada,

12 “(iii) transported or stored merchan-
13 dise that was or is carried or held under
14 customs bond, or knowingly caused such
15 transportation or storage, or

16 “(iv) filed a declaration, entry, or
17 drawback claim with the Customs Service;

18 “(B) any officer, employee, or agent of any
19 person described in subparagraph (A);

20 “(C) any person having possession, custody
21 or care of records relating to the importation or
22 other activity described in subparagraph (A);
23 or”; and

24 (D) by striking out the comma at the end
25 of subparagraph (D) and inserting a semicolon.

1 (2) Subsections (b) and (c) are redesignated as
2 subsections (c) and (d), respectively.

3 (3) The following new subsection is inserted
4 after subsection (a):

5 “(b) REGULATORY AUDIT PROCEDURES.—

6 “(1) In conducting a regulatory audit under
7 this section (which does not include a quantity ver-
8 ification for a customs bonded warehouse or general
9 purpose foreign trade zone), the Customs Service
10 auditor shall provide the person being audited, in
11 advance of the audit, with a reasonable estimate of
12 the time to be required for the audit. If in the
13 course of an audit it becomes apparent that addi-
14 tional time will be required, the Customs Service
15 auditor shall immediately provide a further estimate
16 of such additional time.

17 “(2) Before commencing an audit, the Customs
18 Service auditor shall inform the party to be audited
19 of his right to an entry conference at which time the
20 purpose will be explained and an estimated termi-
21 nation date set. Upon completion of on-site audit ac-
22 tivities, the Customs Service auditor shall schedule a
23 closing conference to explain the preliminary results
24 of the audit.

1 “(3) Except as provided in paragraph (5), if the
2 estimated or actual termination date for an audit
3 passes without the Customs Service auditor provid-
4 ing a closing conference to explain the results of the
5 audit, the person being audited may petition in writ-
6 ing for such a conference to the appropriate regional
7 commissioner, who, upon receipt of such a request,
8 shall provide for such a conference to be held within
9 15 days after the date of receipt.

10 “(4) Except as provided in paragraph (5), the
11 Customs Service auditor shall complete the formal
12 written audit report within 90 days following the
13 closing conference unless the appropriate regional
14 commissioner provides written notice to the person
15 being audited of the reason for any delay and the
16 anticipated completion date. After application of any
17 exemption contained in section 552 of title 5, United
18 States Code, a copy of the formal written audit re-
19 port shall be sent to the person audited no later
20 than 30 days following completion of the report.

21 “(5) Paragraphs (3) and (4) shall not apply
22 after the Customs Service commences a formal in-
23 vestigation with respect to the issue involved.”.

24 (4) Subsection (d) (as redesignated by para-
25 graph (2)) is amended—

1 (A) by striking out “statements, declara-
2 tions, or documents” in paragraph (1)(A) and
3 inserting “those”;

4 (B) by inserting “, unless such custom-
5 house broker is the importer of record on an
6 entry” after “broker” in paragraph (1)(C)(i);

7 (C) by striking out “import” in each of
8 paragraphs (2)(B) and (4)(B);

9 (D) by inserting “described in section
10 508” after “transactions” in each of para-
11 graphs (2)(B) and (4)(B); and

12 (E) by inserting “, fees,” after “duties” in
13 paragraph (4)(A).

14 (5) The following new subsections are added at
15 the end thereof:

16 “(e) LIST OF RECORDS AND INFORMATION.—The
17 Customs Service shall identify and publish a list of the
18 records or entry information that is required to be main-
19 tained and produced under subsection (a)(1)(A).

20 “(f) RECORDKEEPING COMPLIANCE PROGRAM.—

21 “(1) IN GENERAL.—After consultation with the
22 importing community, the Customs Service shall by
23 regulation establish a recordkeeping compliance pro-
24 gram which the parties listed in section 508(a) may
25 participate in after being certified by the Customs

1 Service under paragraph (2). Participation in the
2 recordkeeping compliance program by recordkeepers
3 is voluntary.

4 “(2) CERTIFICATION.—A recordkeeper may be
5 certified as a participant in the recordkeeping com-
6 pliance program after meeting the general record-
7 keeping requirements established under the program
8 or after negotiating an alternative program suited to
9 the needs of the recordkeeper and the Customs Serv-
10 ice. Certification requirements shall take into ac-
11 count the size and nature of the importing business
12 and the volume of imports. In order to be certified,
13 the recordkeeper must be able to demonstrate that
14 it—

15 “(A) understands the legal requirements
16 for recordkeeping, including the nature of the
17 records required to be maintained and produced
18 and the time periods involved;

19 “(B) has in place procedures to explain the
20 recordkeeping requirements to those employees
21 who are involved in the preparation, mainte-
22 nance, and production of required records;

23 “(C) has in place procedures regarding the
24 preparation and maintenance of required

1 records, and the production of such records to
2 the Customs Service;

3 “(D) has designated a dependable individ-
4 ual or individuals to be responsible for record-
5 keeping compliance under the program and
6 whose duties include maintaining familiarity
7 with the recordkeeping requirements of the
8 Customs Service;

9 “(E) has a record maintenance procedure
10 approved by the Customs Service for original
11 records, or, if approved by the Customs Service,
12 for alternative records or recordkeeping formats
13 other than the original records; and

14 “(F) has procedures for notifying the Cus-
15 toms Service of occurrences of variances to, and
16 violations of, the requirements of the record-
17 keeping compliance program or the negotiated
18 alternative programs, and for taking corrective
19 action when notified by the Customs Service of
20 violations or problems regarding such program.

21 “(g) PENALTIES.—

22 “(1) DEFINITION.—For purposes of this sub-
23 section, the term ‘information’ means any record,
24 statement, declaration, document, or electronically

1 stored or transmitted information or data referred to
2 in subsection (a)(1)(A).

3 “(2) EFFECTS OF FAILURE TO COMPLY WITH
4 DEMAND.—Except as provided in paragraph (4), if
5 a person fails to comply with a lawful demand for
6 information under subsection (a)(1)(A) the following
7 provisions apply:

8 “(A) If the failure to comply is a result of
9 the willful failure of the person to maintain,
10 store, or retrieve the demanded information,
11 such person shall be subject to a penalty, for
12 each release of merchandise, not to exceed
13 \$100,000, or an amount equal to 75 percent of
14 the appraised value of the merchandise, which-
15 ever amount is less.

16 “(B) If the failure to comply is a result of
17 the negligence of the person in maintaining,
18 storing, or retrieving the demanded informa-
19 tion, such person shall be subject to a penalty,
20 for each release of merchandise, not to exceed
21 \$10,000, or an amount equal to 40 percent of
22 the appraised value of the merchandise, which-
23 ever amount is less.

24 “(C) In addition to any penalty imposed
25 under subparagraph (A) or (B) regarding de-

1 manded information, if such information related
2 to the eligibility of merchandise for a column 1
3 special rate of duty under title I, the entry of
4 such merchandise—

5 “(i) if unliquidated, shall be liquidated
6 at the applicable column 1 general rate of
7 duty; or

8 “(ii) if liquidated within the 2-year
9 period preceding the date of the demand,
10 shall be reliquidated, notwithstanding the
11 time limitation in section 514 or 520, at
12 the applicable column 1 general rate of
13 duty;

14 except that any liquidation or reliquidation
15 under clause (i) or (ii) shall be at the applicable
16 column 2 rate of duty if the Customs Service
17 demonstrates that the merchandise should be
18 dutiable at such rate.

19 “(3) AVOIDANCE OF PENALTY.—No penalty
20 may be assessed under this subsection if the person
21 can show—

22 “(A) that the loss of the demanded infor-
23 mation was the result of an act of God or other
24 natural casualty or disaster beyond the fault of
25 such person or an agent of the person;

1 “(B) on the basis of other evidence satis-
2 factory to the Customs Service, that the de-
3 mand was substantially complied with; or

4 “(C) the information demanded was pre-
5 sented to and retained by the Customs Service
6 at the time of entry or submitted in response to
7 an earlier demand.

8 “(4) PENALTIES NOT EXCLUSIVE.—Any penalty
9 imposed under this subsection shall be in addition to
10 any other penalty provided by law except for—

11 “(A) a penalty imposed under section 592
12 for a material omission of the demanded infor-
13 mation, or

14 “(B) disciplinary action taken under sec-
15 tion 641.

16 “(5) REMISSION OR MITIGATION.—A penalty
17 imposed under this section may be remitted or miti-
18 gated under section 618.

19 “(6) CUSTOMS SUMMONS.—Nothing in this sub-
20 section shall limit or preclude the Customs Service
21 from issuing, or seeking the enforcement of, a cus-
22 toms summons.

23 “(7) ALTERNATIVES TO PENALTIES.—

24 “(A) IN GENERAL.—When a recordkeeper
25 who—

1 “(i) has been certified as a participant
2 in the recordkeeping compliance program
3 under subsection (f); and

4 “(ii) is generally in compliance with
5 the appropriate procedures and require-
6 ments of the program;

7 does not produce a demanded record or infor-
8 mation for a specific release or provide the in-
9 formation by acceptable alternative means, the
10 Customs Service, in the absence of willfulness
11 or repeated violations, shall issue a written no-
12 tice of the violation to the recordkeeper in lieu
13 of a monetary penalty. Repeated violations by
14 the recordkeeper may result in the issuance of
15 penalties and removal of certification under the
16 program until corrective action, satisfactory to
17 the Customs Service, is taken.

18 “(B) CONTENTS OF NOTICE.—A notice of
19 violation issued under subparagraph (A) shall—

20 “(i) state that the recordkeeper has
21 violated the recordkeeping requirements;

22 “(ii) indicate the record or informa-
23 tion which was demanded; and

24 “(iii) warn the recordkeeper that fu-
25 ture failures to produce demanded records

1 or information may result in the imposition
2 of monetary penalties.

3 “(C) RESPONSE TO NOTICE.—Within a
4 reasonable time after receiving written notice
5 under subparagraph (A), the recordkeeper shall
6 notify the Customs Service of the steps it has
7 taken to prevent a recurrence of the violation.

8 “(D) REGULATIONS.—The Secretary shall
9 promulgate regulations to implement this para-
10 graph. Such regulations may specify the time
11 periods for compliance with a demand for infor-
12 mation and provide guidelines which define re-
13 peated violations for purposes of this para-
14 graph. Any penalty issued for a recordkeeping
15 violation shall take into account the degree of
16 compliance compared to the total number of im-
17 portations, the nature of the demanded records
18 and the recordkeeper’s cooperation.”.

19 **SEC. 616. JUDICIAL ENFORCEMENT.**

20 The second sentence of section 510(a) (19 U.S.C.
21 1510(a)) is amended by inserting “and such court may
22 assess a monetary penalty” after “as a contempt thereof”.

23 **SEC. 617. REVIEW OF PROTESTS.**

24 Section 515 (19 U.S.C. 1515) is amended by insert-
25 ing at the end the following new subsections:

1 “(c) If a protesting party believes that an application
2 for further review was erroneously or improperly denied
3 or was denied without authority for such action, it may
4 file with the Commissioner of Customs a written request
5 that the denial of the application for further review be set
6 aside. Such request must be filed within 60 days after the
7 date of the notice of the denial. The Commissioner of Cus-
8 toms may review such request and, based solely on the
9 information before the Customs Service at the time the
10 application for further review was denied, may set aside
11 the denial of the application for further review and void
12 the denial of protest, if appropriate. If the Commissioner
13 of Customs fails to act within 60 days after the date of
14 the request, the request shall be considered denied. All de-
15 nials of protests are effective from the date of original de-
16 nial for purposes of section 2636 of title 28, United States
17 Code. If an action is commenced in the Court of Inter-
18 national Trade that arises out of a protest or an applica-
19 tion for further review, all administrative action pertaining
20 to such protest or application shall terminate and any ad-
21 ministrative action taken subsequent to the commence-
22 ment of the action is null and void.

23 “(d) If a protest is timely and properly filed, but is
24 denied contrary to proper instructions, the Customs Serv-
25 ice may on its own initiative, or pursuant to a written re-

1 quest by the protesting party filed with the appropriate
2 district director within 90 days after the date of the pro-
3 test denial, void the denial of the protest.”.

4 **SEC. 618. REPEAL OF PROVISION RELATING TO RELIQUIDA-**
5 **TION ON ACCOUNT OF FRAUD.**

6 Section 521 (19 U.S.C. 1521) is repealed.

7 **SEC. 619. PENALTIES RELATING TO MANIFESTS.**

8 Section 584 (19 U.S.C. 1584) is amended—

9 (1) by amending subsection (a)—

10 (A) by striking out “appropriate customs
11 officer” wherever it appears and inserting
12 “Customs Service”,

13 (B) by striking out “officer demanding the
14 same” in paragraph (1) and inserting “officer
15 (whether of the Customs Service or the Coast
16 Guard) demanding the same”, and

17 (C) by inserting “(electronically or other-
18 wise)” after “submission” in the last sentence
19 of paragraph (1); and

20 (2) by amending subsection (b)—

21 (A) by striking out “the appropriate cus-
22 toms officer”, “he” (except in paragraph
23 (1)(F)), and “such officer” wherever they ap-
24 pear and inserting “the Customs Service”,

1 (B) by striking out “written” wherever it
2 appears (other than paragraph (1)(F)),

3 (C) by inserting “or electronically trans-
4 mit” after “issue” wherever it appears, and

5 (D) by striking out “his intention” in the
6 first sentence of paragraph (1) and inserting
7 “intent”.

8 **SEC. 620. UNLAWFUL UNLADING OR TRANSSHIPMENT.**

9 Section 586 (19 U.S.C. 1586) is amended—

10 (1) by inserting “, or of a hovering vessel which
11 has received or delivered merchandise while outside
12 the territorial sea,” after “from a foreign port or
13 place” wherever it appears; and

14 (2) by amending subsection (f)—

15 (A) by striking out “the appropriate cus-
16 toms officer of the” and “the appropriate cus-
17 toms officer within the” and inserting “the
18 Customs Service at the”; and

19 (B) by striking out “the appropriate cus-
20 toms officer is” and inserting “the Customs
21 Service is”.

22 **SEC. 621. PENALTIES FOR FRAUD, GROSS NEGLIGENCE,**
23 **AND NEGLIGENCE; PRIOR DISCLOSURE.**

24 Section 592 (19 U.S.C. 1592) is amended—

1 (1) by inserting “or electronically transmitted
2 data or information” after “document” in subsection
3 (a)(1)(A)(i);

4 (2) by inserting “The mere nonintentional rep-
5 etition by an electronic system of an initial clerical
6 error does not constitute a pattern of negligent con-
7 duct.” at the end of subsection (a)(2);

8 (3) by amending subsection (b)—

9 (A) by amending the first sentence of
10 paragraph (1)(A)—

11 (i) by striking out “the appropriate
12 customs officer” and inserting “the Cus-
13 toms Service”,

14 (ii) by striking out “he” and inserting
15 “it”, and

16 (iii) by striking out “his” and insert-
17 ing “its”, and

18 (B) by amending paragraph (2)—

19 (i) by striking out “the appropriate
20 customs officer” wherever it appears and
21 inserting “the Customs Service”,

22 (ii) by striking out “such officer”
23 wherever it appears and inserting “the
24 Customs Service”, and

1 (iii) by striking out “he” wherever it
2 appears and inserting “it”;

3 (4) by amending subsection (c)(4)—

4 (A) by striking “time of disclosure or with-
5 in thirty days, or such longer period as the ap-
6 propriate customs officer may provide, after no-
7 tice by the appropriate customs officer of his”
8 in subparagraph (A)(i) and by striking out
9 “time of disclosure in 30 days, or such longer
10 period as the appropriate customs officer may
11 provide, after notice by the appropriate customs
12 officer of his” in subparagraph (B), and insert-
13 ing in each place “time of disclosure, or within
14 30 days (or such longer period as the Customs
15 Service may provide) after notice by the Cus-
16 toms Service of its”; and

17 (B) by inserting after the last sentence the
18 following: “For purposes of this section, a for-
19 mal investigation of a violation is considered to
20 be commenced with regard to the disclosing
21 party and the disclosed information on the date
22 recorded in writing by the Customs Service as
23 the date on which facts and circumstances were
24 discovered or information was received which
25 caused the Customs Service to believe that a

1 possibility of a violation of subsection (a) ex-
2 isted.”; and

3 (5) by amending subsection (d)—

4 (A) by striking out “the appropriate cus-
5 toms officer” and inserting “the Customs Serv-
6 ice”,

7 (B) by striking out “duties” wherever it
8 appears and inserting “duties, taxes, or fees”,
9 and

10 (C) by inserting “, TAXES OR FEES” after
11 “DUTIES” in the sideheading.

12 **SEC. 622. PENALTIES FOR FALSE DRAWBACK CLAIMS.**

13 (a) AMENDMENT.—Part V of title IV is amended by
14 inserting after section 593 the following new section:

15 **“SEC. 593A. PENALTIES FOR FALSE DRAWBACK CLAIMS.**

16 “(a) PROHIBITION.—

17 “(1) GENERAL RULE.—No person, by fraud, or
18 negligence—

19 “(A) may seek, induce or affect, or at-
20 tempt to seek, induce, or affect, the payment or
21 credit to that person or others of any drawback
22 claim by means of—

23 “(i) any document, written or oral
24 statement, or electronically transmitted

1 data or information, or act which is mate-
2 rial and false, or

3 “(ii) any omission which is material;

4 or

5 “(B) may aid or abet any other person to
6 violate subparagraph (A).

7 “(2) EXCEPTION.—Clerical errors or mistakes
8 of fact are not violations of paragraph (1) unless
9 they are part of a pattern of negligent conduct. The
10 mere nonintentional repetition by an electronic sys-
11 tem of an initial clerical error does not constitute a
12 pattern of negligent conduct.

13 “(b) PROCEDURES.—

14 “(1) PREPENALTY NOTICE.—

15 “(A) IN GENERAL.—If the Customs Serv-
16 ice has reasonable cause to believe that there
17 has been a violation of subsection (a) and deter-
18 mines that further proceedings are warranted,
19 the Customs Service shall issue to the person
20 concerned a written notice of intent to issue a
21 claim for a monetary penalty. Such notice
22 shall—

23 “(i) identify the drawback claim;

24 “(ii) set forth the details relating to
25 the seeking, inducing, or affecting, or the

1 attempted seeking, inducing, or affecting,
2 or the aiding or procuring of, the drawback
3 claim;

4 “(iii) specify all laws and regulations
5 allegedly violated;

6 “(iv) disclose all the material facts
7 which establish the alleged violation;

8 “(v) state whether the alleged viola-
9 tion occurred as a result of fraud or neg-
10 ligence;

11 “(vi) state the estimated actual or po-
12 tential loss of revenue due to the drawback
13 claim, and, taking into account all cir-
14 cumstances, the amount of the proposed
15 monetary penalty; and

16 “(vii) inform such person that he shall
17 have a reasonable opportunity to make rep-
18 resentations, both oral and written, as to
19 why a claim for a monetary penalty should
20 not be issued in the amount stated.

21 “(B) EXCEPTIONS.—The Customs Service
22 may not issue a prepenalty notice if the amount
23 of the penalty in the penalty claim issued under
24 paragraph (2) is \$1,000 or less. In such cases,

1 the Customs Service may proceed directly with
2 a penalty claim.

3 “(C) PRIOR APPROVAL.—No prepenalty
4 notice in which the alleged violation occurred as
5 a result of fraud shall be issued without the
6 prior approval of Customs Headquarters.

7 “(2) PENALTY CLAIM.—After considering rep-
8 resentations, if any, made by the person concerned
9 pursuant to the notice issued under paragraph (1),
10 the Customs Service shall determine whether any
11 violation of subsection (a), as alleged in the notice,
12 has occurred. If the Customs Service determines
13 that there was no violation, the Customs Service
14 shall promptly issue a written statement of the de-
15 termination to the person to whom the notice was
16 sent. If the Customs Service determines that there
17 was a violation, Customs shall issue a written pen-
18 alty claim to such person. The written penalty claim
19 shall specify all changes in the information provided
20 under clauses (i) through (vii) of paragraph (1)(A).
21 Such person shall have a reasonable opportunity
22 under section 618 to make representations, both oral
23 and written, seeking remission or mitigation of the
24 monetary penalty. At the conclusion of any proceed-
25 ing under section 618, the Customs Service shall

1 provide to the person concerned a written statement
2 which sets forth the final determination, and the
3 findings of fact and conclusions of law on which
4 such determination is based.

5 “(c) MAXIMUM PENALTIES.—

6 “(1) FRAUD.—A fraudulent violation of sub-
7 section (a) of this section is punishable by a civil
8 penalty in an amount not to exceed 3 times the ac-
9 tual or potential loss of revenue.

10 “(2) NEGLIGENCE.—

11 “(A) IN GENERAL.—A negligent violation
12 of subsection (a) is punishable by a civil penalty
13 in an amount not to exceed 20 percent of the
14 actual or potential loss of revenue for the 1st
15 violation.

16 “(B) REPETITIVE VIOLATIONS.—If the
17 Customs Service determines that a repeat neg-
18 ligent violation occurs relating to the same
19 issue, the penalty amount for the 2d violation
20 shall be in an amount not to exceed 50 percent
21 of the total actual or potential loss of revenue.
22 The penalty amount for each succeeding repet-
23 itive negligent violation shall be in an amount
24 not to exceed the actual or potential loss of rev-
25 enue. If the same party commits a nonrepetitive

1 violation, that violation shall be subject to a
2 penalty not to exceed 20 percent of the actual
3 or potential loss of revenue.

4 “(3) PRIOR DISCLOSURE.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), if the person concerned discloses the
7 circumstances of a violation of subsection (a)
8 before, or without knowledge of the commence-
9 ment of, a formal investigation of such viola-
10 tion, the monetary penalty assessed under this
11 subsection may not exceed—

12 “(i) if the violation resulted from
13 fraud, an amount equal to the actual or
14 potential revenue of which the United
15 States is or may be deprived as a result of
16 overpayment of the claim; or

17 “(ii) if the violation resulted from
18 negligence, an amount equal to the interest
19 computed on the basis of the prevailing
20 rate of interest applied under section 6621
21 of the Internal Revenue Code of 1986 on
22 the amount of actual revenue of which the
23 United States is or may be deprived during
24 the period that—

1 “(I) begins on the date of the
2 overpayment of the claim; and

3 “(II) ends on the date on which
4 the person concerned tenders the
5 amount of the overpayment.

6 “(B) CONDITION AFFECTING PENALTY
7 LIMITATIONS.—The limitations in subparagraph
8 (A) on the amount of the monetary penalty to
9 be assessed under subsection (c) apply only if
10 the person concerned tenders the amount of the
11 overpayment made on the claim at the time of
12 disclosure, or within 30 days (or such longer
13 period as the Customs Service may provide),
14 after notice by the Customs Service of its cal-
15 culation of the amount of the overpayment.

16 “(C) BURDEN OF PROOF.—The person as-
17 serting lack of knowledge of the commencement
18 of a formal investigation has the burden of
19 proof in establishing such lack of knowledge.

20 “(4) COMMENCEMENT OF INVESTIGATION.—
21 For purposes of this section, a formal investigation
22 of a violation is considered to be commenced with re-
23 gard to the disclosing party and the disclosed infor-
24 mation on the date recorded in writing by the Cus-
25 toms Service as the date on which facts and cir-

1 cumstances were discovered or information was re-
2 ceived which caused the Customs Service to believe
3 that a possibility of a violation of subsection (a) ex-
4 isted.

5 “(5) EXCLUSIVITY.—Penalty claims under this
6 section shall be the exclusive civil remedy for any
7 drawback related violation of subsection (a).

8 “(d) DEPRIVATION OF LAWFUL REVENUE.—Not-
9 withstanding section 514, if the United States has been
10 deprived of lawful duties and taxes resulting from a viola-
11 tion of subsection (a), the Customs Service shall require
12 that such duties and taxes be restored whether or not a
13 monetary penalty is assessed.

14 “(e) DRAWBACK COMPLIANCE PROGRAM.—

15 “(1) IN GENERAL.—After consultation with the
16 drawback trade community, the Customs Service
17 shall establish a drawback compliance program in
18 which claimants and other parties in interest may
19 participate after being certified by the Customs
20 Service under paragraph (2). Participation in the
21 drawback compliance program is voluntary.

22 “(2) CERTIFICATION.—A party may be certified
23 as a participant in the drawback compliance pro-
24 gram after meeting the general requirements estab-
25 lished under the program or after negotiating an al-

1 ternative program suited to the needs of the party
2 and the Customs Service. Certification requirements
3 shall take into account the size and nature of the
4 party's drawback program and the volume of claims.
5 In order to be certified, the participant must be able
6 to demonstrate that it—

7 “(A) understands the legal requirements
8 for filing claims, including the nature of the
9 records required to be maintained and produced
10 and the time periods involved;

11 “(B) has in place procedures to explain the
12 Customs Service requirements to those employ-
13 ees that are involved in the preparation of
14 claims, and the maintenance and production of
15 required records;

16 “(C) has in place procedures regarding the
17 preparation of claims and maintenance of re-
18 quired records, and the production of such
19 records to the Customs Service;

20 “(D) has designated a dependable individ-
21 ual or individuals to be responsible for compli-
22 ance under the program and whose duties in-
23 clude maintaining familiarity with the drawback
24 requirements of the Customs Service;

1 “(E) has a record maintenance procedure
2 approved by the Customs Service for original
3 records, or, if approved by the Customs Service,
4 for alternate records or recordkeeping formats
5 other than the original records; and

6 “(F) has procedures for notifying the Cus-
7 toms Service of variances to, and violations of,
8 the requirements of the drawback compliance
9 program or any negotiated alternative pro-
10 grams, and for taking corrective action when
11 notified by the Customs Service for violations or
12 problems regarding such program.

13 “(f) ALTERNATIVES TO PENALTIES.—

14 “(1) IN GENERAL.—When a party that—

15 “(A) has been certified as a participant in
16 the drawback compliance program under sub-
17 section (e); and

18 “(B) is generally in compliance with the
19 appropriate procedures and requirements of the
20 program;

21 commits a violation of subsection (a), the Customs
22 Service, shall, in the absence of fraud or repeated
23 violations, and in lieu of a monetary penalty, issue
24 a written notice of the violation to the party. Re-
25 peated violations by a party may result in the issu-

1 ance of penalties and removal of certification under
2 the program until corrective action, satisfactory to
3 the Customs Service, is taken.

4 “(2) CONTENTS OF NOTICE.—A notice of viola-
5 tion issued under paragraph (1) shall—

6 “(A) state that the party has violated sub-
7 section (a);

8 “(B) explain the nature of the violation;
9 and

10 “(C) warn the party that future violations
11 of subsection (a) may result in the imposition
12 of monetary penalties.

13 “(3) RESPONSE TO NOTICE.—Within a reason-
14 able time after receiving written notice under para-
15 graph (1), the party shall notify the Customs Service
16 of the steps it has taken to prevent a recurrence of
17 the violation.

18 “(g) REPETITIVE VIOLATIONS.—

19 “(1) A party who has been issued a written no-
20 tice under subsection (f)(1) and subsequently com-
21 mits a repeat negligent violation involving the same
22 issue is subject to the following monetary penalties:

23 “(A) 2D VIOLATION.—An amount not to
24 exceed 20 percent of the loss of revenue.

1 “(B) 3RD VIOLATION.—An amount not to
2 exceed 50 percent of the loss of revenue.

3 “(C) 4TH AND SUBSEQUENT VIOLA-
4 TIONS.—An amount not to exceed 100 percent
5 of the loss of revenue.

6 “(2) If a party that has been certified as a par-
7 ticipant in the drawback compliance program under
8 subsection (e) commits an alleged violation which
9 was not repetitive, the party shall be issued a ‘warn-
10 ing letter’, and, for any subsequent violation, shall
11 be subject to the same maximum penalty amounts
12 stated in paragraph (1).

13 “(h) REGULATION.—The Secretary shall promulgate
14 regulations and guidelines to implement this section. Such
15 regulations shall specify that for purposes of subsection
16 (g), a repeat negligent violation involving the same issue
17 shall be treated as a repetitive violation for a maximum
18 period of 3 years.

19 “(i) COURT OF INTERNATIONAL TRADE PROCEED-
20 INGS.—Notwithstanding any other provision of law, in any
21 proceeding commenced by the United States in the Court
22 of International Trade for the recovery of any monetary
23 penalty claimed under this section—

24 “(1) all issues, including the amount of the pen-
25 alty, shall be tried de novo;

1 “(2) if the monetary penalty is based on fraud,
2 the United States shall have the burden of proof to
3 establish the alleged violation by clear and convinc-
4 ing evidence; and

5 “(3) if the monetary penalty is based on neg-
6 ligence, the United States shall have the burden of
7 proof to establish the act or omission constituting
8 the violation, and the alleged violator shall have the
9 burden of providing evidence that the act or omis-
10 sion did not occur as a result of negligence.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) applies to drawback claims filed on and
13 after the nationwide operational implementation of an
14 automated drawback selectivity program by the Customs
15 Service. The Customs Service shall publish notice of this
16 date in the Customs Bulletin.

17 **SEC. 623. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC**
18 **INFORMATION.**

19 Section 625 (19 U.S.C. 1625) is amended to read as
20 follows:

21 **“SEC. 625. INTERPRETIVE RULINGS AND DECISIONS; PUB-**
22 **LIC INFORMATION.**

23 “(a) PUBLICATION.—Within 90 days after the date
24 of issuance of any interpretive ruling (including any ruling
25 letter, or internal advice memorandum) or protest review

1 decision under this chapter with respect to any customs
2 transaction, the Secretary shall have such ruling or deci-
3 sion published in the Customs Bulletin or shall otherwise
4 make such ruling or decision available for public
5 inspection.

6 “(b) APPEALS.—A person may appeal an adverse in-
7 terpretive ruling and any interpretation of any regulation
8 prescribed to implement such ruling to a higher level of
9 authority within the Customs Service for de novo review.
10 Upon a reasonable showing of business necessity, any such
11 appeal shall be considered and decided no later than 60
12 days following the date on which the appeal is filed. The
13 Secretary shall issue regulations to implement this sub-
14 section.

15 “(c) MODIFICATION AND REVOCATION.—A proposed
16 interpretive ruling or decision which would—

17 “(1) modify (other than to correct a clerical
18 error) or revoke a prior interpretive ruling or deci-
19 sion which has been in effect for at least 60 days;
20 or

21 “(2) have the effect of modifying the treatment
22 previously accorded by the Customs Service to sub-
23 stantially identical transactions;

24 shall be published in the Customs Bulletin. The Secretary
25 shall give interested parties an opportunity to submit, dur-

1 ing not less than the 30-day period after the date of such
2 publication, comments on the correctness of the proposed
3 ruling or decision. After consideration of any comments
4 received, the Secretary shall publish a final ruling or deci-
5 sion in the Customs Bulletin within 30 days after the clos-
6 ing of the comment period. The final ruling or decision
7 shall become effective 60 days after the date of its
8 publication.

9 “(d) PUBLICATION OF CUSTOMS DECISIONS THAT
10 LIMIT COURT DECISIONS.—A decision that proposes to
11 limit the application of a court decision shall be published
12 in the Customs Bulletin together with notice of oppor-
13 tunity for public comment thereon prior to a final decision.

14 “(e) PUBLIC INFORMATION.—The Secretary may
15 make available in writing or through electronic media, in
16 an efficient, comprehensive and timely manner, all infor-
17 mation, including directives, memoranda, electronic mes-
18 sages and telexes which contain instructions, require-
19 ments, methods or advice necessary for importers and ex-
20 porters to comply with the Customs laws and regulations.
21 All information which may be made available pursuant to
22 this subsection shall be subject to any exemption from dis-
23 closure provided by section 552 of title 5, United States
24 Code.”.

1 **SEC. 624. SEIZURE AUTHORITY.**

2 Section 596(c) (19 U.S.C. 1595a(c)) is amended to
3 read as follows:

4 “(c) Merchandise which is introduced or attempted
5 to be introduced into the United States contrary to law
6 shall be treated as follows:

7 “(1) The merchandise shall be seized and for-
8 feited if it—

9 “(A) is stolen, smuggled, or clandestinely
10 imported or introduced;

11 “(B) is a controlled substance, as defined
12 in the Controlled Substances Act (21 U.S.C.
13 801 et seq.), and is not imported in accordance
14 with applicable law; or

15 “(C) is a contraband article, as defined in
16 section 1 of the Act of August 9, 1939 (49
17 U.S.C. App. 781).

18 “(2) The merchandise may be seized and for-
19 feited if—

20 “(A) its importation or entry is subject to
21 any restriction or prohibition which is imposed
22 by law relating to health, safety, or conserva-
23 tion and the merchandise is not in compliance
24 with the applicable rule, regulation, or statute;

25 “(B) its importation or entry requires a li-
26 cense, permit or other authorization of an agen-

1 cy of the United States Government and the
2 merchandise is not accompanied by such li-
3 cense, permit, or authorization;

4 “(C) it is merchandise or packaging in
5 which copyright, trademark, or trade name pro-
6 tection violations are involved (including, but
7 not limited to, violations of section 42, 43, or
8 45 of the Act of July 5, 1946 (15 U.S.C. 1124,
9 1125, or 1127), section 506 or 509 of title 17,
10 United States Code, or section 2318 or 2320 of
11 title 18, United States Code);

12 “(D) it is trade dress merchandise involved
13 in the violation of a court order citing section
14 43 of such Act of July 5, 1946 (15 U.S.C.
15 1125);

16 “(E) it is merchandise which is marked in-
17 tentionally in violation of section 304; or

18 “(F) it is merchandise for which the im-
19 porter has received written notices that previous
20 importations of identical merchandise from the
21 same supplier were found to have been marked
22 in violation of section 304.

23 “(3) If the importation or entry of the mer-
24 chandise is subject to quantitative restrictions re-
25 quiring a visa, permit, license, or other similar docu-

1 ment, or stamp from the United States Government
2 or from a foreign government or issuing authority
3 pursuant to a bilateral or multilateral agreement,
4 the merchandise shall be subject to detention in ac-
5 cordance with section 499 unless the appropriate
6 visa, license, permit, or similar document or stamp
7 is presented to the Customs Service; but if the visa,
8 permit, license, or similar document or stamp which
9 is presented in connection with the importation or
10 entry of the merchandise is counterfeit, the mer-
11 chandise may be seized and forfeited.

12 “(4) If the merchandise is imported or intro-
13 duced contrary to a provision of law which governs
14 the classification or value of merchandise and there
15 are no issues as to the admissibility of the merchan-
16 dise into the United States, it shall not be seized ex-
17 cept in accordance with section 592.

18 “(5) In any case where the seizure and forfeit-
19 ure of merchandise are required or authorized by
20 this section, the Secretary may—

21 “(A) remit the forfeiture under section
22 618, or

23 “(B) permit the exportation of the mer-
24 chandise, unless its release would adversely af-
25 fect health, safety, or conservation or be in con-

1 travention of a bilateral or multilateral agree-
2 ment or treaty.”.

3 **Subtitle B—National Customs**
4 **Automation Program**

5 **SEC. 631. NATIONAL CUSTOMS AUTOMATION PROGRAM.**

6 Part I of title IV is amended—

7 (1) by striking out

8 **“PART I—DEFINITIONS**

9 and inserting

10 **“PART I—DEFINITIONS AND NATIONAL CUSTOMS**

11 **AUTOMATION PROGRAM**

12 **“Subpart A—Definitions”;**

13 and

14 (2) by inserting after section 402 the following:

15 **“Subpart B—National Customs Automation Program**

16 **“SEC. 411. NATIONAL CUSTOMS AUTOMATION PROGRAM.**

17 “(a) ESTABLISHMENT.—The Secretary shall estab-
18 lish the National Customs Automation Program (herein-
19 after in this subpart referred to as the ‘Program’) which
20 shall be an automated and electronic system for processing
21 commercial importations and shall include the following
22 existing and planned components:

23 “(1) Existing components:

24 “(A) The electronic entry of merchandise.

1 “(B) The electronic entry summary of re-
2 quired information.

3 “(C) The electronic transmission of invoice
4 information.

5 “(D) The electronic transmission of mani-
6 fest information.

7 “(E) Electronic payments of duties, fees,
8 and taxes.

9 “(F) The electronic status of liquidation
10 and reliquidation.

11 “(G) The electronic selection of high risk
12 entries for examination (cargo selectivity and
13 entry summary selectivity).

14 “(2) Planned components:

15 “(A) The electronic filing and status of
16 protests.

17 “(B) The electronic filing (including re-
18 mote filing under section 414) of entry informa-
19 tion with the Customs Service at any location.

20 “(C) The electronic filing of import activity
21 summary statements and reconciliation.

22 “(D) The electronic filing of bonds.

23 “(E) The electronic penalty process.

24 “(F) The electronic filing of drawback
25 claims, records, or entries.

1 “(G) Any other component initiated by the
2 Customs Service to carry out the goals of this
3 subpart.

4 “(b) PARTICIPATION IN PROGRAM.—The Secretary
5 shall by regulation prescribe the eligibility criteria for par-
6 ticipation in the Program. Participation in the Program
7 is voluntary.

8 **“SEC. 412. PROGRAM GOALS.**

9 “The goals of the Program are to ensure that all reg-
10 ulations and rulings that are administered or enforced by
11 the Customs Service are administered and enforced in a
12 manner that—

13 “(1) is uniform and consistent;

14 “(2) is as minimally intrusive upon the normal
15 flow of business activity as practicable; and

16 “(3) improves compliance.

17 **“SEC. 413. IMPLEMENTATION AND EVALUATION OF PRO-**
18 **GRAM.**

19 “(a) OVERALL PROGRAM PLAN.—

20 “(1) IN GENERAL.—Before the 180th day after
21 the date of the enactment of this Act, the Secretary
22 shall develop and transmit to the Committees an
23 overall plan for the Program. The overall Program
24 plan shall set forth—

1 “(A) a general description of the ultimate
2 configuration of the Program;

3 “(B) a description of each of the existing
4 components of the Program listed in section
5 411(a)(1); and

6 “(C) estimates regarding the stages on
7 which planned components of the Program list-
8 ed in section 411(a)(2) will be brought on-line.

9 “(2) ADDITIONAL INFORMATION.—In addition
10 to the information required under paragraph (1), the
11 overall Program plan shall include a statement re-
12 garding—

13 “(A) the extent to which the existing com-
14 ponents of the Program currently meet, and the
15 planned components will meet, the Program
16 goals set forth in section 412; and

17 “(B) the effects that the existing compo-
18 nents are currently having, and the effects that
19 the planned components will likely have, on—

20 “(i) importers, brokers, and other
21 users of the Program, and

22 “(ii) Customs Service occupations, op-
23 erations, processes, and systems.

24 “(b) IMPLEMENTATION PLAN, TESTING, AND EVAL-
25 UATION.—

1 “(1) IMPLEMENTATION PLAN.—For each of the
2 planned components of the Program listed in section
3 411(a)(2), the Secretary shall—

4 “(A) develop an implementation plan;

5 “(B) test the component in order to assess
6 its viability;

7 “(C) evaluate the component in order to
8 assess its contribution toward achieving the
9 program goals; and

10 “(D) transmit to the Committees the im-
11 plementation plan, the testing results, and an
12 evaluation report.

13 In developing an implementation plan under sub-
14 paragraph (A) and evaluating components under
15 subparagraph (C), the Secretary shall publish a re-
16 quest for comments in the Customs Bulletin and
17 shall consult with the trade community, including
18 importers, brokers, shippers, and other affected
19 parties.

20 “(2) IMPLEMENTATION.—

21 “(A) The Secretary may implement on a
22 permanent basis any Program component re-
23 ferred to in paragraph (1) on or after the date
24 which is 30 days after paragraph (1)(D) is
25 complied with.

1 “(B) For purposes of subparagraph (A),
2 the 30 days shall be computed by excluding—

3 “(i) the days either House is not in
4 session because of an adjournment of more
5 than 3 days to a day certain or an ad-
6 journment of the Congress sine die, and

7 “(ii) any Saturday and Sunday, not
8 excluded under clause (i), when either
9 House is not in session.

10 “(3) EVALUATION AND REPORT.—The Sec-
11 retary shall—

12 “(A) develop a user satisfaction survey of
13 parties participating in the Program;

14 “(B) evaluate the results of the user satis-
15 faction survey on a biennial basis (fiscal years)
16 and transmit a report to the Committees on the
17 evaluation by no later than the 90th day after
18 the close of each 2d fiscal year;

19 “(C) with respect to the existing Program
20 component listed in section 411(a)(1)(G) trans-
21 mit to the Committees—

22 “(i) a written evaluation of such com-
23 ponent before the 180th day after the date
24 of the enactment of this section and before
25 the implementation of the planned Pro-

1 gram components listed in section
2 411(a)(2) (B) and (C), and

3 “(ii) a report on such component for
4 each of the 3 full fiscal years occurring
5 after the date of the enactment of this sec-
6 tion, which report shall be transmitted not
7 later than the 90th day after the close of
8 each such year; and

9 “(D) not later than the 90th day after the
10 close of fiscal year 1994, and annually there-
11 after through fiscal year 2000, transmit to the
12 Committees a written evaluation with respect to
13 the implementation and effect on users of each
14 of the planned Program components listed in
15 section 411(a)(2).

16 In carrying out the provisions of this paragraph, the
17 Secretary shall publish requests for comments in the
18 Customs Bulletin and shall consult with the trade
19 community, including importers, brokers, shippers,
20 and other affected parties.

21 “(c) COMMITTEES.—For purposes of this section, the
22 term ‘Committees’ means the Committee on Ways and
23 Means of the House of Representatives and the Committee
24 on Finance of the Senate.

1 **“SEC. 414. REMOTE LOCATION FILING.**

2 “(a) CORE ENTRY INFORMATION.—

3 “(1) IN GENERAL.—A Program participant
4 may file electronically an entry of merchandise with
5 the Customs Service from a location other than the
6 district designated in the entry for examination
7 (hereafter in this section referred to as a ‘remote lo-
8 cation’) if—

9 “(A) the Customs Service is satisfied that
10 the participant has the capabilities referred to
11 in paragraph (2)(A) regarding such method of
12 filing; and

13 “(B) the participant elects to file from the
14 remote location.

15 “(2) REQUIREMENTS.—

16 “(A) IN GENERAL.—In order to qualify for
17 filing from a remote location, a Program partic-
18 ipant must have the capability to provide, on an
19 entry-by-entry basis, for the following:

20 “(i) The electronic entry of merchan-
21 dise.

22 “(ii) The electronic entry summary of
23 required information.

24 “(iii) The electronic transmission of
25 invoice information (when required by the
26 Customs Service).

1 “(iv) The electronic payment of du-
2 ties, fees, and taxes.

3 “(v) Such other electronic capabilities
4 within the existing or planned components
5 of the Program as the Secretary shall by
6 regulation require.

7 “(B) RESTRICTION ON EXEMPTION FROM
8 REQUIREMENTS.—The Customs Service may
9 not permit any exemption or waiver from the
10 requirements established by this section for par-
11 ticipation in remote entry filing.

12 “(3) CONDITIONS ON FILING UNDER THIS SEC-
13 TION.—The Secretary may prohibit a Program par-
14 ticipant from participating in remote location filing,
15 and may remove a Program participant from partici-
16 pation in remote location filing, if the participant—

17 “(i) fails to meet all the compliance re-
18 quirements and operational standards of remote
19 location filing; or

20 “(ii) fails to adhere to all applicable laws
21 and regulations.

22 “(4) ALTERNATIVE FILING.—Any Program par-
23 ticipant that is eligible to file entry information elec-
24 tronically from a remote location but chooses not to
25 do so in the case of any entry must file any paper

1 documentation for the entry at the designated loca-
2 tion referred to in subsection (d).

3 “(b) ADDITIONAL ENTRY INFORMATION.—

4 “(1) IN GENERAL.—A Program participant that
5 is eligible under subsection (a) to file entry informa-
6 tion from a remote location may, if the Customs
7 Service is satisfied that the participant meets the re-
8 quirements under paragraph (2), also electronically
9 file from the remote location additional information
10 that is required by the Customs Service to be pre-
11 sented before the acceptance of entry summary in-
12 formation and at the time of acceptance of entry
13 summary information.

14 “(2) REQUIREMENTS.—The Secretary shall
15 publish, and periodically update, a list of those capa-
16 bilities within the existing and planned components
17 of the Program that a Program participant must
18 have for purposes of this subsection.

19 “(3) FILING OF ADDITIONAL INFORMATION.—

20 “(A) IF INFORMATION ELECTRONICALLY
21 ACCEPTABLE.—A Program participant that is
22 eligible under paragraph (1) to file additional
23 information from a remote location shall elec-
24 tronically file all such information that the Cus-
25 toms Service can accept electronically.

1 “(B) ALTERNATIVE FILING.—If the Cus-
2 toms Service cannot accept additional informa-
3 tion electronically, the Program participant
4 shall file the paper documentation with respect
5 to the information at the appropriate filing lo-
6 cation.

7 “(C) APPROPRIATE LOCATION.—For pur-
8 poses of subparagraph (B), the ‘appropriate lo-
9 cation’ is—

10 “(i) before January 1, 1999, a des-
11 ignated location; and

12 “(ii) after December 31, 1998—

13 “(I) if the paper documentation
14 is required for release, a designated
15 location; or

16 “(II) if the paper documentation
17 is not required for release, a remote
18 location designated by the Customs
19 Service or a designated location.

20 “(D) OTHER.—A Program participant that
21 is eligible under paragraph (1) to file additional
22 information electronically from a remote loca-
23 tion but chooses not to do so must file the
24 paper documentation with respect to the infor-
25 mation at a designated location.

1 “(c) POST-ENTRY SUMMARY INFORMATION.—A Pro-
2 gram participant that is eligible to file electronically entry
3 information under subsection (a) and additional informa-
4 tion under subsection (b) from a remote location may file
5 at any remote location designated by the Customs Service
6 any information required by the Customs Service after
7 entry summary.

8 “(d) DEFINITIONS.—As used in this section:

9 “(1) The term ‘designated location’ means a
10 customs office located in the customs district des-
11 ignated by the entry filer for purposes of customs
12 examination of the merchandise.

13 “(2) The term ‘Program participant’ means,
14 with respect to an entry of merchandise, any party
15 entitled to make the entry under section
16 484(a)(2)(B).”.

17 **SEC. 632. DRAWBACK AND REFUNDS.**

18 (a) AMENDMENTS.—Section 313 (19 U.S.C. 1313) is
19 amended as follows:

20 (1) Subsection (a) is amended—

21 (A) by inserting “or destruction under cus-
22 toms supervision” after “Upon the expor-
23 tation”;

24 (B) by inserting “provided that those arti-
25 cles have not been used prior to such expor-

1 tation or destruction,” after “manufactured or
2 produced in the United States with the use of
3 imported merchandise,”;

4 (C) by inserting “or destruction” after “re-
5 funded upon the exportation”; and

6 (D) by striking out “wheat imported after
7 ninety days after the date of the enactment of
8 this Act” and inserting “imported wheat”.

9 (2) Subsection (b) is amended—

10 (A) by striking out “duty-free or domestic
11 merchandise” and inserting “any other mer-
12 chandise (whether imported or domestic)”;

13 (B) by inserting “, or destruction under
14 customs supervision,” after “there shall be al-
15 lowed upon the exportation”;

16 (C) by inserting “or destroyed” after “not-
17 withstanding the fact that none of the imported
18 merchandise may actually have been used in the
19 manufacture or production of the exported”;

20 (D) by inserting “, but only if those arti-
21 cles have not been used prior to such expor-
22 tation or destruction” after “an amount of
23 drawback equal to that which would have been
24 allowable had the merchandise used therein
25 been imported”; and

1 (E) by inserting “or destruction under cus-
2 toms supervision” after “but the total amount
3 of drawback allowed upon the exportation”.

4 (3) Subsection (c) is amended to read as fol-
5 lows:

6 “(c) MERCHANDISE NOT CONFORMING TO SAMPLE
7 OR SPECIFICATIONS.—Upon the exportation, or destruc-
8 tion under the supervision of the Customs Service, of mer-
9 chandise—

10 “(1) not conforming to sample or specifications,
11 shipped without the consent of the consignee, or de-
12 termined to be defective as of the time of importa-
13 tion;

14 “(2) upon which the duties have been paid;

15 “(3) which has been entered or withdrawn for
16 consumption; and

17 “(4) which, within 3 years after release from
18 the custody of the Customs Service, has been re-
19 turned to the custody of the Customs Service for ex-
20 portation or destruction under the supervision of the
21 Customs Service;

22 the full amount of the duties paid upon such merchandise,
23 less 1 percent, shall be refunded as drawback.”.

24 (4) Subsection (j) is amended to read as fol-
25 lows:

1 “(j) UNUSED MERCHANDISE DRAWBACK.—

2 “(1) If imported merchandise, on which was
3 paid any duty, tax, or fee imposed under Federal
4 law because of its importation—

5 “(A) is, before the close of the 3-year pe-
6 riod beginning on the date of importation—

7 “(i) exported, or

8 “(ii) destroyed under customs super-
9 vision; and

10 “(B) is not used within the United States
11 before such exportation or destruction;

12 then upon such exportation or destruction 99 per-
13 cent of the amount of each duty, tax, or fee so paid
14 shall be refunded as drawback. The exporter (or de-
15 stroyer) has the right to claim drawback under this
16 paragraph, but may endorse such right to the im-
17 porter or any intermediate party.

18 “(2) If there is, with respect to imported mer-
19 chandise on which was paid any duty, tax, or fee im-
20 posed under Federal law because of its importation,
21 any other merchandise (whether imported or domes-
22 tic), that—

23 “(A) is commercially interchangeable with
24 such imported merchandise;

1 “(B) is, before the close of the 3-year pe-
2 riod beginning on the date of importation of the
3 imported merchandise, either exported or de-
4 stroyed under customs supervision; and

5 “(C) before such exportation or destruc-
6 tion—

7 “(i) is not used within the United
8 States, and

9 “(ii) is in the possession of, including
10 ownership while in bailment, in leased fa-
11 cilities, in transit to, or in any other man-
12 ner under the operational control of, the
13 party claiming drawback under this para-
14 graph, if that party—

15 “(I) is the importer of the im-
16 ported merchandise, or

17 “(II) received from the person
18 who imported and paid any duty due
19 on the imported merchandise a certifi-
20 cate of delivery transferring to the
21 party the imported merchandise, com-
22 mercially interchangeable merchan-
23 dise, or any combination of imported
24 and commercially interchangeable
25 merchandise (and any such trans-

1 ferred merchandise, regardless of its
2 origin, will be treated as the imported
3 merchandise and any retained mer-
4 chandise will be treated as domestic
5 merchandise);

6 then upon the exportation or destruction of
7 such other merchandise the amount of each
8 such duty, tax, and fee paid regarding the im-
9 ported merchandise shall be refunded as draw-
10 back, but in no case may the total drawback on
11 the imported merchandise, whether available
12 under this paragraph or any other provision of
13 law or any combination thereof, exceed 99 per-
14 cent of that duty, tax, or fee.

15 “(3) The performing of any operation or com-
16 bination of operations (including, but not limited to,
17 testing, cleaning, repacking, inspecting, sorting, re-
18 furbishing, freezing, blending, repairing, reworking,
19 cutting, slitting, adjusting, replacing components,
20 relabeling, disassembling, and unpacking), not
21 amounting to manufacture or production for draw-
22 back purposes under the preceding provisions of this
23 section on—

24 “(A) the imported merchandise itself in
25 cases to which paragraph (1) applies, or

1 “(B) the commercially interchangeable
2 merchandise in cases to which paragraph (2)
3 applies,

4 shall not be treated as a use of that merchandise for
5 purposes of applying paragraph (1)(B) or (2)(C).”.

6 (5) Subsection (l) is amended by striking out
7 “the fixing of a time limit within which drawback
8 entries or entries for refund under any of the provi-
9 sions of this section or section 309(b) shall be filed
10 and completed,” and inserting “the authority for the
11 electronic submission of drawback entries”.

12 (6) Subsection (p) is amended to read as fol-
13 lows:

14 “(p) SUBSTITUTION OF FINISHED PETROLEUM DE-
15 RIVATIVES.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of this section, if—

18 “(A) an article (hereafter referred to in
19 this subsection as the ‘exported article’) of the
20 same kind and quality as a qualified article is
21 exported;

22 “(B) the requirements set forth in para-
23 graph (2) are met; and

24 “(C) a drawback claim is filed regarding
25 the exported article;

1 the amount of the duties paid on, or attributable to,
2 such qualified article shall be refunded as drawback
3 to the drawback claimant.

4 “(2) REQUIREMENTS.—The requirements re-
5 ferred to in paragraph (1) are as follows:

6 “(A) The exporter of the exported article—

7 “(i) manufactured or produced the
8 qualified article in a quantity equal to or
9 greater than the quantity of the exported
10 article,

11 “(ii) purchased or exchanged, directly
12 or indirectly, the qualified article from a
13 manufacturer or producer described in
14 subsection (a) or (b) in a quantity equal to
15 or greater than the quantity of the ex-
16 ported article,

17 “(iii) imported the qualified article in
18 a quantity equal to or greater than the
19 quantity of the exported article, or

20 “(iv) purchased or exchanged, directly
21 or indirectly, an imported qualified article
22 from an importer in a quantity equal to or
23 greater than the quantity of the exported
24 article.

1 “(B) In the case of the requirement de-
2 scribed in subparagraph (A)(ii), the manufac-
3 turer or producer produced the qualified article
4 in a quantity equal to or greater than the quan-
5 tity of the exported article.

6 “(C) In the case of the requirement of sub-
7 paragraph (A)(i) or (A)(ii), the exported article
8 is exported during the period that the qualified
9 article described in subparagraph (A)(i) or
10 (A)(ii) (whichever is applicable) is manufac-
11 tured or produced, or within 180 days after the
12 close of such period.

13 “(D) In the case of the requirement of
14 subparagraph (A)(i) or (A)(ii), the specific pe-
15 troleum refinery or production facility which
16 made the qualified article concerned is identi-
17 fied.

18 “(E) In the case of the requirement of sub-
19 paragraph (A)(iii) or (A)(iv), the exported arti-
20 cle is exported within 180 days after the date
21 of entry of an imported qualified article de-
22 scribed in subparagraph (A)(iii) or (A)(iv)
23 (whichever is applicable).

24 “(F) Except as otherwise specifically pro-
25 vided in this subsection, the drawback claimant

1 complies with all requirements of this section,
2 including providing certificates which establish
3 the drawback eligibility of articles for which
4 drawback is claimed.

5 “(G) The manufacturer, producer, im-
6 porter, exporter, and drawback claimant of the
7 qualified article and the exported article main-
8 tain all records required by regulation.

9 “(3) DEFINITION OF QUALIFIED ARTICLE,
10 ETC.—For purposes of this subsection—

11 “(A) The term ‘qualified article’ means an
12 article—

13 “(i) described in—

14 “(I) headings 2707, 2708, 2710,
15 2711, 2712, 2713, 2714, 2715, 2901,
16 and 2902 of the Harmonized Tariff
17 Schedule of the United States, or

18 “(II) headings 3901 through
19 3914 of such Schedule (as such head-
20 ings apply to liquids, pastes, powders,
21 granules, and flakes), and

22 “(ii) which is—

23 “(I) manufactured or produced
24 as described in subsection (a) or (b)

1 from crude petroleum or a petroleum
2 derivative, or

3 “(II) imported duty-paid.

4 “(B) An exported article is of the same
5 kind and quality as the qualified article for
6 which it is substituted under this subsection if
7 it is a product that is commercially interchange-
8 able with or referred to under the same eight-
9 digit classification of the Harmonized Tariff
10 Schedule of the United States as the qualified
11 article.

12 “(C) The term ‘drawback claimant’ means
13 the exporter of the exported article or the re-
14 finer, producer, or importer of such article. Any
15 person eligible to file a drawback claim under
16 this subparagraph may designate another per-
17 son to file such claim.

18 “(4) LIMITATION ON DRAWBACK.—The amount
19 of drawback payable under this subsection shall not
20 exceed the amount of drawback that would be attrib-
21 utable to the article—

22 “(A) manufactured or produced under sub-
23 section (a) or (b) by the manufacturer or pro-
24 ducer described in clause (i) or (ii) of para-
25 graph (2)(A), or

1 “(B) imported under clause (iii) or (iv) of
2 paragraph (2)(A).”.

3 (7) The following new subsections are inserted
4 after subsection (p):

5 “(q) PACKAGING MATERIAL.—Packaging material,
6 when used on or for articles or merchandise exported or
7 destroyed under subsection (a), (b), (c), or (j), shall be
8 eligible under such subsection for refund, as drawback, of
9 99 percent of any duty, tax, or fee imposed under Federal
10 law on the importation of such material.

11 “(r) FILING DRAWBACK CLAIMS.—

12 “(1) A drawback entry and all documents nec-
13 essary to complete a drawback claim, including those
14 issued by the Customs Service, shall be filed or ap-
15 plied for, as applicable, within 3 years after the date
16 of exportation or destruction of the articles on which
17 drawback is claimed, except that any landing certifi-
18 cate required by regulation shall be filed within the
19 time limit prescribed in such regulation. Claims not
20 completed within the 3-year period shall be consid-
21 ered abandoned. No extension will be granted unless
22 it is established that the Customs Service was re-
23 sponsible for the untimely filing.

24 “(2) A drawback entry for refund filed pursu-
25 ant to any subsection of this section shall be deemed

1 filed pursuant to any other subsection of this section
2 should it be determined that drawback is not allow-
3 able under the entry as originally filed but is allow-
4 able under such other subsection.

5 “(s) DESIGNATION OF MERCHANDISE BY SUCCES-
6 SOR.—

7 “(1) For purposes of subsection (b), a draw-
8 back successor may designate imported merchandise
9 used by the predecessor before the date of succession
10 as the basis for drawback on articles manufactured
11 by the drawback successor after the date of succes-
12 sion.

13 “(2) For purposes of subsection (j)(2), a draw-
14 back successor may designate—

15 “(A) imported merchandise which the
16 predecessor, before the date of succession, im-
17 ported; or

18 “(B) imported merchandise, commercially
19 interchangeable merchandise, or any combina-
20 tion of imported and commercially interchange-
21 able merchandise for which the successor re-
22 ceived, before the date of succession, from the
23 person who imported and paid any duty due on
24 the imported merchandise a certificate of deliv-

1 ery transferring to the successor such merchan-
2 dise;
3 as the basis for drawback on merchandise possessed
4 by the drawback successor after the date of succes-
5 sion.

6 “(3) For purposes of this subsection, the term
7 ‘drawback successor’ means an entity to which an-
8 other entity (in this subsection referred to as the
9 ‘predecessor’) has transferred by written agreement,
10 merger, or corporate resolution—

11 “(A) all or substantially all of the rights,
12 privileges, immunities, powers, duties, and li-
13 abilities of the predecessor; or

14 “(B) the assets and other business inter-
15 ests of a division, plant, or other business unit
16 of such predecessor, but only if in such transfer
17 the value of the transferred realty, personalty,
18 and intangibles (other than drawback rights, in-
19 choate or otherwise) exceeds the value of all
20 transferred drawback rights, inchoate or other-
21 wise.

22 “(4) No drawback shall be paid under this sub-
23 section until either the predecessor or the drawback
24 successor (who shall also certify that it has the pred-
25 ecessor’s records) certifies that—

1 “(A) the transferred merchandise was not
2 and will not be claimed by the predecessor, and

3 “(B) the predecessor did not and will not
4 issue any certificate to any other person that
5 would enable that person to claim drawback.

6 “(t) DRAWBACK CERTIFICATES.—Any person who is-
7 sues a certificate which would enable another person to
8 claim drawback shall be subject to the recordkeeping pro-
9 visions of this chapter, with the retention period beginning
10 on the date that such certificate is issued.

11 “(u) ELIGIBILITY OF ENTERED OR WITHDRAWN
12 MERCHANDISE.—Imported merchandise that has not been
13 regularly entered or withdrawn for consumption shall not
14 satisfy any requirement for use, exportation, or destruc-
15 tion under this section.

16 “(v) MULTIPLE DRAWBACK CLAIMS.—Merchandise
17 that is exported or destroyed to satisfy any claim for draw-
18 back shall not be the basis of any other claim for draw-
19 back; except that appropriate credit and deductions for
20 claims covering components or ingredients of such mer-
21 chandise shall be made in computing drawback pay-
22 ments.”.

23 (b) APPLICATION OF AMENDMENT TO FINISHED PE-
24 TROLEUM DERIVATIVES.—Notwithstanding section 514 of
25 the Tariff Act of 1930 (19 U.S.C. 1514) or any other pro-

1 vision of law, the amendment made by paragraph (6) of
2 subsection (a) shall apply to—

3 (1) claims filed or liquidated on or after Janu-
4 ary 1, 1988, and

5 (2) claims that are unliquidated, under protest,
6 or in litigation on the date of the enactment of this
7 Act.

8 **SEC. 633. EFFECTIVE DATE OF RATES OF DUTY.**

9 Section 315 (19 U.S.C. 1315) is amended—

10 (1) by striking out “appropriate customs officer
11 in the form and manner prescribed by regulations of
12 the Secretary of the Treasury,” in the first sentence
13 of subsection (a) and inserting “Customs Service by
14 written, electronic or such other means as the Sec-
15 retary by regulation shall prescribe,”;

16 (2) by striking out “customs custody” in the
17 first sentence of subsection (b) and inserting “cus-
18 tody of the Customs Service”; and

19 (3) by striking out “paragraph 813” in sub-
20 section (c) and inserting “chapter 98 of the Har-
21 monized Tariff Schedule of the United States”.

22 **SEC. 634. DEFINITIONS.**

23 Section 401 (19 U.S.C. 1401) is amended—

24 (1) by amending subsection (k) to read as fol-
25 lows:

1 “(k) The term ‘hovering vessel’ means—

2 “(1) any vessel which is found or kept off the
3 coast of the United States within or without the cus-
4 toms waters, if, from the history, conduct, character,
5 or location of the vessel, it is reasonable to believe
6 that such vessel is being used or may be used to in-
7 troduce or promote or facilitate the introduction or
8 attempted introduction of merchandise into the
9 United States in violation of the laws of the United
10 States; and

11 “(2) any vessel which has visited a vessel de-
12 scribed in paragraph (1).”; and

13 (2) by inserting at the end thereof the following
14 new subsections:

15 “(n) The term ‘electronic transmission’ means the
16 transfer of data or information through an authorized
17 electronic data interchange system consisting of, but not
18 limited to, computer modems and computer networks.

19 “(o) The term ‘electronic entry’ means the electronic
20 transmission to the Customs Service of—

21 “(1) entry information required for the entry of
22 merchandise, and

23 “(2) entry summary information required for
24 the classification and appraisement of the merchan-

1 dise, the verification of statistical information, and
2 the determination of compliance with applicable law.

3 “(p) The term ‘electronic data interchange system’
4 means any established mechanism approved by the Com-
5 missioner of Customs through which information can be
6 transferred electronically.

7 “(q) The term ‘National Customs Automation Pro-
8 gram’ means the program established under section 411.

9 “(r) The term ‘import activity summary statement’
10 refers to data or information transmitted electronically to
11 the Customs Service, in accordance with such regulations
12 as the Secretary prescribes, at the end of a specified pe-
13 riod of time which enables the Customs Service to assess
14 properly the duties, taxes and fees on merchandise im-
15 ported during that period, collect accurate statistics and
16 determine whether any other applicable requirement of law
17 (other than a requirement relating to release from customs
18 custody) is met.

19 “(s) The term ‘reconciliation’ means an electronic
20 process, initiated at the request of an importer, under
21 which the elements of an entry, other than those elements
22 related to the admissibility of the merchandise, that are
23 undetermined at the time of entry summary are provided
24 to the Customs Service at a later time. A reconciliation

1 is treated as an entry for purposes of liquidation, reliqui-
2 dation, and protest.”.

3 **SEC. 635. MANIFESTS.**

4 Section 431 (19 U.S.C. 1431) is amended—

5 (1) by amending subsections (a) and (b) to read
6 as follows:

7 “(a) IN GENERAL.—Every vessel required to make
8 entry under section 434 or obtain clearance under section
9 4197 of the Revised Statutes of the United States (46
10 U.S.C. App. 91) shall have a manifest that complies with
11 the requirements prescribed under subsection (d).

12 “(b) PRODUCTION OF MANIFEST.—Any manifest re-
13 quired by the Customs Service shall be signed, produced,
14 delivered or electronically transmitted by the master or
15 person in charge of the vessel, aircraft, or vehicle, or by
16 any other authorized agent of the owner or operator of
17 the vessel, aircraft, or vehicle in accordance with the re-
18 quirements prescribed under subsection (d). A manifest
19 may be supplemented by bill of lading data supplied by
20 the issuer of such bill. If any irregularity of omission or
21 commission occurs in any way in respect to any manifest
22 or bill of lading data, the owner or operator of the vessel,
23 aircraft or vehicle, or any party responsible for such irreg-
24 ularity, shall be liable for any fine or penalty prescribed
25 by law with respect to such irregularity. The Customs

1 Service may take appropriate action against any of the
2 parties.”; and

3 (2) by inserting after subsection (c) the follow-
4 ing new subsection:

5 “(d) REGULATIONS.—

6 “(1) IN GENERAL.—The Secretary shall by reg-
7 ulation—

8 “(A) specify the form for, and the informa-
9 tion and data that must be contained in, the
10 manifest required by subsection (a);

11 “(B) allow, at the option of the individual
12 producing the manifest and subject to para-
13 graph (2), letters and documents shipments to
14 be accounted for by summary manifesting pro-
15 cedures;

16 “(C) prescribe the manner of production
17 for, and the delivery for electronic transmittal
18 of, the manifest required by subsection (a); and

19 “(D) prescribe the manner for
20 supplementing manifests with bill of lading data
21 under subsection (b).

22 “(2) LETTERS AND DOCUMENTS SHIPMENTS.—
23 For purposes of paragraph (1)(B)—

24 “(A) the Customs Service may require with
25 respect to letters and documents shipments—

1 “(i) that they be segregated by coun-
2 try of origin, and

3 “(ii) additional examination proce-
4 dures that are not necessary for individ-
5 ually manifested shipments;

6 “(B) standard letter envelopes and stand-
7 ard document packs shall be segregated from
8 larger document shipments for purposes of cus-
9 toms inspections; and

10 “(C) the term ‘letters and documents’
11 means—

12 “(i) data described in General Head-
13 note 4(c) of the Harmonized Tariff Sched-
14 ule of the United States,

15 “(ii) securities and similar evidences
16 of value described in heading 4907 of such
17 Schedule, but not monetary instruments
18 defined pursuant to chapter 53 of title 31,
19 United States Code, and

20 “(iii) personal correspondence, wheth-
21 er on paper, cards, photographs, tapes, or
22 other media.”.

23 **SEC. 636. INVOICE CONTENTS.**

24 Section 481 (19 U.S.C. 1481) is amended—

25 (1) by amending subsection (a)—

1 (A) by amending the matter preceding
2 paragraph (1) to read as follows: “IN GEN-
3 ERAL.—All invoices of merchandise to be im-
4 ported into the United States and any elec-
5 tronic equivalent thereof considered acceptable
6 by the Secretary in regulations prescribed under
7 this section shall set forth, in written, elec-
8 tronic, or such other form as the Secretary
9 shall prescribe, the following:”

10 (B) by amending paragraph (3) to read as
11 follows:

12 “(3) A detailed description of the merchandise,
13 including the commercial name by which each item
14 is known, the grade or quality, and the marks, num-
15 bers, or symbols under which sold by the seller or
16 manufacturer in the country of exportation, together
17 with the marks and numbers of the packages in
18 which the merchandise is packed;”, and

19 (C) by amending paragraph (10) to read
20 as follows:

21 “(10) Any other fact that the Secretary may by
22 regulation require as being necessary to a proper ap-
23 praisal, examination and classification of the
24 merchandise.”;

1 (2) by amending subsection (c) to read as
2 follows:

3 “(c) IMPORTER PROVISION OF INFORMATION.—Any
4 information required to be set forth on an invoice may
5 alternatively be provided by any of the parties qualifying
6 as an ‘importer of record’ under section 484(a)(2)(B) by
7 such means, in such form or manner, and within such time
8 as the Secretary shall by regulation prescribe.”; and

9 (3) by inserting before the period at the end of
10 subsection (d) the following: “and may allow for the
11 submission or electronic transmission of partial in-
12 voices, electronic equivalents of invoices, bills, or
13 other documents or parts thereof, required under
14 this section”.

15 **SEC. 637. ENTRY OF MERCHANDISE.**

16 (a) AMENDMENTS TO SECTION 484.—Section 484
17 (19 U.S.C. 1484) is amended to read as follows:

18 **“SEC. 484. ENTRY OF MERCHANDISE.**

19 “(a) REQUIREMENT AND TIME.—

20 “(1) Except as provided in sections 490, 498,
21 552, 553, and 336(j), one of the parties qualifying
22 as ‘importer of record’ under paragraph (2)(B), ei-
23 ther in person or by an agent authorized by the
24 party in writing, shall, using reasonable care—

1 “(A) make entry therefor by filing with the
2 Customs Service—

3 “(i) such documentation or, pursuant
4 to an electronic data interchange system,
5 such information as is necessary to enable
6 the Customs Service to determine whether
7 the merchandise may be released from cus-
8 toms custody, and

9 “(ii) notification whether an import
10 activity summary statement will be filed;
11 and

12 “(B) complete the entry by filing with the
13 Customs Service the declared value, classifica-
14 tion and rate of duty applicable to the merchan-
15 dise, and such other documentation or, pursu-
16 ant to an electronic data interchange system,
17 such other information as is necessary to enable
18 the Customs Service to—

19 “(i) properly assess duties on the mer-
20 chandise,

21 “(ii) collect accurate statistics with re-
22 spect to the merchandise, and

23 “(iii) determine whether any other ap-
24 plicable requirement of law (other than a

1 requirement relating to release from cus-
2 toms custody) is met.

3 “(2)(A) The documentation or information re-
4 quired under paragraph (1) with respect to any im-
5 ported merchandise shall be filed or transmitted in
6 such manner and within such time periods as the
7 Secretary shall by regulation prescribe. Such regula-
8 tions shall provide for the filing of import activity
9 summary statements, covering entries or warehouse
10 withdrawals made during a calendar month, within
11 such time period as is prescribed in regulations but
12 not to exceed the 20th day following such calendar
13 month.

14 “(B) When an entry of merchandise is made
15 under this section, the required documentation or in-
16 formation shall be filed or electronically transmitted
17 either by the owner or purchaser of the merchandise
18 or, when appropriately designated by the owner, pur-
19 chaser, or consignee of the merchandise, a person
20 holding a valid license under section 641. When a
21 consignee declares on entry that he is the owner or
22 purchaser of merchandise the Customs Service may,
23 without liability, accept the declaration. For the pur-
24 poses of this Act, the importer of record must be one

1 of the parties who is eligible to file the documenta-
2 tion or information required by this section.

3 “(C) The Secretary, in prescribing regulations
4 to carry out this subsection, shall establish proce-
5 dures which insure the accuracy and timeliness of
6 import statistics, particularly statistics relevant to
7 the classification and valuation of imports. Correc-
8 tions of errors in such statistical data shall be trans-
9 mitted immediately to the Director of the Bureau of
10 the Census, who shall make corrections in the statis-
11 tics maintained by the Bureau. The Secretary shall
12 also provide, to the maximum extent practicable, for
13 the protection of the revenue, the enforcement of
14 laws governing the importation and exportation of
15 merchandise, the facilitation of the commerce of the
16 United States, and the equal treatment of all im-
17 porters of record of imported merchandise.

18 “(b) RECONCILIATION.—

19 “(1) IN GENERAL.—A party that electronically
20 transmits an entry summary or import activity sum-
21 mary statement may at the time of filing such sum-
22 mary or statement notify the Customs Service of his
23 intention to file a reconciliation pursuant to such
24 regulations as the Secretary may prescribe. Such
25 reconciliation must be filed by the importer of record

1 within such time period as is prescribed by regula-
2 tion but no later than 15 months following the filing
3 of the entry summary or import activity summary
4 statement; except that the prescribed time period for
5 reconciliation issues relating to the assessment of
6 antidumping and countervailing duties shall require
7 filing no later than 90 days after the Customs Serv-
8 ice advises the importer that a period of review for
9 antidumping or countervailing duty purposes has
10 been completed. Before filing a reconciliation, an im-
11 porter of record shall post bond or other security
12 pursuant to such regulations as the Secretary may
13 prescribe.

14 “(2) REGULATIONS REGARDING AD/CV DU-
15 TIES.—The Secretary shall prescribe, in consultation
16 with the Secretary of Commerce, such regulations as
17 are necessary to adapt the reconciliation process for
18 use in the collection of antidumping and countervail-
19 ing duties.

20 “(c) RELEASE OF MERCHANDISE.—The Customs
21 Service may permit the entry and release of merchandise
22 from customs custody in accordance with such regulations
23 as the Secretary may prescribe. No officer of the Customs
24 Service shall be liable to any person with respect to the

1 delivery of merchandise released from customs custody in
2 accordance with such regulations.

3 “(d) SIGNING AND CONTENTS.—Entries shall be
4 signed by the importer of record, or his agent, unless filed
5 pursuant to an electronic data interchange system. If elec-
6 tronically filed, each transmission of data shall be certified
7 by an importer of record or his agent, one of whom shall
8 be resident in the United States for purposes of receiving
9 service of process, as being true and correct to the best
10 of his knowledge and belief, and such transmission shall
11 be binding in the same manner and to the same extent
12 as a signed document. The entry shall set forth such facts
13 in regard to the importation as the Secretary may require
14 and shall be accompanied by such invoices, bills of lading,
15 certificates, and documents, or their electronically submit-
16 ted equivalents, as are required by regulation.

17 “(e) PRODUCTION OF INVOICE.—The Secretary may
18 provide by regulation for the production of an invoice,
19 parts thereof, or the electronic equivalents thereof, in such
20 manner and form, and under such terms and conditions,
21 as the Secretary considers necessary.

22 “(f) STATISTICAL ENUMERATION.—The Secretary,
23 the Secretary of Commerce, and the United States Inter-
24 national Trade Commission shall establish from time to
25 time for statistical purposes an enumeration of articles in

1 such detail as in their judgment may be necessary, com-
2 prehending all merchandise imported into the United
3 States and exported from the United States, and shall
4 seek, in conjunction with statistical programs for domestic
5 production and programs for achieving international har-
6 monization of trade statistics, to establish the comparabil-
7 ity thereof with such enumeration of articles. All import
8 entries and export declarations shall include or have at-
9 tached thereto an accurate statement specifying, in terms
10 of such detailed enumeration, the kinds and quantities of
11 all merchandise imported and exported and the value of
12 the total quantity of each kind of article.

13 “(g) STATEMENT OF COST OF PRODUCTION.—Under
14 such regulations as the Secretary may prescribe, the Cus-
15 toms Service may require a verified statement from the
16 manufacturer or producer showing the cost of producing
17 the imported merchandise, if the Customs Service consid-
18 ers such verification necessary for the appraisement of
19 such merchandise.

20 “(h) ADMISSIBILITY OF DATA ELECTRONICALLY
21 TRANSMITTED.—Any entry or other information transmit-
22 ted by means of an authorized electronic data interchange
23 system shall be admissible in any and all administrative
24 and judicial proceedings as evidence of such entry or infor-
25 mation.”.

1 (b) AMENDMENT TO SECTION 771.—Section 771 (19
2 U.S.C. 1677) is amended by adding at the end the follow-
3 ing new paragraph:

4 “(23) ENTRY.—The term ‘entry’ includes, in
5 appropriate circumstances as determined by the ad-
6 ministering authority, a reconciliation entry created
7 under a reconciliation process, defined in section
8 401(s), that is initiated by an importer. The liability
9 of an importer under an antidumping or countervail-
10 ing duty proceeding for entries of merchandise sub-
11 ject to the proceeding will attach to the correspond-
12 ing reconciliation entry or entries. Suspension of liq-
13 uidation of the reconciliation entry or entries, for the
14 purpose of enforcing this title, is equivalent to the
15 suspension of liquidation of the corresponding indi-
16 vidual entries; but the suspension of liquidation of
17 the reconciliation entry or entries for such purpose
18 does not preclude liquidation for any other pur-
19 pose.”.

20 **SEC. 638. APPRAISEMENT AND OTHER PROCEDURES.**

21 Section 500 (19 U.S.C. 1500) is amended—

22 (1) by striking out “The appropriate customs
23 officer” and inserting “The Customs Service”;

24 (2) by striking out “appraise” in subsection (a)
25 and inserting “fix the final appraisement of”;

1 (3) by striking out “ascertain the” in sub-
2 section (b) and inserting “fix the final”;

3 (4) by amending subsection (c)—

4 (A) by inserting “final” after “fix the”,
5 and

6 (B) by inserting “, taxes, and fees” after
7 “duties” wherever it appears; and

8 (5) by amending subsections (d) and (e) to read
9 as follows:

10 “(d) liquidate the entry and reconciliation, if
11 any, of such merchandise; and

12 “(e) give or transmit, pursuant to an electronic
13 data interchange system, notice of such liquidation
14 to the importer, his consignee, or agent in such form
15 and manner as the Secretary shall by regulation pre-
16 scribe.”.

17 **SEC. 639. VOLUNTARY RELIQUIDATIONS.**

18 Section 501 (19 U.S.C. 1501) is amended—

19 (1) by striking out “the appropriate customs of-
20 ficer on his own initiative” and inserting “the Cus-
21 toms Service”;

22 (2) by inserting “or transmitted” after “given”
23 wherever it appears; and

24 (3) by amending the section heading to read as
25 follows:

1 **“SEC. 501. VOLUNTARY RELIQUIDATIONS BY THE CUSTOMS**
2 **SERVICE.”.**

3 **SEC. 640. APPRAISEMENT REGULATIONS.**

4 Section 502 (19 U.S.C. 1502) is amended—

5 (1) by amending subsection (a)—

6 (A) by inserting “(including regulations es-
7 tablishing procedures for the issuance of bind-
8 ing rulings prior to the entry of the merchan-
9 dise concerned)” after “law”,

10 (B) by striking out “ports of entry, and”
11 inserting “ports of entry. The Secretary”,

12 (C) by inserting “or classifying” after “ap-
13 praising” wherever it appears, and

14 (D) by striking out “such port” and insert-
15 ing “any port, and may direct any customs offi-
16 cer at any port to review entries of merchandise
17 filed at any other port”; and

18 (2) by striking out subsection (b) and redesign-
19 ating subsection (c) as subsection (b).

20 **SEC. 641. LIMITATION ON LIQUIDATION.**

21 Section 504 (19 U.S.C. 1504) is amended—

22 (1) by amending subsection (a)—

23 (A) by striking out “Except as provided in
24 subsection (b),” and inserting “Unless an entry
25 is extended under subsection (b) or suspended
26 as required by statute or court order,”,

1 (B) by striking out “or” at the end of
2 paragraph (2),

3 (C) by inserting “or” after the semicolon
4 at the end of paragraph (3), and

5 (D) by inserting the following new para-
6 graph after paragraph (3):

7 “(4) if a reconciliation is filed, or should have
8 been filed, the date of the filing under section 484
9 or the date the reconciliation should have been
10 filed;” and

11 (2) by amending subsections (b), (c), and (d) to
12 read as follows:

13 “(b) EXTENSION.—The Secretary may extend the pe-
14 riod in which to liquidate an entry if—

15 “(1) the information needed for the proper ap-
16 praisalment or classification of the merchandise, or
17 for insuring compliance with applicable law, is not
18 available to the Customs Service; or

19 “(2) the importer of record requests such exten-
20 sion and shows good cause therefor.

21 The Secretary shall give notice of an extension under this
22 subsection to the importer of record and the surety of such
23 importer of record. Notice shall be in such form and man-
24 ner (which may include electronic transmittal) as the Sec-
25 retary shall by regulation prescribe. Any entry the liquida-

1 tion of which is extended under this subsection shall be
2 treated as having been liquidated at the rate of duty,
3 value, quantity, and amount of duty asserted at the time
4 of entry by the importer of record at the expiration of 4
5 years from the applicable date specified in subsection (a).

6 “(c) NOTICE OF SUSPENSION.—If the liquidation of
7 any entry is suspended, the Secretary shall by regulation
8 require that notice of the suspension be provided, in such
9 manner as the Secretary considers appropriate, to the im-
10 porter of record and to any authorized agent and surety
11 of such importer of record.

12 “(d) REMOVAL OF SUSPENSION.—When a suspension
13 required by statute or court order is removed, the Customs
14 Service shall liquidate the entry within 6 months after re-
15 ceiving notice of the removal from the Department of
16 Commerce, other agency, or a court with jurisdiction over
17 the entry. Any entry not liquidated by the Customs Service
18 within 6 months after receiving such notice shall be treat-
19 ed as having been liquidated at the rate of duty, value,
20 quantity, and amount of duty asserted at the time of entry
21 by the importer of record.”.

22 **SEC. 642. PAYMENT OF DUTIES AND FEES.**

23 (a) AMENDMENT TO SECTION 505.—Section 505
24 (U.S.C. 1505) is amended to read as follows:

1 **“SEC. 505. PAYMENT OF DUTIES AND FEES.**

2 “(a) DEPOSIT OF ESTIMATED DUTIES, FEES, AND
3 INTEREST.—Unless merchandise is entered for warehouse
4 or transportation, or under bond, the importer of record
5 shall deposit with the Customs Service at the time of mak-
6 ing entry, or at such later time as the Secretary may pre-
7 scribe by regulation, the amount of duties and fees esti-
8 mated to be payable thereon. Such regulations may pro-
9 vide that estimated duties and fees shall be deposited be-
10 fore or at the time an import activity summary statement
11 is filed. If an import activity summary statement is filed,
12 the estimated duties and fees shall be deposited together
13 with interest, at a rate determined by the Secretary, ac-
14 cruing from the first date of the month the statement is
15 required to be filed until the date such statement is actu-
16 ally filed.

17 “(b) COLLECTION OR REFUND OF DUTIES, FEES,
18 AND INTEREST DUE UPON LIQUIDATION OR RELIQUIDA-
19 TION.—The Customs Service shall collect any increased or
20 additional duties and fees due, together with interest
21 thereon, or refund any excess moneys deposited, together
22 with interest thereon, as determined on a liquidation or
23 reliquidation. Duties, fees, and interest determined to be
24 due upon liquidation or reliquidation are due 30 days after
25 issuance of the bill for such payment. Refunds of excess

1 moneys deposited, together with interest thereon, shall be
2 paid within 30 days of liquidation or reliquidation.

3 “(c) INTEREST.—Interest assessed due to an
4 underpayment of duties, fees, or interest shall accrue, at
5 a rate determined by the Secretary, from the date the im-
6 porter of record is required to deposit estimated duties,
7 fees, and interest to the date of liquidation or reliquidation
8 of the applicable entry or reconciliation. Interest on excess
9 moneys deposited shall accrue, at a rate determined by
10 the Secretary, from the date the importer of record depos-
11 its estimated duties, fees, and interest to the date of liq-
12 uidation or reliquidation of the applicable entry or rec-
13 onciliation.

14 “(d) DELINQUENCY.—If duties, fees, and interest de-
15 termined to be due or refunded are not paid in full within
16 the 30-day period specified in subsection (b), any unpaid
17 balance shall be considered delinquent and bear interest
18 by 30-day periods, at a rate determined by the Secretary,
19 from the date of liquidation or reliquidation until the full
20 balance is paid. No interest shall accrue during the 30-
21 day period in which payment is actually made.”.

22 (b) CONFORMING AMENDMENT.—Subsection (d) of
23 section 520 (19 U.S.C. 1520(d)) is repealed.

24 **SEC. 643. ABANDONMENT AND DAMAGE.**

25 Section 506 (19 U.S.C. 1506) is amended—

1 (1) by striking out “the appropriate customs of-
2 ficer” and “such customs officer” wherever they ap-
3 pear and inserting “the Customs Service”;

4 (2) by amending paragraph (1)—

5 (A) by striking out “not sent to the ap-
6 praiser’s stores for” and inserting “released
7 without an”,

8 (B) by striking out “of the examination
9 packages or quantities of merchandise”,

10 (C) by striking out “the appraiser’s stores”
11 and inserting “the Customs Service”, and

12 (D) by inserting “or entry” after “in-
13 voice”, and

14 (3) by amending paragraph (2)—

15 (A) by inserting “, electronically or other-
16 wise,” after “files”, and

17 (B) by striking out “written”.

18 **SEC. 644. CUSTOMS OFFICER’S IMMUNITY.**

19 Section 513 (19 U.S.C. 1513) is amended to read as
20 follows:

21 **“SEC. 513. CUSTOMS OFFICER’S IMMUNITY.**

22 “No customs officer shall be liable in any way to any
23 person for or on account of—

24 “(1) any ruling or decision regarding the ap-
25 praisement or the classification of any imported

1 merchandise or regarding the duties, fees, and taxes
2 charged thereon,

3 “(2) the collection of any dues, charges, duties,
4 fees, and taxes on or on account of any imported
5 merchandise, or

6 “(3) any other matter or thing as to which any
7 person might under this Act be entitled to protest or
8 appeal from the decision of such officer.”.

9 **SEC. 645. PROTESTS.**

10 Section 514 (19 U.S.C. 1514) is amended—

11 (1) by amending subsection (a)—

12 (A) by striking out “appropriate customs
13 officer” in the text preceding paragraph (1) and
14 inserting “Customs Service”,

15 (B) by inserting “or reconciliation as to
16 the issues contained therein,” after “entry,” in
17 paragraph (5),

18 (C) by striking out “and” and inserting
19 “or” at the end of paragraph (6),

20 (D) by striking out the comma at the end
21 of paragraph (7) and inserting a semicolon, and

22 (E) by striking out “appropriate customs
23 officer, who” in the text following paragraph
24 (7) and inserting “Customs Service, which”;

1 (2) by amending subsection (b) by striking out
2 “appropriate customs officer” and inserting “Cus-
3 toms Service”;

4 (3) by amending the first sentence of subsection
5 (c)(1) to read as follows: “A protest of a decision
6 made under subsection (a) shall be filed in writing,
7 or transmitted electronically pursuant to an elec-
8 tronic data interchange system, in accordance with
9 regulations prescribed by the Secretary. A protest
10 must set forth distinctly and specifically—

11 “(A) each decision described in subsection

12 (a) as to which protest is made;

13 “(B) each category of merchandise affected
14 by each decision set forth under paragraph (1);

15 “(C) the nature of each objection and the
16 reasons therefor; and

17 “(D) any other matter required by the Sec-
18 retary by regulation.”;

19 (4) by redesignating paragraph (2) of sub-
20 section (c) as paragraph (3) and by striking out
21 “such customs officer” in such redesignated para-
22 graph and inserting “the Customs Service”;

23 (5) by designating the last sentence of para-
24 graph (1) of subsection (c) as paragraph (2);

1 (6) by striking out “customs officer” in sub-
2 section (d) and inserting “Customs Service”; and

3 (7) by amending the section heading to read as
4 follows:

5 **“SEC. 514. PROTEST AGAINST DECISIONS OF THE CUSTOMS**
6 **SERVICE.”.**

7 **SEC. 646. REFUNDS AND ERRORS.**

8 Section 520 (19 U.S.C. 1520) is amended—

9 (1) by inserting “or reconciliation” after
10 “entry” in paragraphs (1) and (4) of subsection (a);
11 and

12 (2) by amending subsection (c)—

13 (A) by striking out “appropriate customs
14 officer” wherever it appears and inserting
15 “Customs Service”,

16 (B) by inserting “or reconciliation” after
17 “reliquidate an entry”, and

18 (C) by inserting “, whether or not result-
19 ing from or contained in electronic trans-
20 mission,” after “inadvertence” the first place it
21 appears in paragraph (1).

22 **SEC. 647. BONDS AND OTHER SECURITY.**

23 Section 623 (19 U.S.C. 1623) is amended—

24 (1) by inserting “and the manner in which the
25 bond may be filed with or, pursuant to an author-

1 ized electronic data interchange system, transmitted
2 to the Customs Service” after “form of such bond”
3 in subsection (b)(1); and

4 (2) by inserting at the end of subsection (d) the
5 following new sentence: “Any bond transmitted to
6 the Customs Service pursuant to an authorized elec-
7 tronic data interchange system shall have the same
8 force and effect and be binding upon the parties
9 thereto as if such bond were manually executed,
10 signed, and filed.”.

11 **SEC. 648. CUSTOMHOUSE BROKERS.**

12 Section 641 (19 U.S.C. 1641) is amended—

13 (1) by adding at the end of subsection (a)(2)
14 the following new sentence: “It also includes the
15 preparation of documents or forms in any format
16 and the electronic transmission of documents, in-
17 voices, bills, or parts thereof, intended to be filed
18 with the Customs Service in furtherance of such ac-
19 tivities, whether or not signed or filed by the pre-
20 parer, or activities relating to such preparation, but
21 does not include the mere electronic transmission of
22 data received for transmission to Customs.”;

23 (2) by amending subsection (c)(1) to read as
24 follows:

1 “(1) IN GENERAL.—Each person granted a cus-
2 toms broker’s license under subsection (b) shall be
3 issued, in accordance with such regulations as the
4 Secretary shall prescribe, either or both of the
5 following:

6 “(A) A national permit for the conduct of
7 such customs business as the Secretary pre-
8 scribes by regulation.

9 “(B) A permit for each customs district in
10 which that person conducts customs business
11 and, except as provided in paragraph (2), regu-
12 larly employs at least 1 individual who is li-
13 censed under subsection (b)(2) to exercise re-
14 sponsible supervision and control over the cus-
15 toms business conducted by that person in that
16 district.”;

17 (3) by inserting at the end of subsection (c) the
18 following new paragraph:

19 “(4) APPOINTMENT OF SUBAGENTS.—Notwith-
20 standing subsection (c)(1), upon the implementation
21 by the Secretary under section 413(b)(2) of the com-
22 ponent of the National Customs Automation Pro-
23 gram referred to in section 411(a)(2)(B), a licensed
24 broker may appoint another licensed broker holding
25 a permit in a customs district to act on its behalf

1 as its subagent in that district if such activity re-
2 lates to the filing of information that is permitted by
3 law or regulation to be filed electronically. A licensed
4 broker appointing a subagent pursuant to this para-
5 graph shall remain liable for any and all obligations
6 arising under bond and any and all duties, taxes,
7 and fees, as well as any other liabilities imposed by
8 law, and shall be precluded from delegating to a
9 subagent such liability.”;

10 (4) by amending subsection (d)(2)(B)—

11 (A) by striking out “appropriate customs
12 officer” and inserting “Customs Service” in the
13 first and third sentences,

14 (B) by striking out “he” and inserting “it”
15 in the third sentence,

16 (C) by striking out “15 days” and insert-
17 ing “30 days” in the third sentence,

18 (D) by striking out “the appropriate cus-
19 toms officer and the customs broker; they” and
20 inserting “the Customs Service and the customs
21 broker; which” in the sixth sentence,

22 (E) by striking out “his” and inserting
23 “the” in the seventh sentence, and

1 (F) by striking out “for his decision” and
2 inserting “for the decision” in the eighth sen-
3 tence; and

4 (5) by amending subsection (f) by striking out
5 “United States Customs Service.” and inserting
6 “Customs Service. The Secretary may not prohibit
7 customs brokers from limiting their liability to other
8 persons in the conduct of customs business. For pur-
9 poses of this subsection or any other provision of
10 this Act pertaining to recordkeeping, all data re-
11 quired to be retained by a customs broker may be
12 kept on microfilm, optical disc, magnetic tapes, disks
13 or drums, video files or any other electrically gen-
14 erated medium. Pursuant to such regulations as the
15 Secretary shall prescribe, the conversion of data to
16 such storage medium may be accomplished at any
17 time subsequent to the relevant customs transaction
18 and the data may be retained in a centralized basis
19 according to such broker’s business system.”.

20 **SEC. 649. CONFORMING AMENDMENTS.**

21 (a) PLACE OF ENTRY AND UNLADING.—Section 447
22 (19 U.S.C. 1447) is amended by striking out “the appro-
23 priate customs officer shall consider” and inserting “the
24 Customs Service considers”.

1 (b) UNLADING.—Section 449 (19 U.S.C. 1449) is
2 amended by striking out “appropriate customs officer of
3 such port issues a permit for the unloading of such mer-
4 chandise or baggage,” and inserting “Customs Service is-
5 sues a permit for the unloading of such merchandise or
6 baggage at such port,”.

7 **Subtitle C—Miscellaneous Amend-**
8 **ments to the Tariff Act of 1930**

9 **SEC. 651. ADMINISTRATIVE EXEMPTIONS.**

10 Section 321 (19 U.S.C. 1321) is amended—

11 (1) by amending subsection (a)(1)—

12 (A) by striking out “of less than \$10” and
13 inserting “of an amount specified by the Sec-
14 retary by regulation, but not less than \$20,”,

15 (B) by inserting “, fees,” after “duties”
16 wherever it appears, and

17 (C) by striking out “and” at the end there-
18 of;

19 (2) by amending subsection (a)(2)—

20 (A) by striking out “shall not exceed—”
21 and inserting “shall not exceed an amount spec-
22 ified by the Secretary by regulation, but not
23 less than—”,

1 (B) by striking out “\$50” and “\$100” in
2 subparagraph (A) and inserting “\$100” and
3 “\$200”, respectively,

4 (C) by striking out “\$25” in subparagraph
5 (B) and inserting “\$200”,

6 (D) by striking out “\$5” in subparagraph
7 (C) and inserting “\$200”, and

8 (E) by striking the period at the end there-
9 of and inserting “; and”, and

10 (3) by inserting a new paragraph (3) at the end
11 of subsection (a) to read as follows:

12 “(3) waive the collection of duties, fees, and
13 taxes due on entered merchandise when such duties,
14 fees, or taxes are less than \$20 or such greater
15 amount as may be specified by the Secretary by reg-
16 ulation.”; and

17 (4) by amending subsection (b)—

18 (A) by striking out “to diminish any dollar
19 amount specified in subsection (a) and”; and

20 (B) by striking out “such subsection”
21 wherever it appears and inserting “subsection
22 (a)”.

23 **SEC. 652. REPORT OF ARRIVAL.**

24 Section 433 (19 U.S.C. 1433) is amended—

25 (1) by amending subsection (a)(1)—

1 (A) by striking out “or” at the end of sub-
2 paragraph (B),

3 (B) by inserting “or” after the semicolon
4 at the end of subparagraph (C), and

5 (C) by adding after subparagraph (C) the
6 following:

7 “(D) any vessel which has visited a hover-
8 ing vessel or received merchandise while outside
9 the territorial sea;”;

10 (2) by striking out “present to customs officers
11 such” in subsection (d) and inserting “present, or
12 transmit pursuant to an electronic data interchange
13 system, to the Customs Service such information,
14 data,”; and

15 (3) by amending subsection (e) to read as fol-
16 lows:

17 “(e) PROHIBITION ON DEPARTURES AND DIS-
18 CHARGE.—Unless otherwise authorized by law, a vessel,
19 aircraft or vehicle after arriving in the United States or
20 Virgin Islands may, but only in accordance with regula-
21 tions prescribed by the Secretary—

22 “(1) depart from the port, place, or airport of
23 arrival; or

24 “(2) discharge any passenger or merchandise
25 (including baggage).”.

1 **SEC. 653. ENTRY OF VESSELS.**

2 Section 434 (19 U.S.C. 1434) amended to read as
3 follows:

4 **“SEC. 434. ENTRY; VESSELS.**

5 “(a) FORMAL ENTRY.—Within 24 hours (or such
6 other period of time as may be provided under subsection
7 (c)(2)) after the arrival at any port or place in the United
8 States of—

9 “(1) any vessel from a foreign port or place;

10 “(2) any foreign vessel from a domestic port;

11 “(3) any vessel of the United States having on
12 board bonded merchandise or foreign merchandise
13 for which entry has not been made; or

14 “(4) any vessel which has visited a hovering
15 vessel or has delivered or received merchandise while
16 outside the territorial sea;

17 the master of the vessel shall, unless otherwise provided
18 by law, make formal entry at the nearest customs facility
19 or such other place as the Secretary may prescribe by
20 regulation.

21 “(b) PRELIMINARY ENTRY.—The Secretary may by
22 regulation permit the master to make preliminary entry
23 of the vessel with the Customs Service in lieu of formal
24 entry or before formal entry is made. In permitting pre-
25 liminary entry, the Customs Service shall board a suffi-

1 cient number of vessels to ensure compliance with the laws
2 it enforces.

3 “(c) REGULATIONS.—The Secretary may by regula-
4 tion—

5 “(1) prescribe the manner and format in which
6 entry under subsection (a) or subsection (b), or
7 both, must be made, and such regulations may pro-
8 vide that any such entry may be made electronically
9 pursuant to an electronic data interchange system;

10 “(2) provide that—

11 “(A) formal entry must be made within a
12 greater or lesser time than 24 hours after arriv-
13 al, but in no case more than 48 hours after ar-
14 rival, and

15 “(B) formal entry may be made before ar-
16 rival; and

17 “(3) authorize the Customs Service to permit
18 entry or preliminary entry of any vessel to be made
19 at a place other than a designated port of entry,
20 under such conditions as may be prescribed.”.

21 **SEC. 654. UNLAWFUL RETURN OF FOREIGN VESSEL PA-**
22 **PERS.**

23 Section 438 (19 U.S.C. 1438) is amended—

24 (1) by striking out “section 435” and inserting
25 “section 434”;

1 (2) by inserting “, or regulations issued there-
2 under,” after “of this Act”; and

3 (3) by striking out “the appropriate customs of-
4 ficer of the port where such vessel has been en-
5 tered.” and inserting “the Customs Service in the
6 port in which such vessel has entered.”.

7 **SEC. 655. VESSELS NOT REQUIRED TO ENTER.**

8 Section 441 (19 U.S.C. 1441) is amended—

9 (1) by amending the text preceding paragraph
10 (1) to read as follows: “The following vessels shall
11 not be required to make entry under section 434 or
12 to obtain clearance under section 4197 of the Re-
13 vised Statutes of the United States (46 U.S.C. App.
14 91):”;

15 (2) by amending paragraph (3) to read as
16 follows:

17 “(3) Any vessel carrying passengers on excursion
18 from the United States Virgin Islands to the British Vir-
19 gin Islands and returning, if—

20 “(A) the vessel does not in any way violate the
21 customs or navigation laws of the United States;

22 “(B) the vessel has not visited any hovering
23 vessel; and

24 “(C) the master of the vessel, if there is on
25 board any article required by law to be entered, re-

1 ports the article to the Customs Service immediately
2 upon arrival.”;

3 (3) by redesignating paragraphs (4) and (5) as
4 paragraphs (5) and (6), respectively, and inserting
5 after paragraph (3) the following:

6 “(4) Any United States documented vessel with rec-
7 reational endorsement or any undocumented United
8 States pleasure vessel not engaged in trade, if—

9 “(A) the vessel complies with the reporting re-
10 quirements of section 433, and with the customs and
11 navigation laws of the United States;

12 “(B) the vessel has not visited any hovering
13 vessel; and

14 “(C) the master of, and any other person on
15 board, the vessel, if the master or such person has
16 on board any article required by law to be entered
17 or declared, reports such article to the Customs
18 Service immediately upon arrival;”;

19 (4) by amending paragraph (6) (as so redesign-
20 nated) by striking out “enrolled and licensed to en-
21 gage in the foreign and coasting trade in the north-
22 ern, northeastern, and northwestern frontiers” and
23 inserting “documented under chapter 121 of title
24 46, United States Code, with a Great Lakes en-
25 dorsement”; and

1 (5) by amending the section heading to read as
2 follows:

3 **“SEC. 441. EXCEPTIONS TO VESSEL ENTRY AND CLEAR-**
4 **ANCE REQUIREMENTS.”.**

5 **SEC. 656. UNLADING.**

6 Section 448(a) (19 U.S.C. 1448(a)) is amended—

7 (1) by amending the first sentence—

8 (A) by striking out “enter)” and inserting
9 “enter or clear”),

10 (B) by striking out “or vehicle arriving
11 from a foreign port or place” and inserting “re-
12 quired to make entry under section 434, or ve-
13 hicle required to report arrival under section
14 433,”,

15 (C) by inserting “or transmitted pursuant
16 to an electronic data interchange system” after
17 “issued”, and

18 (D) by striking out the colon after “offi-
19 cer” and the proviso and inserting a period;

20 (2) by amending the second sentence—

21 (A) by striking out “, preliminary or other-
22 wise,”, and

23 (B) by inserting “, electronically pursuant
24 to an authorized electronic data interchange

1 system or otherwise,” after “may issue a per-
2 mit”;

3 (3) by striking out the last sentence and insert-
4 ing the following: “The owner or master of any ves-
5 sel or vehicle, or agent thereof, shall notify the Cus-
6 toms Service of any merchandise or baggage so un-
7 laden for which entry is not made within the time
8 prescribed by law or regulation. The Secretary shall
9 by regulation prescribe administrative penalties not
10 to exceed \$1,000 for each bill of lading for which no-
11 tice is not given. Any such administrative penalty
12 shall be subject to mitigation and remittance under
13 section 618. Such unentered merchandise or bag-
14 gage shall be the responsibility of the master or per-
15 son in charge of the importing vessel or vehicle, or
16 agent thereof, until it is removed from the carrier’s
17 control in accordance with section 490.”; and

18 (4) by striking out “the appropriate customs of-
19 ficer” and “such customs officer” wherever they ap-
20 pear and inserting “the Customs Service”.

21 **SEC. 657. DECLARATIONS.**

22 Section 485 (19 U.S.C. 1485) is amended—

23 (1) by amending subsection (a)—

24 (A) by inserting “or transmit electroni-
25 cally” after “file”, and

1 (B) by inserting “and manner” after
2 “form”;

3 (2) by amending subsection (d)—

4 (A) by striking out “A importer” and in-
5 serting “An importer”, and

6 (B) by striking out “a importer” and in-
7 serting “an importer”; and

8 (3) by inserting after subsection (f) the follow-
9 ing new subsection:

10 “(g) EXPORTED MERCHANDISE RETURNED AS
11 UNDELIVERABLE.—With respect to any importation of
12 merchandise to which General Headnote 4(e) of the Har-
13 monized Tariff Schedule of the United States applies, any
14 person who gained any benefit from, or met any obligation
15 to, the United States as a result of the prior exportation
16 of such merchandise shall, in accordance with regulations
17 prescribed by the Secretary, within a reasonable time in-
18 form the Customs Service of the return of the merchan-
19 dise.”.

20 **SEC. 658. GENERAL ORDERS.**

21 Section 490 (19 U.S.C. 1490) is amended—

22 (1) by amending subsection (a) to read as fol-
23 lows:

24 “(a) INCOMPLETE ENTRY.—

25 “(1) Whenever—

1 “(A) the entry of any imported merchan-
2 dise is not made within the time provided by
3 law or by regulation prescribed by the Sec-
4 retary;

5 “(B) the entry of imported merchandise is
6 incomplete because of failure to pay the esti-
7 mated duties, fees, or interest;

8 “(C) in the opinion of the Customs Serv-
9 ice, the entry of imported merchandise cannot
10 be made for want of proper documents or other
11 cause; or

12 “(D) the Customs Service believes that any
13 merchandise is not correctly and legally
14 invoiced;

15 the carrier (unless subject to subsection (c)) shall
16 notify the bonded warehouse of such unentered mer-
17 chandise.

18 “(2) After notification under paragraph (1), the
19 bonded warehouse shall arrange for the transpor-
20 tation and storage of the merchandise at the risk
21 and expense of the consignee. The merchandise shall
22 remain in the bonded warehouse until—

23 “(A) entry is made or completed and the
24 proper documents are produced;

1 “(B) the information and data necessary
2 for entry are transmitted to the Customs Serv-
3 ice pursuant to an authorized electronic data
4 interchange system; or

5 “(C) a bond is given for the production of
6 documents or the transmittal of data.”;

7 (2) by amending subsection (b)—

8 (A) by amending the heading for sub-
9 section (b) to read as follows:

10 “(b) REQUEST FOR POSSESSION BY CUSTOMS.—”,

11 and

12 (B) by striking out “appropriate customs
13 officer” and inserting “Customs Service”; and

14 (3) by adding at the end the following new sub-
15 section:

16 “(c) GOVERNMENT MERCHANDISE.—Any imported
17 merchandise that—

18 “(1) is described in any of paragraphs (1)
19 through (4) of subsection (a); and

20 “(2) is consigned to, or owned by, the United
21 States Government;

22 shall be stored and disposed of in accordance with such
23 rules and procedures as the Secretary shall by regulation
24 prescribe.”.

1 **SEC. 659. UNCLAIMED MERCHANDISE.**

2 Section 491 (19 U.S.C. 1491) is amended—

3 (1) by amending subsection (a)—

4 (A) by striking out “customs custody for
5 one year” in the first sentence and inserting “in
6 a bonded warehouse pursuant to section 490 for
7 6 months”,

8 (B) by striking out “public store or bonded
9 warehouse for a period of one year” in the sec-
10 ond sentence and inserting “pursuant to section
11 490 in a bonded warehouse for 6 months”,

12 (C) by striking out “estimated duties and
13 storage” in the first sentence and inserting “es-
14 timated duties, taxes, fees, interest, storage”,

15 (D) by inserting “taxes, fees, interest,”
16 after “duties,” wherever it appears, and

17 (E) by striking out “duties” in the last
18 sentence and inserting “duties, taxes, interest,
19 and fees”; and

20 (2) by redesignating subsection (b) as sub-
21 section (e) and inserting after subsection (a) the fol-
22 lowing new subsections:

23 “(b) NOTICE OF TITLE VESTING IN THE UNITED
24 STATES.—At the end of the 6-month period referred to
25 in subsection (a), the Customs Service may, in lieu of sale
26 of the merchandise, provide notice to all known interested

1 parties that the title to such merchandise shall be consid-
2 ered to vest in the United States free and clear of any
3 liens or encumbrances, on the 30th day after the date of
4 the notice unless, before such 30th day—

5 “(1) the subject merchandise is entered or with-
6 drawn for consumption; and

7 “(2) payment is made of all duties, taxes, fees,
8 transfer and storage charges, and other expenses
9 that may have accrued thereon.

10 “(c) RETENTION, TRANSFER, DESTRUCTION, OR
11 OTHER DISPOSITION.—If title to any merchandise vests
12 in the United States by operation of subsection (b), such
13 merchandise may be retained by the Customs Service for
14 official use, transferred to any other Federal agency or
15 to any State or local agency, destroyed, or otherwise dis-
16 posed of in accordance with such regulations as the Sec-
17 retary shall prescribe. All transfer and storage charges or
18 expenses accruing on retained or transferred merchandise
19 shall be paid by the receiving agency.

20 “(d) PETITION.—Whenever any party, having lost a
21 substantial interest in merchandise by virtue of title vest-
22 ing in the United States under subsection (b), can estab-
23 lish such title or interest to the satisfaction of the Sec-
24 retary within 30 days after the day on which title vests
25 in the United States under subsection (b), or can establish

1 to the satisfaction of the Secretary that the party did not
2 receive notice under subsection (b), the Secretary may,
3 upon receipt of a timely and proper petition and upon
4 finding that the facts and circumstances warrant, pay
5 such party out of the Treasury of the United States the
6 amount the Secretary believes the party would have re-
7 ceived under section 493 had the merchandise been sold
8 and a proper claim filed. The decision of the Secretary
9 with respect to any such petition is final and conclusive
10 on all parties.”; and

11 (3) by amending subsection (e) (as so redesign-
12 nated) by striking out “appropriate customs officer”
13 in paragraph (3) and inserting “Customs Service”.

14 **SEC. 660. DESTRUCTION OF MERCHANDISE.**

15 Section 492 (19 U.S.C. 1492) is amended—

16 (1) by inserting “, retained for official use, or
17 otherwise disposed of” after “destroyed”; and

18 (2) by striking out “appropriate customs offi-
19 cer” and inserting “Customs Service”.

20 **SEC. 661. PROCEEDS OF SALE.**

21 Section 493 (19 U.S.C. 1493) is amended—

22 (1) by inserting “taxes, and fees,” after “du-
23 ties,”;

24 (2) by striking out “by the appropriate customs
25 officer”; and

1 (3) by striking out “such customs officer” and
2 inserting “the Customs Service”.

3 **SEC. 662. ENTRY UNDER REGULATIONS.**

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

5 (1) by amending paragraph (1) to read as fol-
6 lows:

7 “(1) Merchandise, when—

8 “(A) the aggregate value of the shipment
9 does not exceed an amount specified by the Sec-
10 retary by regulation, but not more than \$2,500;
11 or

12 “(B) different commercial facilitation and
13 risk considerations that may vary for different
14 classes or kinds of merchandise or different
15 classes of transactions may dictate;” and

16 (2) by striking out “\$10,000” in paragraph (2)
17 and inserting “such amounts as the Secretary may
18 prescribe”.

19 **SEC. 663. AMERICAN TRADEMARKS.**

20 Section 526(e)(3) (19 U.S.C. 1526(e)(3)) is amend-
21 ed—

22 (1) by striking out “1 year” and inserting “90
23 days”; and

24 (2) by striking out “appropriate customs offi-
25 cers” and inserting “the Customs Service”.

1 **SEC. 664. SIMPLIFIED RECORDKEEPING FOR MERCHAN-**
2 **DISE TRANSPORTED BY PIPELINE.**

3 Part IV of title IV is amended by inserting after sec-
4 tion 553 the following new section:

5 **“SEC. 553A. RECORDKEEPING FOR MERCHANDISE TRANS-**
6 **PORTED BY PIPELINE.**

7 “Merchandise in Customs custody that is transported
8 by pipeline may be accounted for on a quantitative basis,
9 based on the bill of lading, or equivalent document of re-
10 ceipt, issued by the pipeline carrier. Unless the Customs
11 Service has reasonable cause to suspect fraud, the Cus-
12 toms Service may accept the bill of lading, or equivalent
13 document of receipt, issued by the pipeline carrier to the
14 shipper and accepted by the consignee to maintain iden-
15 tity. The shipper, pipeline operator, and consignee shall
16 be subject to the recordkeeping requirements of sections
17 508 and 509.”.

18 **SEC. 665. ENTRY FOR WAREHOUSE.**

19 Section 557(a) (19 U.S.C. 1557(a)) is amended—

20 (1) by designating the first 2 sentences of such
21 subsection as paragraph (1);

22 (2) by striking out in such paragraph (1) (as so
23 designated) “: *Provided*, That the total period of
24 time for which such merchandise may remain in
25 bonded warehouse shall not exceed 5 years from the

1 date of importation.” and inserting the following: “;
2 except that—

3 “(A) the total period of time for which such
4 merchandise may remain in bonded warehouse shall
5 not exceed 5 years from the date of importation; and

6 “(B) turbine fuel may be withdrawn for use
7 under section 309 without the payment of duty if an
8 amount equal to the quantity of fuel withdrawn is
9 shown to be used within 30 days after the day of
10 withdrawal, but duties (together with interest pay-
11 able from the date of the withdrawal at the rate of
12 interest established under section 6621 of title 26,
13 United States Code) shall be deposited by the 40th
14 day after the day of withdrawal on fuel that was
15 withdrawn in excess of the quantity shown to have
16 been so used during such 30-day period.”; and

17 (3) by designating the remaining sentences of
18 such subsection as paragraph (2).

19 **SEC. 666. CARTAGE.**

20 The first sentence of section 565 (19 U.S.C. 1565)
21 is amended to read as follows: “The cartage of merchan-
22 dise entered for warehouse shall be done by—

23 “(1) cartmen appointed and licensed by the
24 Customs Service; or

1 “(2) carriers designated under section 551 to
2 carry bonded merchandise;
3 who shall give bond, in a penal sum to be fixed by the
4 Customs Service, for the protection of the Government
5 against any loss of, or damage to, the merchandise while
6 being so carted.”.

7 **SEC. 667. SEIZURE.**

8 Section 612 (19 U.S.C. 1612) is amended—

9 (1) by amending subsection (a)—

10 (A) by striking out “the appropriate cus-
11 toms officer”, “such officer” and “the customs
12 officer” wherever they appear and inserting
13 “the Customs Service”, and

14 (B) by striking out “the appraiser’s return
15 and his” and inserting “its”; and

16 (2) by amending subsection (b) to read as fol-
17 lows:

18 “(b) If the Customs Service determines that the ex-
19 pense of keeping the vessel, vehicle, aircraft, merchandise,
20 or baggage is disproportionate to the value thereof, the
21 Customs Service may promptly order the destruction or
22 other appropriate disposition of such property under regu-
23 lations prescribed by the Secretary. No customs officer
24 shall be liable for the destruction or other disposition of
25 property made pursuant to this section.”.

1 **SEC. 668. LIMITATION ON ACTIONS.**

2 Section 621 (19 U.S.C. 1621) is amended—

3 (1) by inserting “any duty under section
4 592(d), 593A(d), or” before “any pecuniary pen-
5 alty”; and

6 (2) by striking out “discovered:” and all that
7 follows thereafter and inserting the follow-
8 ing: “discovered; except that—

9 “(1) in the case of an alleged violation of sec-
10 tion 592 or 593A, no suit or action (including a suit
11 or action for restoration of lawful duties under sub-
12 section (d) of such sections) may be instituted unless
13 commenced within 5 years after the date of the al-
14 leged violation or, if such violation arises out of
15 fraud, within 5 years after the date of discovery of
16 fraud, and

17 “(2) the time of the absence from the United
18 States of the person subject to the penalty or forfeit-
19 ure, or of any concealment or absence of the prop-
20 erty, shall not be reckoned within the 5-year period
21 of limitation.”.

22 **SEC. 669. COLLECTION OF FEES ON BEHALF OF OTHER**
23 **AGENCIES.**

24 The Tariff Act of 1930 is amended by inserting after
25 section 528 the following new section:

1 **“SEC. 529. COLLECTION OF FEES ON BEHALF OF OTHER**
2 **AGENCIES.**

3 “The Customs Service shall be reimbursed from the
4 fees collected for the cost and expense, administrative and
5 otherwise, incurred in collecting any fees on behalf of any
6 government agency for any reason.”.

7 **SEC. 670. AUTHORITY TO SETTLE CLAIMS.**

8 The Tariff Act of 1930 is amended by inserting after
9 section 629 the following new section:

10 **“SEC. 630. AUTHORITY TO SETTLE CLAIMS.**

11 “(a) IN GENERAL.—With respect to a claim that can-
12 not be settled under chapter 171 of title 28, United States
13 Code, the Secretary may settle, for not more than \$50,000
14 in any one case, a claim for damage to, or loss of, privately
15 owned property caused by an investigative or law enforce-
16 ment officer (as defined in section 2680(h) of title 28,
17 United States Code) who is employed by the Customs
18 Service and acting within the scope of his or her employ-
19 ment.

20 “(b) LIMITATIONS.—The Secretary may not pay a
21 claim under subsection (a) that—

22 “(1) concerns commercial property;

23 “(2) is presented to the Secretary more than 1
24 year after it occurs; or

1 “(3) is presented by an officer or employee of
2 the United States Government and arose within the
3 scope of employment.

4 “(c) FINAL SETTLEMENT.—A claim may be paid
5 under this section only if the claimant accepts the amount
6 of settlement in complete satisfaction of the claim.”.

7 **SEC. 671. USE OF PRIVATE COLLECTION AGENCIES.**

8 The Tariff Act of 1930 is amended by inserting after
9 section 630 the following new section:

10 **“SEC. 631. USE OF PRIVATE COLLECTION AGENCIES.**

11 “(a) IN GENERAL.—Notwithstanding any other pro-
12 vision of law, the Secretary, under such terms and condi-
13 tions as the Secretary considers appropriate, shall enter
14 into contracts and incur obligations with one or more per-
15 sons for collection services to recover indebtedness arising
16 under the customs laws and owed the United States Gov-
17 ernment, but only after the Customs Service has ex-
18 hausted all administrative efforts, including all claims
19 against applicable surety bonds, to collect the indebted-
20 ness.

21 “(b) CONTRACT REQUIREMENTS.—Any contract en-
22 tered into under subsection (a) shall provide that—

23 “(1) the Secretary retains the authority to re-
24 solve a dispute, compromise a claim, end collection

1 action, and refer a matter to the Attorney General
2 to bring a civil action; and

3 “(2) the person is subject to—

4 “(A) section 552a of title 5, United States
5 Code, to the extent provided in subsection (m)
6 of such section; and

7 “(B) laws and regulations of the United
8 States Government and State governments re-
9 lated to debt collection practices.”.

10 **Subtitle D—Miscellaneous Provi-**
11 **sions and Consequential and**
12 **Conforming Amendments to**
13 **Other Laws**

14 **SEC. 681. AMENDMENTS TO THE HARMONIZED TARIFF**
15 **SCHEDULE.**

16 (a) RETURN SHIPMENTS.—General Note 4 of the
17 Harmonized Tariff Schedule of the United States is
18 amended—

19 (1) by striking out “and” at the end of subdivi-
20 sion (c);

21 (2) by inserting “and” after “1930,” in subdivi-
22 sion (d);

23 (3) by inserting after subdivision (d) the
24 following:

1 “(e) articles exported from the United States
2 which are returned within 45 days after such expor-
3 tation from the United States as undeliverable and
4 which have not left the custody of the carrier or for-
5 eign customs service,”; and

6 (4) by adding at the end the following new sen-
7 tence: “No exportation referred to in subdivision (e)
8 may be treated as satisfying any requirement for ex-
9 portation in order to receive a benefit from, or meet
10 an obligation to, the United States as a result of
11 such exportation.”.

12 (b) ENTRY NOT REQUIRED FOR LOCOMOTIVES AND
13 RAILWAY FREIGHT CARS.—

14 (1) The Notes to chapter 86 of such Schedule
15 are amended by inserting after note 3 the following
16 new note:

17 “4. Railway locomotives (provided for in headings 8601
18 and 8602) and railway freight cars (provided for in head-
19 ing 8606) on which no duty is owed are not subject to
20 the entry or release requirements for imported merchan-
21 dise set forth in sections 448 and 484 of the Tariff Act
22 of 1930. The Secretary of the Treasury may by regulation
23 establish appropriate reporting requirements, including
24 the requirement that a bond be posted to ensure compli-
25 ance.”.

1 (2) The U.S. Notes to subchapter V of chapter
2 99 of such Schedule are amended by inserting after
3 note 8 the following new note:

4 “9. Railway freight cars provided for in subheadings
5 9905.86.05 and 9905.86.10 are not subject to the entry
6 or release requirements for imported merchandise set
7 forth in sections 448 and 484 of the Tariff Act of 1930.
8 The Secretary of the Treasury may by regulation establish
9 appropriate reporting requirements, including the require-
10 ment that a bond be posted to ensure compliance.”.

11 (c) INSTRUMENTS OF INTERNATIONAL TRAFFIC.—
12 The U.S. Notes to subchapter III of chapter 98 of such
13 Schedule is amended by inserting after note 3 the follow-
14 ing new note:

15 “4. Instruments of international traffic, such as contain-
16 ers, lift vans, rail cars and locomotives, truck cabs and
17 trailers, etc. are exempt from formal entry procedures but
18 are required to be accounted for when imported and ex-
19 ported into and out of the United States, respectively,
20 through the manifesting procedures required for all inter-
21 national carriers by the United States Customs Service.
22 Fees associated with the importation of such instruments
23 of international traffic shall be reported and paid on a
24 periodic basis as required by regulations issued by the Sec-
25 retary of the Treasury and in accordance with 1956 Cus-

1 toms Convention on Containers (20 UST 30; TIAS
2 6634).”.

3 **SEC. 682. CUSTOMS PERSONNEL AIRPORT WORK SHIFT**
4 **REGULATION.**

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

8 (1) by striking out “In addition to the regula-
9 tions required under paragraph (2), the” and insert-
10 ing “The”;

11 (2) by striking out paragraph (2); and

12 (3) by redesignating paragraph (3) as para-
13 graph (2).

14 **SEC. 683. USE OF HARBOR MAINTENANCE TRUST FUND**
15 **AMOUNTS FOR ADMINISTRATIVE EXPENSES.**

16 (a) IN GENERAL.—Paragraph (3) of section 9505(c)
17 of the Internal Revenue Code of 1986 (relating to expendi-
18 tures from Harbor Maintenance Trust Fund) is amended
19 to read as follows:

20 “(3) for the payment of all expenses of adminis-
21 tration incurred by the Department of the Treasury,
22 the Army Corps of Engineers, and the Department
23 of Commerce related to the administration of sub-
24 chapter A of chapter 36 (relating to harbor mainte-

1 nance tax), but not in excess of \$5,000,000 for any
2 fiscal year.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to fiscal years beginning after
5 the date of the enactment of this Act.

6 **SEC. 684. AMENDMENTS TO TITLE 28, UNITED STATES**
7 **CODE.**

8 (a) AMENDMENTS RELATING TO ACCREDITATION OF
9 PRIVATE LABORATORIES.—Title 28 of the United States
10 Code is amended as follows:

11 (1) Section 1581(g) is amended by—

12 (A) striking out “and” at the end of para-
13 graph (1);

14 (B) by striking out the period at the end
15 of paragraph (2) and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(3) any decision or order of the Customs Serv-
18 ice to deny, suspend, or revoke accreditation of a
19 private laboratory under section 499(b) of the Tariff
20 Act of 1930.”.

21 (2) Section 2631(g) is amended by inserting at
22 the end the following new paragraph:

23 “(3) A civil action to review any decision or order
24 of the Customs Service to deny, suspend, or revoke accred-
25 itation of a private laboratory under section 499(b) of the

1 Tariff Act of 1930 may be commenced in the Court of
2 International Trade by the person whose accreditation was
3 denied, suspended, or revoked.”.

4 (3) Section 2636 is amended—

5 (A) by redesignating subsection (h) as sub-
6 section (i); and

7 (B) by inserting after subsection (g) the
8 following new subsection:

9 “(h) A civil action contesting the denial, suspension,
10 or revocation by the Customs Service of a private labora-
11 tory’s accreditation under section 499(b) of the Tariff Act
12 of 1930 is barred unless commenced in accordance with
13 the rules of the Court of International Trade within 60
14 days after the date of the decision or order of the Customs
15 Service.”.

16 (4) Section 2640 is amended—

17 (A) by redesignating subsection (d) as sub-
18 section (e); and

19 (B) by inserting after subsection (c) the
20 following new subsection:

21 “(d) In any civil action commenced to review any
22 order or decision of the Customs Service under section
23 499(b) of the Tariff Act of 1930, the court shall review
24 the action on the basis of the record before the Customs
25 Service at the time of issuing such decision or order.”.

1 (5) Section 2642 is amended by inserting before
2 the period the following: “or laboratories accredited
3 by the Customs Service under section 499(b) of the
4 Tariff Act of 1930”.

5 (b) APPLICATION OF SUBSECTION (a) AMEND-
6 MENTS.—For purposes of applying the amendments made
7 by subsection (a), any decision or order of the Customs
8 Service denying, suspending, or revoking the accreditation
9 of a private laboratory on or after the date of the enact-
10 ment of this Act and before regulations to implement sec-
11 tion 499(b) of the Tariff Act of 1930 are issued shall be
12 treated as having been denied, suspended, or revoked
13 under such section 499(b).

14 (c) JURISDICTION OF COURT.—Section 1582(1) of
15 title 28, United States Code, is amended by inserting
16 “593A,” after “592,”.

17 (d) FILING OF OFFICIAL DOCUMENTS.—Section
18 2635(a) of title 28, United States Code, is amended to
19 read as follows:

20 “(a) In any action commenced in the Court of Inter-
21 national Trade contesting the denial of a protest under
22 section 515 of the Tariff Act of 1930 or the denial of a
23 petition under section 516 of such Act, the Customs Serv-
24 ice, as prescribed by the rules of the court, shall file with
25 the clerk of the court, as part of the official record, any

1 document, paper, information or data relating to the entry
2 of merchandise and the administrative determination that
3 is the subject of the protest or petition.”.

4 **SEC. 685. TREASURY FORFEITURE FUND.**

5 Section 9703 of title 31, United States Code (as
6 added by Public Law 102–393), is amended—

7 (1) by redesignating subparagraphs (E), (F),
8 (G), (H), and (I) of subsection (a)(2) as subpara-
9 graphs (F), (G), (H), (I), and (J), respectively;

10 (2) by inserting after subparagraph (D) of sub-
11 section (a)(2) the following new subparagraph:

12 “(E) the payment of claims against em-
13 ployees of the Customs Service settled by the
14 Secretary under section 630 of the Tariff Act
15 of 1930;” and

16 (3) by striking out “shall” the first place it ap-
17 pears in subsection (e) and inserting “may”.

18 **SEC. 686. AMENDMENTS TO THE REVISED STATUTES OF**
19 **THE UNITED STATES.**

20 (a) TECHNICAL AMENDMENTS.—The Revised Stat-
21 utes of the United States are amended as follows:

22 (1) Section 2793 (19 U.S.C. 288, 46 U.S.C.
23 App. 111, 123) is amended—

24 (A) by striking out “Enrolled or licensed
25 vessels engaged in the foreign and coasting

1 trade on the northern, northeastern, and north-
2 western frontiers of the United States,” and in-
3 serting “Documented vessels with a coastwise,
4 Great Lakes endorsement,”; and

5 (B) by striking out the first semicolon and
6 all the text that follows thereafter and inserting
7 a period.

8 (2) Section 3126 (19 U.S.C. 293) is amended—

9 (A) by striking out “Any vessel, on being
10 duly registered in pursuance of the laws of the
11 United States,” and inserting “Any United
12 States documented vessel with a registry or
13 coastwise endorsement, or both” and

14 (B) by striking out all the text occurring
15 after the first sentence.

16 (3) Section 3127 (19 U.S.C. 294) is amended
17 by striking out “in registered vessels” and inserting
18 “a United States documented vessel with a registry
19 or coastwise endorsement, or both,”.

20 (4) Section 4136 (46 U.S.C. App. 14) is
21 amended by striking out—

22 (A) “The Secretary of Commerce may
23 issue a register or enrollment” and inserting
24 “The Secretary of Transportation may issue a

1 certificate of documentation with a coastwise
2 endorsement”; and

3 (B) “Secretary of Commerce,” and insert-
4 ing “Secretary of Transportation,”.

5 (5) Section 4336 (46 U.S.C. App. 277) is
6 amended—

7 (A) by striking out “register or enrollment
8 or license of any vessel” and inserting “certifi-
9 cate of documentation of any documented ves-
10 sel”; and

11 (B) by striking out “Secretary of the
12 Treasury is not required to have its register or
13 enrollment or license” and inserting “Secretary
14 of Transportation is not required to have its
15 certificate of documentation”.

16 (b) CLEARANCE REQUIREMENTS.—Section 4197 of
17 such Revised Statutes (46 U.S.C. App. 91) is amended
18 to read as follows:

19 **“SEC. 4197. CLEARANCE; VESSELS.**

20 “(a) WHEN REQUIRED; VESSELS OF THE UNITED
21 STATES.—Except as otherwise provided by law, any vessel
22 of the United States shall obtain clearance from the Cus-
23 toms Service before proceeding from a port or place in
24 the United States—

25 “(1) for a foreign port or place;

1 “(2) for another port or place in the United
2 States if the vessel has on board bonded merchan-
3 dise or foreign merchandise for which entry has not
4 been made; or

5 “(3) outside the territorial sea to visit a hover-
6 ing vessel or to receive merchandise while outside
7 the territorial sea.

8 “(b) WHEN REQUIRED; OTHER VESSELS.—Except
9 as otherwise provided by law, any vessel that is not a ves-
10 sel of the United States shall obtain clearance from the
11 Customs Service before proceeding from a port or place
12 in the United States—

13 “(1) for a foreign port or place;

14 “(2) for another port or place in the United
15 States; or

16 “(3) outside the territorial sea to visit a hover-
17 ing vessel or to receive or deliver merchandise while
18 outside the territorial sea.

19 “(c) REGULATIONS.—The Secretary of the Treasury
20 may by regulation—

21 “(1) prescribe the manner in which clearance
22 under this section is to be obtained, including the
23 documents, data or information which shall be sub-
24 mitted or transmitted, pursuant to an authorized
25 data interchange system, to obtain the clearance;

1 “(2) permit the Customs Service to grant clear-
2 ance for a vessel under this section before all re-
3 quirements for clearance are complied with, but only
4 if the owner or operator of the vessel files a bond
5 in an amount set by the Secretary of the Treasury
6 conditioned upon the compliance by the owner or op-
7 erator with all specified requirements for clearance
8 within a time period (not exceeding 4 business days)
9 established by the Secretary of the Treasury; and

10 “(3) authorize the Customs Service to permit
11 clearance of any vessel to be obtained at a place
12 other than a designated port of entry, under such
13 conditions as he may prescribe.”.

14 **SEC. 687. AMENDMENTS TO TITLE 18, UNITED STATES**
15 **CODE.**

16 Section 965(a) of title 18, United States Code, is
17 amended—

18 (1) by striking out “sections 91, 92, and 94 of
19 Title 46” and inserting “section 431 of the Tariff
20 Act of 1930 (19 U.S.C. 1431) and section 4197 of
21 the Revised Statutes of the United States (46
22 U.S.C. App. 91),”;

23 (2) by striking out “the collector of customs for
24 the district wherein such vessel is then located” and
25 inserting “the Customs Service”; and

1 (3) by striking out “the collector like” and in-
2 serting in lieu thereof “the Customs Service like”.

3 **SEC. 688. AMENDMENT TO THE ACT TO PREVENT POLLU-**
4 **TION FROM SHIPS.**

5 Section 9(e) of the Act to Prevent Pollution from
6 Ships (94 Stat. 2301, 33 U.S.C. 1908(e)) is amended by
7 striking out “shall refuse or revoke” and all of the text
8 following thereafter and inserting “shall refuse or revoke
9 the clearance required by section 4197 of the Revised
10 Statutes of the United States (46 U.S.C. App. 91). Clear-
11 ance may be granted upon the filing of a bond or other
12 surety satisfactory to the Secretary.”.

13 **SEC. 689. MISCELLANEOUS TECHNICAL AMENDMENTS.**

14 (a) ACT OF OCTOBER 3, 1913.—The Act of October
15 3, 1913, is amended—

16 (1) in section IV, J, subsection 1 (19 U.S.C.
17 128) by striking out “registered as a vessel of the
18 United States,” and inserting “documented under
19 chapter 121 of title 46, United States Code,”; and

20 (2) in section IV, J, subsection 3 (19 U.S.C.
21 131)—

22 (A) by striking out “vessels of the United
23 States” and inserting “United States docu-
24 mented vessels”; and

1 (B) by striking out “registered as a vessel
2 of the United States.” and inserting “docu-
3 mented under chapter 121 of title 46, United
4 States Code.”.

5 (b) ACT OF AUGUST 5, 1935.—Section 4 of the Act
6 of August 5, 1935 (19 U.S.C. 1704) is amended—

7 (1) by striking out “whenever the collector of
8 customs of the district in which any vessel is, or is
9 sought to be, registered, enrolled, licensed, or num-
10 bered,” and inserting “when the Secretary of Trans-
11 portation”;

12 (2) by striking out “such collector” and insert-
13 ing “the Secretary of Transportation”;

14 (3) by striking out “said collector shall revoke
15 the registry, enrollment, license, or number of such
16 vessel” and inserting “the Secretary of Transpor-
17 tation shall revoke any endorsement on the vessel’s
18 certificate of documentation or number (when the
19 Secretary is the authority issuing the number under
20 chapter 123 of title 46, United States Code)”;

21 (4) by striking out “Such collector and all per-
22 sons” and inserting “The Secretary of Transpor-
23 tation and all persons”.

1 (c) ACT OF NOVEMBER 6, 1966.—Sections 2(e) and
2 3(e) of the Act of November 6, 1966 (46 U.S.C. App.
3 817d(e) and 817e(e)) are each amended—

4 (1) by striking out “The collector of customs
5 at” and inserting “At”; and

6 (2) by inserting “, the Customs Service” after
7 “subsection (a) of this section”.

8 **SEC. 690. REPEAL OF OBSOLETE PROVISIONS OF LAW.**

9 (a) REVISED STATUTES.—The following provisions of
10 the Revised Statutes of the United States are repealed:

11 (1) So much of section 2792 as is codified at
12 19 U.S.C. 289 and 46 U.S.C. App. 110 and 112 (as
13 in effect on the date of the enactment of this Act).

14 (2) Section 3111 (19 U.S.C. 282).

15 (3) Section 3118 (19 U.S.C. 286).

16 (4) Section 3119 (19 U.S.C. 287).

17 (5) Section 3122 (19 U.S.C. 290).

18 (6) Section 3124 (19 U.S.C. 291).

19 (7) Section 3125 (19 U.S.C. 292).

20 (8) Section 4198 (46 U.S.C. App. 94).

21 (9) Section 4199 (46 U.S.C. App. 93).

22 (10) Section 4201 (46 U.S.C. App. 96).

23 (11) Section 4207.

24 (12) Section 4208 (46 U.S.C. App. 102).

25 (13) Section 4213 (46 U.S.C. App. 101).

1 (14) So much of section 4221 as is codified at
2 46 U.S.C. App. 113 (as in effect on the date of the
3 enactment of this Act).

4 (15) Section 4222 (46 U.S.C. App. 126).

5 (16) Sections 4306, 4307, and 4308 (46 U.S.C.
6 App. 351 through 353).

7 (17) Section 4332 (46 U.S.C. App. 274).

8 (18) Section 4348 (46 U.S.C. App. 293).

9 (19) Section 4358 (46 U.S.C. App. 306).

10 (20) Section 4361 (46 U.S.C. App. 307).

11 (21) Sections 4362 through 4369 (46 U.S.C.
12 App. 308 through 315).

13 (22) Sections 4573 through 4576 (46 U.S.C.
14 App. 674 through 677).

15 (b) TARIFF ACT OF 1930.—The following sections of
16 the Tariff Act of 1930 are repealed:

17 (1) Section 432 (19 U.S.C. 1432).

18 (2) Section 435 (19 U.S.C. 1435).

19 (3) Section 437 (19 U.S.C. 1437).

20 (4) Section 439 (19 U.S.C. 1439).

21 (5) Section 440 (19 U.S.C. 1440).

22 (6) Sections 443, 444, and 445 (19 U.S.C.
23 1443, 1444, and 1445).

24 (7) Section 465 (19 U.S.C. 1465).

25 (8) Section 482 (19 U.S.C. 1482).

1 (9) Section 583 (19 U.S.C. 1583).

2 (10) Section 585 (19 U.S.C. 1585).

3 (c) MISCELLANEOUS PROVISIONS.—The following
4 provisions are repealed:

5 (1) Section 1 of the Act of February 10, 1900
6 (46 U.S.C. App. 131).

7 (2) Section 2 of the Act of April 29, 1908 (46
8 U.S.C. App. 127).

9 (3) Section 1 of the Act of July 1, 1916 (46
10 U.S.C. App. 130).

11 (4) Sections 1 and 2 of the Act of July 3, 1926
12 (46 U.S.C. App. 293a and 293b).

13 (5) The last undesignated paragraph of section
14 201 of the Act of August 5, 1935 (19 U.S.C.
15 1432a), is repealed.

16 (6) The Act of June 16, 1937 (19 U.S.C.
17 1435b).

18 (7) The Act of May 4, 1934 (46 U.S.C. App.
19 91a).

20 (8) Section 1403(b) of the Water Resources De-
21 velopment Act of 1986 (Public Law 99-662; 26
22 U.S.C. 4461 note).

23 **SEC. 691. REPORTS TO CONGRESS.**

24 (a) ANTIDUMPING AND COUNTERVAILING DUTY
25 COLLECTIONS.—The Commissioner of Customs shall be-

1 fore the 60th day of each fiscal year after fiscal year 1994
2 submit to Congress a report regarding the collection dur-
3 ing the preceding fiscal year of duties imposed under the
4 antidumping and countervailing duty laws.

5 (b) CES FEE REPORT.—

6 (1) AMENDMENT.—Section 9501(c) of the Om-
7 nibus Budget Reconciliation Act of 1987 (19 U.S.C.
8 3 note) is amended by adding at the end the follow-
9 ing new paragraph:

10 “(3) The Commissioner of Customs is author-
11 ized to obtain from the operators of centralized
12 cargo examination stations information regarding
13 the fees paid to them for the provision of services at
14 these stations.”.

15 (2) REPORT.—Within 9 months after the date
16 of the enactment of this subsection, the Commis-
17 sioner of Customs shall submit to the Committees
18 referred to in section 9501(c) of the Omnibus Budg-
19 et Reconciliation Act of 1987, a report setting
20 forth—

21 (A) an estimate of the aggregate amount
22 of fees paid to operators of centralized cargo
23 examination stations during fiscal year 1993;
24 and

1 (B) the variations, if any, among customs
2 districts with respect to the amounts of the fees
3 charged for centralized cargo examination sta-
4 tion services.

5 (c) COMPLIANCE WITH CUSTOMS LAWS.—Section
6 123 of the Customs and Trade Act of 1990 (19 U.S.C.
7 2083) is amended—

8 (1) by redesignating subsection (d) as sub-
9 section (e), and

10 (2) by inserting after subsection (c) the follow-
11 ing:

12 “(d) COMPLIANCE PROGRAM.—The Commissioner of
13 Customs shall—

14 “(1) devise and implement a methodology for
15 estimating the level of compliance with the laws ad-
16 ministered by the Customs Service; and

17 “(2) include as an additional part of the report
18 required to be submitted under subsection (a) for
19 each of fiscal years 1994, 1995, and 1996, an eval-
20 uation of the extent to which such compliance was
21 obtained during the 12-month period preceding the
22 60th day before each such fiscal year.”.

23 (d) COURIER SERVICES COMPLIANCE REPORT.—The
24 Commissioner of Customs shall initiate a compliance re-
25 view of certain courier services which may not be eligible

1 for benefits under the regulations of the Customs Service
2 prescribed in part 128 of title 19 of the Code of Federal
3 Regulations and shall submit a report to Congress on the
4 results of such review within 1 year after the date of the
5 enactment of this Act.

6 **SEC. 692. EFFECTIVE DATE.**

7 This title takes effect on the date of the enactment
8 of this Act.

HR 3450 RH—2

HR 3450 RH—3

HR 3450 RH—4

HR 3450 RH—5

HR 3450 RH—6

HR 3450 RH—7

HR 3450 RH—8

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