

108TH CONGRESS
2^D SESSION

H. R. 4177

To establish a Manufacturing and Technology Administration to promote and assist American manufacturers, to provide incentives to American manufacturers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2004

Mr. LARSON of Connecticut (for himself, Ms. DELAURO, Mr. FROST, Mr. GREEN of Texas, Mr. HOLDEN, and Mr. BRADY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Science, Financial Services, International Relations, Government Reform, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a Manufacturing and Technology Administration to promote and assist American manufacturers, to provide incentives to American manufacturers, and for other purposes.

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.**

4 This Act may be cited as the “American Workers and
5 Manufacturers Support Act”.

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—ESTABLISHMENT OF MANUFACTURING AND
TECHNOLOGY ADMINISTRATION

- Sec. 101. Manufacturing and Technology Administration.
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TITLE II—WTO DISPUTE SETTLEMENT REVIEW COMMISSION

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- Sec. 301. Restrictions on Export-Import Bank assistance.
- Sec. 302. Restrictions on the Overseas Private Investment Corporation.

TITLE IV—CURRENCY MANIPULATION

- Sec. 401. Negotiation period regarding currency manipulation.
- Sec. 402. Findings of fact and report regarding currency manipulation.
- Sec. 403. Proceedings regarding currency manipulation.
- Sec. 404. Additional reports and recommendations.
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TITLE V—INTERNAL REVENUE CODE AMENDMENTS

- Sec. 501. Disincentivization of corporate expatriation to avoid United States income tax.
- Sec. 502. Inclusion of income from U.S. imports in subpart F income.
- Sec. 503. Denial of treaty benefits for certain deductible payments.
- Sec. 504. Repeal of exclusion for extraterritorial income.
- Sec. 505. Deduction relating to income attributable to United States production activities.

TITLE VI—BUY AMERICAN PROVISIONS

- Sec. 601. Requirements for waivers.
- Sec. 602. GAO report and recommendations.
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TITLE VII—ESTABLISHMENT OF CONGRESSIONAL TRADE OFFICE

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Sec. 704. Authorization of appropriations.

1 **TITLE I—ESTABLISHMENT OF**
2 **MANUFACTURING AND TECH-**
3 **NOLOGY ADMINISTRATION**

4 **SEC. 101. MANUFACTURING AND TECHNOLOGY ADMINIS-**
5 **TRATION.**

6 Section 5 of the Stevenson-Wydler Technology Inno-
7 vation Act of 1980 (15 U.S.C. 3704) is amended to read
8 as follows:

9 **“SEC. 5. MANUFACTURING AND TECHNOLOGY.**

10 “(a) ESTABLISHMENT.—There is established in the
11 Department of Commerce a Manufacturing and Tech-
12 nology Administration, which shall operate in accordance
13 with the provisions, findings, and purposes of this Act.
14 The Manufacturing and Technology Administration shall
15 include—

16 “(1) the National Institute of Standards and
17 Technology;

18 “(2) the National Technical Information Serv-
19 ice; and

20 “(3) a policy analysis office, which shall be
21 known as the Office of Manufacturing and Tech-
22 nology Policy.

1 “(b) UNDER SECRETARY AND ASSISTANT SECRE-
2 TARIES.—The President shall appoint, by and with the ad-
3 vice and consent of the Senate, to the extent provided for
4 in appropriations Acts—

5 “(1) an Under Secretary of Commerce for Man-
6 ufacturing and Technology, who shall be com-
7 pensated at the rate provided for level III of the Ex-
8 ecutive Schedule in section 5314 of title 5, United
9 States Code;

10 “(2) an Assistant Secretary of Manufacturing
11 who shall serve as a policy analyst for the Under
12 Secretary; and

13 “(3) an Assistant Secretary of Technology who
14 shall serve as a policy analyst for the Under Sec-
15 retary.

16 “(c) DUTIES.—The Secretary, through the Under
17 Secretary, as appropriate, shall—

18 “(1) manage the Manufacturing and Tech-
19 nology Administration and supervise its agencies,
20 programs, and activities;

21 “(2) conduct manufacturing and technology pol-
22 icy analyses to improve United States industrial pro-
23 ductivity, manufacturing capabilities, and innova-
24 tion, and cooperate with United States industry to
25 improve its productivity, manufacturing capabilities,

1 and ability to compete successfully in an inter-
2 national marketplace;

3 “(3) identify manufacturing and technological
4 needs, problems, and opportunities within and across
5 industrial sectors, that, if addressed, could make sig-
6 nificant contributions to the economy of the United
7 States;

8 “(4) assess whether the capital, technical, and
9 other resources being allocated to domestic indus-
10 trial sectors which are likely to generate new tech-
11 nologies are adequate to meet private and social de-
12 mands for goods and services and to promote pro-
13 ductivity and economic growth;

14 “(5) propose and support studies and policy ex-
15 periments, in cooperation with other Federal agen-
16 cies, to determine the effectiveness of measures for
17 improving United States manufacturing capabilities
18 and productivity;

19 “(6) provide that cooperative efforts to stimu-
20 late industrial competitiveness and innovation be un-
21 dertaken between the Under Secretary and other of-
22 ficials in the Department of Commerce responsible
23 for such areas as trade and economic assistance;

24 “(7) encourage and assist the creation of cen-
25 ters and other joint initiatives by State or local gov-

1 ernments, regional organizations, private businesses,
2 institutions of higher education, nonprofit organiza-
3 tions, or Federal laboratories to encourage tech-
4 nology transfer, to encourage innovation, and to pro-
5 mote an appropriate climate for investment in tech-
6 nology-related industries;

7 “(8) propose and encourage cooperative re-
8 search involving appropriate Federal entities, State
9 or local governments, regional organizations, colleges
10 or universities, nonprofit organizations, or private
11 industry to promote the common use of resources, to
12 improve training programs and curricula, to stimu-
13 late interest in manufacturing and technology ca-
14 reers, and to encourage the effective dissemination
15 of manufacturing and technology skills within the
16 wider community;

17 “(9) serve as a focal point for discussions
18 among United States companies on topics of interest
19 to industry and labor, including discussions regard-
20 ing manufacturing, competitiveness, and emerging
21 technologies;

22 “(10) consider government measures with the
23 potential of advancing United States technological
24 innovation and exploiting innovations of foreign ori-

1 gin and publish the results of studies and policy ex-
2 periments; and

3 “(11) assist in the implementation of the Metric
4 Conversion Act of 1975 (15 U.S.C. 205a et seq.).

5 “(d) MANUFACTURING ADVISORY BOARD.—

6 “(1) ESTABLISHMENT AND COMPOSITION.—

7 There is established a Manufacturing Advisory
8 Board within the Manufacturing and Technology
9 Administration. The Under Secretary or the Assist-
10 ant Secretary of Manufacturing shall chair the Advi-
11 sory Board. The Advisory Board shall be composed
12 of 14 additional members appointed by the Under
13 Secretary as follows:

14 “(A) 1 representative each from the Na-
15 tional Association of Manufacturers, the Na-
16 tional Coalition for Advanced Manufacturing,
17 and the Modernization Forum.

18 “(B) 4 members from outside the Federal
19 Government who are eminent in the manufac-
20 turing industry, at least 2 of whom are rep-
21 resentatives of small and medium-sized compa-
22 nies in such industries.

23 “(C) 4 members from Federal agencies
24 who have manufacturing science and technology
25 expertise, at least 1 of whom shall be from the

1 National Institute of Standards and Tech-
2 nology.

3 “(D) 3 members from labor unions, a ma-
4 jority of whose members have manufacturing
5 jobs.

6 “(2) DUTIES.—The duties of the Advisory
7 Board shall be—

8 “(A) to identify manufacturing issues rel-
9 ative to manufacturing technology and competi-
10 tiveness;

11 “(B) to advise the Under Secretary on
12 manufacturing issues, including manufacturing
13 activities at the National Institute of Standards
14 and Technology, and make recommendations
15 for actions by the Federal Government; and

16 “(C) to report its finding and rec-
17 ommendations to the Under Secretary and the
18 Director of the Office of Management and
19 Budget.

20 “(3) TERMS OF OFFICE.—The term of office of
21 each member of the Advisory Board shall be 4 years,
22 except that—

23 “(A) of the initial members, 3 shall be ap-
24 pointed for terms of 1 year, 3 shall be ap-
25 pointed for terms of 2 years, 4 shall be ap-

1 pointed for terms of 3 years, and 4 shall be ap-
2 pointed for terms of 4 years; and

3 “(B) any member appointed to fill a va-
4 cancy in the Advisory Board shall serve for the
5 remainder of the term for which his predecessor
6 was appointed.

7 “(4) QUORUM.—The Advisory Board shall not
8 act in the absence of a quorum, which shall consist
9 of 8 members.

10 “(5) ALLOWANCE FOR TRAVEL EXPENSES.—
11 Members of the Advisory Board, other than full-time
12 employees of the Federal Government, while attend-
13 ing meetings of the Board or while otherwise per-
14 forming duties at the request of the Chairman while
15 away from their home or a regular place of business,
16 may be allowed travel expenses in accordance with
17 subchapter I of chapter 57 of title 5, United States
18 Code.

19 “(6) STAFF SERVICES AND UTILIZATION OF
20 FEDERAL PERSONNEL.—To provide the staff serv-
21 ices necessary to assist the Advisory Board in car-
22 rying out its functions, the Advisory Board may uti-
23 lize personnel from the National Institute of Stand-
24 ards and Technology or any other agency of the

1 Federal Government with the consent of the head of
2 the agency.

3 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary for the
5 activities of the Under Secretary—

6 “(1) \$2,000,000 for fiscal year 2004;

7 “(2) \$2,070,000 for fiscal year 2005;

8 “(3) \$2,140,000 for fiscal year 2006; and

9 “(4) \$2,220,000 for fiscal year 2007.”.

10 **SEC. 102. STUDY OF ABUSIVE PRACTICES BY LARGE MANU-**
11 **FACTURERS AND RETAILERS.**

12 (a) STUDY.—The Under Secretary of Commerce for
13 Manufacturing and Technology (appointed pursuant to
14 section 101 of this title) shall conduct a study of practices
15 by large manufacturers and retailers whereby such manu-
16 facturers and retailers place large contract orders and
17 later cancel such orders after only a portion of the goods
18 or services are provided, and the impact that such prac-
19 tices have on small businesses.

20 (b) REPORT.—Not later than 1 year after the date
21 of enactment of this title, the Under Secretary of Com-
22 merce for Manufacturing and Technology shall transmit
23 a report to the Congress on the findings of the study re-
24 quired by subsection (a). The report shall propose guide-
25 lines to address abusive practices and recommendations

1 for a means to allow small manufacturers to confidentially
2 report such practices.

3 **SEC. 103. STUDY OF FEASIBILITY OF LABELING REQUIRE-**
4 **MENTS.**

5 (a) STUDY.—The Under Secretary of Commerce for
6 Manufacturing and Technology (appointed pursuant to
7 section 101 of this title) shall conduct a study of the feasi-
8 bility and impact of laws or regulations requiring all prod-
9 ucts retailing at more than \$15 to state clearly on the
10 labels the percentage of components made in the United
11 States.

12 (b) REPORT.—Not later than 1 year after the date
13 of enactment of this title, the Under Secretary of Com-
14 merce for Manufacturing and Technology shall transmit
15 a report to the Congress on the findings of the study re-
16 quired by subsection (a). The report shall examine the cost
17 of such a labeling requirement to manufacturers and con-
18 sumers, shall include recommendations for any necessary
19 legislation, and shall propose a timetable for implementa-
20 tion of such requirements.

21 **SEC. 104. STUDIES BY NATIONAL ACADEMY OF SCIENCES.**

22 Section 24 of the National Institute of Standards and
23 Technology Act (15 U.S.C. 278j) is amended—

24 (1) by striking “The Director may” through
25 “assist the” and inserting “The Under Secretary of

1 Commerce for Manufacturing and Technology and
2 the Director may periodically enter into an arrange-
3 ment with the National Academy of Sciences for ad-
4 vice and studies to assist the Manufacturing and
5 Technology Administration and the”; and

6 (2) in paragraph (2) by inserting “the Manu-
7 facturing and Technology Administration and” after
8 “potential activities of”.

9 **SEC. 105. MANUFACTURING RESEARCH AND IMPLEMENTA-**
10 **TION; DEVELOPMENT OF NEW MANUFAC-**
11 **TURING TECHNOLOGIES.**

12 (a) NATIONAL INSTITUTES OF STANDARDS AND
13 TECHNOLOGY LABORATORY ACTIVITIES.—There are au-
14 thorized to be appropriated to the Secretary of Commerce
15 for Manufacturing Engineering activities at the Scientific
16 and Technical Research and Services Laboratory of the
17 National Institute of Standards and Technology—

18 (1) \$60,000,000 for fiscal year 2004, of which
19 \$30,000,000 shall be for the research and develop-
20 ment program on manufacturing under section 33 of
21 the National Institute of Standards and Technology
22 Act;

23 (2) \$62,100,000 for fiscal year 2005, of which
24 \$31,050,000 shall be for the research and develop-
25 ment program on manufacturing under section 33 of

1 the National Institute of Standards and Technology
2 Act;

3 (3) \$64,270,000 for fiscal year 2006, of which
4 \$32,140,000 shall be for the research and develop-
5 ment program on manufacturing under section 33 of
6 the National Institute of Standards and Technology
7 Act; and

8 (4) \$68,850,000 for fiscal year 2007, of which
9 \$33,260,000 shall be for the research and develop-
10 ment program on manufacturing under section 33 of
11 the National Institute of Standards and Technology
12 Act.

13 (b) NATIONAL INSTITUTES OF STANDARDS AND
14 TECHNOLOGY RESEARCH AND DEVELOPMENT PRO-
15 GRAM.—The National Institute of Standards and Tech-
16 nology Act is amended—

17 (1) by redesignating the first section 32 as sec-
18 tion 34 and moving it to the end of the Act; and

19 (2) by inserting before the section moved by
20 paragraph (1) the following new section:

21 **“SEC. 33. RESEARCH AND DEVELOPMENT PROGRAM ON**
22 **MANUFACTURING.**

23 “(a) ESTABLISHMENT.—The Director shall establish
24 a program of assistance to institutions of higher education
25 or nonprofit research institutions that enter into partner-

1 ships with for-profit entities to support, promote, and en-
2 hance manufacturing research and development. The pro-
3 gram shall—

4 “(1) include multidisciplinary research; and

5 “(2) include research directed toward address-
6 ing the needs identified through the Under Secretary
7 of Commerce for Manufacturing and Technology,
8 the Office of Manufacturing and Technology Policy,
9 and the Manufacturing Advisory Board.

10 “(b) FELLOWSHIPS.—In order to promote the devel-
11 opment of a robust research community working at the
12 leading edge of manufacturing sciences, the Director shall
13 establish a program to award—

14 “(1) postdoctoral research fellowships to indi-
15 viduals who are seeking research positions at institu-
16 tions, including the Institute, engaged in research
17 activities related to manufacturing sciences; and

18 “(2) senior research fellowships to individuals
19 seeking research positions at institutions, including
20 the Institute, engaged in research activities related
21 to manufacturing sciences. To be eligible for an
22 award under this subsection, an individual shall sub-
23 mit an application to the Director at such time, in
24 such manner, and containing such information as
25 the Director may require. Under this subsection, the

1 Director shall provide stipends for postdoctoral re-
2 search fellowships at a level consistent with the In-
3 stitute’s Post Doctoral Research Fellowship Pro-
4 gram, and senior research fellowships at levels con-
5 sistent with support for a faculty member in a sab-
6 batical position.

7 “(c) AWARDS, APPLICATIONS.—The Director is au-
8 thorized to award grants or cooperative agreements to in-
9 stitutions of higher education to carry out the program
10 established under subsection (a). To be eligible for an
11 award under such subsection, an institution shall submit
12 an application to the Director at such time, in such man-
13 ner, and containing such information as the Director may
14 require. The application shall include, at minimum, a de-
15 scription of how the for-profit entities and any other part-
16 ners will participate in developing and carrying out the
17 research agenda of the partnership.

18 “(d) PROGRAM OPERATION.—(1) The program es-
19 tablished under subsection (a) shall be managed by indi-
20 viduals who have expertise in research related to manufac-
21 turing technology. The Director shall designate such indi-
22 viduals program managers.

23 “(2) Program managers designated under paragraph
24 (1) may be new or existing employees of the Institute or

1 individuals on assignment at the Institute under the Inter-
2 governmental Personnel Act of 1970.

3 “(3) Program managers designated under paragraph
4 (1) shall be responsible for—

5 “(A) establishing and publicizing the broad re-
6 search and development goals for the program;

7 “(B) soliciting applications for specific research
8 projects to address the goals developed under sub-
9 paragraph (A); and

10 “(C) selecting research projects for support
11 under the program from among applications sub-
12 mitted to the Institute, following consideration of—

13 “(i) the novelty and scientific and technical
14 merit of the proposed projects;

15 “(ii) the demonstrated capabilities of the
16 individual or individuals submitting the applica-
17 tions to successfully carry out the proposed re-
18 search;

19 “(iii) the impact the proposed projects will
20 have on increasing the number of individuals
21 with research expertise in manufacturing
22 sciences; and

23 “(iv) the nature of the participation by for-
24 profit entities and the extent to which the pro-
25 posed projects address the concerns of industry.

1 “(e) REVIEW OF PROGRAM.—The Director shall
2 enter into an arrangement with the National Academy of
3 Sciences for a comprehensive review of the program estab-
4 lished under subsection (a) during the third year of the
5 program. Such review shall include an assessment of the
6 quality and utility of the research conducted and the rel-
7 evance of the research results obtained to the goals of the
8 program. The Director shall submit a report to Congress
9 on the results of the review under this subsection not later
10 than 4 years after the initiation of the program.

11 “(f) DEFINITION.—For the purposes of this section
12 the term ‘institution of higher education’ has the meaning
13 given that term in section 101 of the Higher Education
14 Act of 1965 (20 U.S.C. 1001).”.

15 **SEC. 106. ADVANCED TECHNOLOGY PROGRAM.**

16 (a) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary of Com-
18 merce for the Advanced Technology Program under sec-
19 tion 28 of the National Institute of Standards and Tech-
20 nology Act (15 U.S.C. 278n)—

21 (1) \$219,400,000 for fiscal year 2004, includ-
22 ing \$80,700,000 for new awards, of which
23 \$20,000,000 shall be for a focused competition in
24 manufacturing sciences;

1 (2) \$262,900,000 for fiscal year 2005, includ-
2 ing \$80,700,000 for new awards, of which
3 \$20,000,000 shall be for a focused competition in
4 manufacturing sciences;

5 (3) \$280,900,000 for fiscal year 2006, includ-
6 ing \$80,700,000 for new awards, of which
7 \$20,000,000 shall be for a focused competition in
8 manufacturing sciences; and

9 (4) \$290,400,000 for fiscal year 2007, includ-
10 ing \$80,700,000 for new awards, of which
11 \$20,000,000 shall be for a focused competition in
12 manufacturing sciences.

13 (b) UNIVERSITY LEADERSHIP OF JOINT VEN-
14 TURES.—

15 (1) JOINT VENTURE AID.—Section 28(b)(1) of
16 the National Institute of Standards and Technology
17 Act (15 U.S.C. 278n(b)(1)) is amended by striking
18 “industry-led United States” and all that follows
19 through “organizations)” and inserting “joint ven-
20 tures”.

21 (2) DEFINITION.—Section 28(j)(1) of the Na-
22 tional Institute of Standards and Technology Act
23 (15 U.S.C. 278n(j)(1)) is amended by striking “two
24 or more persons” and inserting “a combination of
25 two or more persons (which shall include at least

1 two companies, each of which participates substan-
2 tially in the joint venture, and may include one or
3 more institutions of higher education or nonprofit
4 organizations)”.
5

6 (c) INTELLECTUAL PROPERTY RIGHTS OWNER-
7 SHIP.—Section 28(d)(11) of the National Institute of
8 Standards and Technology Act (15 U.S.C. 278n(d)(11))
9 is amended by striking “(11)(A)” and all that follows
10 through “with such intellectual property.” and inserting
11 the following:

12 “(11)(A) Title to any intellectual property de-
13 veloped by a joint venture from assistance provided
14 under this section may vest in any participant in the
15 joint venture, as agreed by the members of the joint
16 venture, notwithstanding section 202(a) and (b) of
17 title 35, United States Code. The United States may
18 reserve a nonexclusive, nontransferable, irrevocable,
19 paid-up license, to have practiced for or on behalf of
20 the United States in connection with any such intel-
21 lectual property, but shall not, in the exercise of
22 such license, publicly disclose proprietary informa-
23 tion related to the license. Title to any such intellec-
24 tual property shall not be transferred or passed, ex-
cept to a participant in the joint venture, until the

1 expiration of the first patent obtained in connection
2 with such intellectual property.”.

3 (d) BARRIERS TO PRODUCT DEVELOPMENT.—Sec-
4 tion 28(d) of the National Institute of Standards and
5 Technology Act (15 U.S.C. 278n(d)) is amended by add-
6 ing at the end the following new paragraph:

7 “(12) No contract or award may be made under
8 this section for any project unless the project may
9 remove a scientific or technological barrier to prod-
10 uct development.”.

11 (e) PROJECT REVIEW AND EVALUATION.—Section
12 28(g) of the National Institute of Standards and Tech-
13 nology Act (15 U.S.C. 278n(g)) is amended to read as
14 follows:

15 “(g) INDUSTRY AND PEER REVIEW OF PRO-
16 POSALS.—(1) In order to analyze the need for or the value
17 of any proposal made by a joint venture or company re-
18 questing the Secretary’s assistance under this section, or
19 to monitor the progress of any project which receives
20 funds under this section, the Secretary, the Under Sec-
21 retary of Commerce for Manufacturing and Technology,
22 and the Director may, notwithstanding any other provision
23 of law, meet with such industry and other expert sources,
24 without a proprietary or financial interest in proposals
25 being evaluated, as they consider useful and appropriate.

1 “(2) In order to better assess whether specific innova-
2 tions to be pursued are being adequately supported by the
3 private sector, the Director shall conduct a study of, and
4 thereafter monitor, whether the Secretary, the Undersec-
5 retary of Commerce for Manufacturing and Technology,
6 and the Director could benefit from advice and informa-
7 tion from additional industry and other expert sources,
8 without a proprietary or financial interest in proposals
9 being evaluated. Not later than one year after the date
10 of the enactment of this Act, and biennially thereafter, the
11 Director shall transmit to the Congress a report con-
12 taining the results of the study and monitoring under this
13 paragraph.”.

14 **TITLE II—WTO DISPUTE SETTLE-**
15 **MENT REVIEW COMMISSION**

16 **SEC. 201. ESTABLISHMENT OF COMMISSION.**

17 (a) **ESTABLISHMENT.**—There is established a com-
18 mission to be known as the WTO Dispute Settlement Re-
19 view Commission (in this title referred to as the “Commis-
20 sion”).

21 (b) **MEMBERSHIP.**—

22 (1) **COMPOSITION.**—The Commission shall be
23 composed of 5 members, all of whom shall be judges
24 of the Federal judicial circuits and shall be ap-
25 pointed by the President, after consultation with the

1 Majority Leader and Minority Leader of the House
2 of Representatives, and the Majority Leader and Mi-
3 nority Leader of the Senate.

4 (2) DATE.—The appointments of the members
5 of the Commission shall be made no later than 60
6 days after the date of the enactment of this Act.

7 (3) IN GENERAL.—Members of the Commission
8 first appointed shall each be appointed for a term of
9 5 years. After the initial 5-year term, 3 members of
10 the Commission shall be appointed for terms of 3
11 years and the remaining 2 members shall be ap-
12 pointed for terms of 2 years.

13 (4) VACANCIES.—

14 (A) IN GENERAL.—Any vacancy on the
15 Commission shall not affect its powers, but
16 shall be filled in the same manner as the origi-
17 nal appointment and shall be subject to the
18 same conditions as the original appointment.

19 (B) UNEXPIRED TERM.—An individual
20 chosen to fill a vacancy shall be appointed for
21 the unexpired term of the member replaced.

22 **SEC. 202. DUTIES OF THE COMMISSION.**

23 (a) REVIEW OF WTO DISPUTE SETTLEMENT RE-
24 PORTS.—

1 (1) IN GENERAL.—The Commission shall re-
2 view—

3 (A) all reports of dispute settlement panels
4 or the Appellate Body of the World Trade Or-
5 ganization in proceedings initiated by other par-
6 ties to the WTO which are adverse to the
7 United States and which are adopted by the
8 Dispute Settlement Body, and

9 (B) upon request of the United States
10 Trade Representative, any other report of a dis-
11 pute settlement panel or the Appellate Body
12 which is adopted by the Dispute Settlement
13 Body.

14 (2) SCOPE OF REVIEW.—In the case of reports
15 described in paragraph (1), the Commission shall re-
16 view the report and determine whether—

17 (A) the panel or the Appellate Body, as the
18 case may be, exceeded its authority or its terms
19 of reference;

20 (B) the panel or the Appellate Body, as
21 the case may be, added to the obligations of or
22 diminished the rights of the United States
23 under the Uruguay Round agreement which is
24 the subject of report;

1 (C) the panel or the Appellate Body, as the
2 case may be, acted arbitrarily or capriciously,
3 engaged in misconduct, or demonstrably de-
4 parted from the procedures specified for panels
5 and Appellate Bodies in the applicable Uruguay
6 Round Agreement; and

7 (D) the report of the panel or the Appel-
8 late Body, as the case may be, deviated from
9 the applicable standard of review, including, in
10 antidumping, countervailing duty, and other un-
11 fair trade remedy cases, the standard of review
12 set forth in Article 17.6 of the Agreement on
13 Implementation of Article VI of the General
14 Agreement on Tariffs and Trade 1994.

15 (3) AFFIRMATIVE DETERMINATION.—If the
16 Commission makes an affirmative determination
17 with respect to the action of a panel or an Appellate
18 Body under subparagraph (A), (B), (C), or (D) of
19 paragraph (2), the Commission shall determine
20 whether the action of the panel or Appellate Body
21 materially affected the outcome of the report of the
22 panel or Appellate Body.

23 (b) DETERMINATION; REPORT.—

24 (1) DETERMINATION.—No later than 120 days
25 after the date on which a report of a panel or Appel-

1 late Body described in subsection (a)(1) is adopted
2 by the Dispute Settlement Body, the Commission
3 shall make a written determination with respect to
4 matters described in subsections (a)(2) and (a)(3).

5 (2) REPORTS.—The Commission shall report
6 the determinations described in paragraph (1) to the
7 Congress.

8 **SEC. 203. POWERS OF THE COMMISSION.**

9 (a) HEARINGS.—The Commission may hold such
10 hearings, sit and act at such times and places, take such
11 testimony, and receive such evidence as the Commission
12 considers advisable to carry out the purposes of this title.

13 (b) INFORMATION FROM INTERESTED PARTIES AND
14 FEDERAL AGENCIES.—

15 (1) NOTICE OF PANEL OR APPELLATE BODY
16 REPORT.—The United States Trade Representative
17 shall advise the Commission no later than 5 days
18 after the date the Dispute Settlement Body adopts
19 the report of a panel or Appellate Body that is ad-
20 verse to the United States and shall immediately
21 publish notice of such advice in the Federal Reg-
22 ister, along with notice of an opportunity for inter-
23 ested parties to submit comments to the Commis-
24 sion.

1 (2) SUBMISSIONS AND REQUESTS FOR INFOR-
2 MATION.—Any interested party may submit com-
3 ments to the Commission regarding the panel or Ap-
4 pellate Body report. The Commission may also se-
5 cure directly from any Federal department or agency
6 such information as the Commission considers nec-
7 essary to carry out the provisions of this title. Upon
8 request of the Chairman of the Commission, the
9 head of such department or agency shall furnish
10 such information to the Commission.

11 (3) ACCESS TO PANEL AND APPELLATE BODY
12 DOCUMENTS.—The United States Trade Representa-
13 tive shall make available to the Commission all sub-
14 missions and relevant documents relating to the
15 panel or Appellate Body report, including any infor-
16 mation contained in such submissions that is identi-
17 fied by the provider of the information as propri-
18 etary information or information treated as con-
19 fidential by a foreign government.

20 **SEC. 204. REVIEW OF DISPUTE SETTLEMENT PROCEDURES**
21 **AND PARTICIPATION IN THE WTO.**

22 (a) AFFIRMATIVE REPORT BY COMMISSION.—

23 (1) IN GENERAL.—If a joint resolution de-
24 scribed in subsection (b)(1) is enacted into law pur-
25 suant to the provisions of subsection (c), the Presi-

1 dent shall undertake negotiations to amend or mod-
2 ify the rules and procedures of the Understanding
3 on Rules and Procedures Governing the Settlement
4 of Disputes to which such joint resolution relates.

5 (2) 3 AFFIRMATIVE REPORTS BY COMMIS-
6 SION.—If a joint resolution described in subsection
7 (b)(2) is enacted into law pursuant to the provisions
8 of subsection (c), the approval of the Congress, pro-
9 vided under section 101(a) of the Uruguay Round
10 Agreements Act, of the WTO Agreement shall cease
11 to be effective in accordance with the provisions of
12 the joint resolution and the United States shall
13 cease to be a member of the WTO.

14 (b) JOINT RESOLUTIONS DESCRIBED.—

15 (1) IN GENERAL.—For purposes of subsection
16 (a)(1), a joint resolution is described in this para-
17 graph, if it is a joint resolution of the 2 Houses of
18 Congress and the matter after the resolving clause
19 of such joint resolution is as follows: “That the Con-
20 gress authorizes and directs the President to under-
21 take negotiations to amend or modify the rules and
22 procedures of the Understanding on Rules and Pro-
23 cedures Governing the Settlement of Disputes relat-
24 ing to ____ with respect to the affirmative deter-
25 mination submitted to the Congress by the WTO

1 Dispute Settlement Review Commission on _____”,
2 the first blank space being filled with the specific
3 rules and procedures with respect to which the
4 President is to undertake negotiations and the sec-
5 ond blank space being filled with the date of the af-
6 firmative determination submitted to the Congress
7 by the Commission pursuant to section 202(b) which
8 has given rise to the joint resolution.

9 (2) WITHDRAWAL RESOLUTION.—For purposes
10 of subsection (a)(2), a joint resolution is described
11 in this paragraph, if it is a joint resolution of the
12 2 Houses of Congress and the matter after the re-
13 solving clause of such joint resolution is as follows:
14 “That the Congress authorizes and directs the Presi-
15 dent to undertake negotiations to amend or modify
16 the rules and procedures of the Understanding on
17 Rules and Procedures Governing the Settlement of
18 Disputes relating to _____ with respect to the affirm-
19 ative report submitted to the Congress by the WTO
20 Dispute Settlement Review Commission on _____ and
21 if such negotiations do not result in a satisfactory
22 solution by _____, the Congress withdraws its ap-
23 proval, provided under section 101(a) of the Uru-
24 guay Round Agreements Act, of the WTO Agree-
25 ment as defined in section 2(9) of that Act”, the

1 first blank space being filled with the specific rules
2 and procedures with respect to which the President
3 is to undertake negotiations, the second blank space
4 being filled with the date of the affirmative deter-
5 mination submitted to the Congress by the Commis-
6 sion pursuant to section 202(b) which has given rise
7 to the joint resolution, and the third blank space
8 being filled with the date the Congress withdraws its
9 approval of the WTO Agreement.

10 (c) PROCEDURAL PROVISIONS.—

11 (1) IN GENERAL.—The requirements of this
12 subsection are met if the joint resolution is enacted
13 in accordance with this subsection, and—

14 (A) in the case of a joint resolution de-
15 scribed in subsection (b)(1), the Congress
16 adopts and transmits the joint resolution to the
17 President before the end of the 90-day period
18 (excluding any day described in section 154(b)
19 of the Trade Act of 1974), beginning on the
20 date on which the Congress receives an affirma-
21 tive determination from the Commission de-
22 scribed in section 202(b); or

23 (B) in the case of a joint resolution de-
24 scribed in subsection (b)(2), the Commission
25 has made 3 affirmative determinations de-

1 scribed in section 202(b) during a 5-year pe-
2 riod, and the Congress adopts and transmits
3 the joint resolution to the President before the
4 end of the 90-day period (excluding any day de-
5 scribed in section 154(b) of the Trade Act of
6 1974), beginning on the date on which the Con-
7 gress receives the third such affirmative deter-
8 mination.

9 (2) PRESIDENTIAL VETO.—In any case in
10 which the President vetoes the joint resolution, the
11 requirements of this subsection are met if each
12 House of Congress votes to override that veto on or
13 before the later of the last day of the 90-day period
14 referred to in subparagraph (A) or (B) of paragraph
15 (1), whichever is applicable, or the last day of the
16 15-day period (excluding any day described in sec-
17 tion 154(b) of the Trade Act of 1974) beginning on
18 the date on which the Congress receives the veto
19 message from the President.

20 (3) INTRODUCTION.—

21 (A) TIME.—A joint resolution to which
22 this section applies may be introduced at any
23 time on or after the date on which the Commis-
24 sion transmits to the Congress an affirmative
25 determination under section 202(b), and before

1 the end of the 90-day period referred to in sub-
2 paragraph (A) or (B) of paragraph (1), as the
3 case may be.

4 (B) ANY MEMBER MAY INTRODUCE.—A
5 joint resolution described in subsection (b) may
6 be introduced in either House of the Congress
7 by any Member of such House.

8 (4) EXPEDITED PROCEDURES.—

9 (A) GENERAL RULE.—Subject to the pro-
10 visions of this subsection, the provisions of sub-
11 sections (b), (d), (e), and (f) of section 152 of
12 the Trade Act of 1974 (19 U.S.C. 2192(b), (d),
13 (e), and (f)) apply to joint resolutions described
14 in subsection (b) to the same extent as such
15 provisions apply to resolutions under such sec-
16 tion.

17 (B) REPORT OR DISCHARGE OF COM-
18 MITTEE.—If the committee of either House to
19 which a joint resolution has been referred has
20 not reported it by the close of the 45th day
21 after its introduction (excluding any day de-
22 scribed in section 154(b) of the Trade Act of
23 1974), such committee shall be automatically
24 discharged from further consideration of the

1 joint resolution and it shall be placed on the ap-
2 propriate calendar.

3 (C) FINANCE AND WAYS AND MEANS COM-
4 MITTEES.—It is not in order for—

5 (i) the Senate to consider any joint
6 resolution unless it has been reported by
7 the Committee on Finance or the com-
8 mittee has been discharged under subpara-
9 graph (B); or

10 (ii) the House of Representatives to
11 consider any joint resolution unless it has
12 been reported by the Committee on Ways
13 and Means or the committee has been dis-
14 charged under subparagraph (B).

15 (D) SPECIAL RULE FOR HOUSE.—A mo-
16 tion in the House of Representatives to proceed
17 to the consideration of a joint resolution may
18 only be made on the second legislative day after
19 the calendar day on which the Member making
20 the motion announces to the House his or her
21 intention to do so.

22 (5) CONSIDERATION OF SECOND RESOLUTION
23 NOT IN ORDER.—It shall not be in order in either
24 the House of Representatives or the Senate to con-
25 sider a joint resolution (other than a joint resolution

1 received from the other House), if that House has
2 previously adopted a joint resolution under this sec-
3 tion relating to the same matter.

4 (d) RULES OF HOUSE OF REPRESENTATIVES AND
5 SENATE.—This section is enacted by the Congress—

6 (1) as an exercise of the rulemaking power of
7 the House of Representatives and the Senate, re-
8 spectively, and as such is deemed a part of the rules
9 of each House, respectively, and such procedures su-
10 persede other rules only to the extent that they are
11 inconsistent with such other rules; and

12 (2) with the full recognition of the constitu-
13 tional right of either House to change the rules (so
14 far as relating to the procedures of that House) at
15 any time, in the same manner, and to the same ex-
16 tent as any other rule of that House.

17 **SEC. 205. PARTICIPATION IN WTO PANEL PROCEEDINGS.**

18 (a) IN GENERAL.—If the United States Trade Rep-
19 resentative, in proceedings before a dispute settlement
20 panel or the Appellate Body of the WTO, seeks—

21 (1) to enforce United States rights under a
22 multilateral trade agreement, or

23 (2) to defend a challenged action or determina-
24 tion of the United States Government,

1 a private United States person that is supportive of the
2 position of United States Government before the panel or
3 Appellate Body and that has a direct economic interest
4 in the resolution by the panel or the Appellate Body of
5 the matters in dispute shall be permitted to participate
6 in consultations and panel proceedings with respect to
7 those matters. The Trade Representative shall issue regu-
8 lations, consistent with subsections (b) and (c), ensuring
9 full and effective participation by any such private person.

10 (b) ACCESS TO INFORMATION.—The United States
11 Trade Representative shall make available to persons de-
12 scribed in subsection (a) all information presented to or
13 otherwise obtained by the Trade Representative in connec-
14 tion with a WTO dispute settlement proceeding. The
15 United States Trade Representative shall promulgate reg-
16 ulations implementing a protective order system to protect
17 information designated as confidential by the party sub-
18 mitting the information.

19 (c) PARTICIPATION IN PANEL PROCESS.—Upon re-
20 quest from a person described in subsection (a), the
21 United States Trade Representative shall—

22 (1) consult in advance with such person regard-
23 ing the content of written submissions from the
24 United States to the WTO panel concerned or to the
25 other member countries involved;

1 (2) include, where appropriate, such person or
2 its appropriate representative as an advisory mem-
3 ber of the delegation in sessions of the dispute set-
4 tlement panel;

5 (3) where such person or representative, as the
6 case may be, would bring special knowledge to the
7 proceeding, allow such person or representative to
8 appear before the panel, directly or through counsel,
9 under the supervision of responsible United States
10 Government officials; and

11 (4) in proceedings involving confidential infor-
12 mation, allow appearance of such person only
13 through counsel.

14 **SEC. 206. DEFINITIONS.**

15 In this title:

16 (1) APPELLATE BODY.—The term “Appellate
17 Body” means the Appellate Body established under
18 Article 17.1 of the Dispute Settlement Under-
19 standing.

20 (2) ADVERSE TO THE UNITED STATES.—The
21 term “adverse to the United States”, with respect to
22 a report of a dispute settlement panel or the Appel-
23 late Body, includes any report which holds any law,
24 regulation, or application thereof by an agency of
25 the Federal Government or of a State or local gov-

1 ernment in the United States to be inconsistent with
2 obligations of the United States under a Uruguay
3 Round Agreement (or a nullification or impairment
4 thereof), whether or not there are other elements of
5 the report which favor arguments made by the
6 United States.

7 (3) DISPUTE SETTLEMENT PANEL; PANEL.—
8 The terms “dispute settlement panel” and “panel”
9 mean a panel established pursuant to Article 6 of
10 the Dispute Settlement Understanding.

11 (4) DISPUTE SETTLEMENT BODY.—The term
12 “Dispute Settlement Body” means the Dispute Set-
13 tlement Body administering the rules and proce-
14 dures set forth in the Dispute Settlement Under-
15 standing.

16 (5) DISPUTE SETTLEMENT UNDERSTANDING.—
17 The term “Dispute Settlement Understanding”
18 means the Understanding on Rules and Procedures
19 Governing the Settlement of Disputes referred to in
20 section 101(d)(16) of the Uruguay Round Agree-
21 ments Act.

22 (6) URUGUAY ROUND AGREEMENT.—The term
23 “Uruguay Round Agreement” means any of the
24 agreements described in section 101(d) of the Uru-
25 guay Round Agreements Act.

1 (7) WORLD TRADE ORGANIZATION; WTO.—The
2 terms “World Trade Organization” and “WTO”
3 mean the organization established pursuant to the
4 WTO Agreement.

5 (8) WTO AGREEMENT.—The term “WTO
6 Agreement” means the Agreement Establishing the
7 World Trade Organization entered into on April 15,
8 1994.

9 **TITLE III—REFORM OF EXPORT-**
10 **IMPORT BANK AND OVER-**
11 **SEAS PRIVATE INVESTOR**
12 **CORPORATION**

13 **SEC. 301. RESTRICTIONS ON EXPORT-IMPORT BANK ASSIST-**
14 **ANCE.**

15 Section 2 of the Export-Import Bank Act of 1945
16 (12 U.S.C. 635) is amended by adding at the end the fol-
17 lowing:

18 “(g) UNITED STATES CONTENT REQUIREMENTS.—
19 Notwithstanding any other provision of law, the Bank may
20 not guarantee, insure, extend credit, or participate in the
21 extension of credit in connection with any project or activ-
22 ity that involves the production of any commodity less
23 than 80 percent of the value of which is attributable to
24 content produced, manufactured, mined, or grown in the
25 United States.”.

1 **SEC. 302. RESTRICTIONS ON THE OVERSEAS PRIVATE IN-**
2 **VESTMENT CORPORATION.**

3 Section 231A of the Foreign Assistance Act of 1961
4 (22 U.S.C. 2191a) is amended—

5 (1) by redesignating subsection (c) as sub-
6 section (d); and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) UNITED STATES CONTENT REQUIREMENTS.—
10 Notwithstanding any other provision of law, the Corpora-
11 tion may not insure, reinsure, guarantee, or finance a
12 project if the project involves the production of any com-
13 modity less than 80 percent of the value of which is attrib-
14 utable to content produced, manufactured, mined, or
15 grown in the United States.”.

16 **TITLE IV—CURRENCY**
17 **MANIPULATION**

18 **SEC. 401. NEGOTIATION PERIOD REGARDING CURRENCY**
19 **MANIPULATION.**

20 Beginning on the date of the enactment of this Act,
21 the President shall begin bilateral and multilateral nego-
22 tiations for a 90-day period with those governments of
23 countries that the President determines are engaged most
24 egregiously in currency manipulation, for the purpose of
25 seeking a prompt and orderly end to such currency manip-
26 ulation and ensuring that the currencies of those countries

1 are freely traded on international currency markets, or are
2 established at a level that reflects a more appropriate and
3 accurate market value. The President shall seek support
4 in this process from international organizations and other
5 countries and regions adversely affected by such currency
6 manipulation.

7 **SEC. 402. FINDINGS OF FACT AND REPORT REGARDING**
8 **CURRENCY MANIPULATION.**

9 (a) IN GENERAL.—During the 90-day negotiation pe-
10 riod described in section 401, the International Trade
11 Commission shall—

12 (1) examine in detail how countries have en-
13 gaged in currency manipulation to increase their ex-
14 ports to the United States and limit their imports of
15 United States products;

16 (2) quantify the extent of such currency manip-
17 ulation;

18 (3) examine in detail how such currency manip-
19 ulation has affected and will continue to affect
20 United States manufacturers and United States
21 trade levels, both for imports and exports;

22 (4) review whether and to what extent reduc-
23 tion of currency manipulation and the accumulation
24 of dollar-denominated currency reserves and public

1 debt instruments might adversely affect United
2 States interest rates and public debt financing;

3 (5) determine all available mechanisms for re-
4 dress under applicable international trade agree-
5 ments, including the Articles of Agreement of the
6 International Monetary Fund, the GATT 1994 (as
7 defined in section 2 of the Uruguay Round Agree-
8 ments Act), and other Uruguay Round Agreements
9 (as defined in section 2 of that Act), and under
10 United States trade laws; and

11 (6) examine other relevant matters in connec-
12 tion with the issues described in paragraphs (1)
13 through (5).

14 (b) REPORT.—Not later than 90 days after the date
15 of the enactment of this Act, the International Trade
16 Commission shall provide a detailed report to the Presi-
17 dent, the United States Trade Representative, the Sec-
18 retary of the Treasury, and the appropriate congressional
19 committees on the findings made under subsection (a).

20 **SEC. 403. PROCEEDINGS REGARDING CURRENCY MANIPU-**
21 **LATION.**

22 (a) PROCEEDING.—At the end of the 90-day negotia-
23 tion period provided for in section 401, if agreements are
24 not reached by the President to promptly end the currency
25 manipulation with respect to which the negotiations were

1 conducted, the President shall institute proceedings under
2 the relevant provisions of international law and United
3 States trade laws, including section 301 of the Trade Act
4 of 1974, with respect to those countries that, based on
5 the findings of the International Trade Commission under
6 section 402, continue to engage in the most egregious cur-
7 rency manipulation. In such proceedings, the President
8 shall, in addition to seeking a prompt end to currency ma-
9 nipulation, seek appropriate compensation for the dam-
10 ages incurred by manufacturers and other affected parties
11 in the United States as a result of the currency manipu-
12 tion.

13 (b) REPORT TO CONGRESS IF NO ACTION TAKEN.—
14 If the President does not enter into negotiations with any
15 country under section 401, or if the President does not
16 institute proceedings under this section, the President
17 shall, not later than 120 days after the date of the enact-
18 ment of this Act, provide to the appropriate congressional
19 committees a detailed explanation of why he has not done
20 so.

21 **SEC. 404. ADDITIONAL REPORTS AND RECOMMENDATIONS.**

22 (a) NATIONAL SECURITY.—Not later than 90 days
23 after the date of the enactment of this Act, the Secretary
24 of Defense shall provide a detailed report to the appro-
25 priate congressional committees evaluating the effects on

1 the national security of the United States of countries en-
2 gaging in significant currency manipulation, and the effect
3 of such currency manipulation on critical manufacturing
4 sectors such as the semiconductor industry.

5 (b) OTHER UNFAIR TRADE PRACTICES.—Not later
6 than 90 days after the date of the enactment of this Act,
7 the United States Trade Representative and the Inter-
8 national Trade Commission shall evaluate and report in
9 detail to the appropriate congressional committees on
10 other trade practices and trade barriers by major East
11 Asian trading countries that may violate international
12 trade agreements, including the practice of maintaining a
13 value-added or other tax regime that effectively discrimi-
14 nates against imports by underpricing domestically pro-
15 duced goods.

16 (c) TRADE ENFORCEMENT.—Not later than 90 days
17 after the date of the enactment of this Act, the United
18 States Trade Representative and the International Trade
19 Commission shall report in detail to the appropriate con-
20 gressional committees on steps that could be taken to sig-
21 nificantly improve trade enforcement efforts against un-
22 fair trade practices by competitor trading countries, in-
23 cluding making recommendations for additional support
24 for trade enforcement efforts.

1 (d) TRADE PROMOTION.—Not later than 90 days
2 after the date of the enactment of this Act, the Secretary
3 of State, the Secretary of Commerce, and the United
4 States Trade Representative shall report in detail to the
5 appropriate congressional committees on steps that could
6 be taken to significantly improve trade promotion for
7 United States goods and services, including recommenda-
8 tions on additional support to improve such trade pro-
9 motion.

10 **SEC. 405. CURRENCY MANIPULATION DEFINED.**

11 In this title, the term “currency manipulation”
12 means—

13 (1) large-scale manipulation of exchange rates
14 by a country in order to gain an unfair competitive
15 advantage as stated in Article IV of the Articles of
16 Agreement of the International Monetary Fund and
17 related provisions;

18 (2) sustained, large-scale currency intervention
19 by a country in one direction, through mandatory
20 foreign exchange sales at the central bank of a coun-
21 try at a fixed exchange rate; or

22 (3) other mechanisms used by a country to
23 maintain a currency at a fixed exchange rate relative
24 to the currency of another country.

1 **TITLE V—INTERNAL REVENUE**
2 **CODE AMENDMENTS**

3 **SEC. 501. DISINCENTIVIZATION OF CORPORATE EXPATRIA-**
4 **TION TO AVOID UNITED STATES INCOME TAX.**

5 (a) IN GENERAL.—Paragraph 4 of section 7701(a)
6 of the Internal Revenue Code of 1986 (defining domestic)
7 is amended to read as follows:

8 “(4) DOMESTIC.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), the term ‘domestic’ when ap-
11 plied to a corporation or partnership means cre-
12 ated or organized in the United States or under
13 the law of the United States or of any State
14 unless, in the case of a partnership, the Sec-
15 retary provides otherwise by regulations.

16 “(B) CERTAIN CORPORATIONS TREATED
17 AS DOMESTIC.—

18 “(i) IN GENERAL.—The acquiring cor-
19 poration in a corporate expatriation trans-
20 action shall be treated as a domestic cor-
21 poration.

22 “(ii) CORPORATE EXPATRIATION
23 TRANSACTION.—For purposes of this sub-
24 paragraph, the term ‘corporate expatria-

1 tion transaction’ means any transaction
2 if—

3 “(I) a nominally foreign corpora-
4 tion (referred to in this subparagraph
5 as the ‘acquiring corporation’) ac-
6 quires, as a result of such transaction,
7 directly or indirectly substantially all
8 of the properties held directly or indi-
9 rectly by a domestic corporation, and

10 “(II) immediately after the trans-
11 action, more than 80 percent of the
12 stock (by vote or value) of the acquir-
13 ing corporation is held by former
14 shareholders of the domestic corpora-
15 tion by reason of holding stock in the
16 domestic corporation.

17 “(iii) LOWER STOCK OWNERSHIP RE-
18 QUIREMENT IN CERTAIN CASES.—Sub-
19 clause (II) of clause (ii) shall be applied by
20 substituting ‘50 percent’ for ‘80 percent’
21 with respect to any nominally foreign cor-
22 poration if—

23 “(I) such corporation does not
24 have substantial business activities
25 (when compared to the total business

1 activities of the expanded affiliated
2 group) in the foreign country in which
3 or under the law of which the corpora-
4 tion is created or organized, and

5 “(II) the stock of the corporation
6 is publicly traded and the principal
7 market for the public trading of such
8 stock is in the United States.

9 “(iv) PARTNERSHIP TRANSACTIONS.—
10 The term ‘corporate expatriation trans-
11 action’ includes any transaction if—

12 “(I) a nominally foreign corpora-
13 tion (referred to in this subparagraph
14 as the ‘acquiring corporation’) ac-
15 quires, as a result of such transaction,
16 directly or indirectly properties consti-
17 tuting a trade or business of a domes-
18 tic partnership,

19 “(II) immediately after the trans-
20 action, more than 80 percent of the
21 stock (by vote or value) of the acquir-
22 ing corporation is held by former
23 partners of the domestic partnership
24 or related foreign partnerships (deter-
25 mined without regard to stock of the

1 acquiring corporation which is sold in
2 a public offering related to the trans-
3 action), and

4 “(III) the acquiring corporation
5 meets the requirements of subclauses
6 (I) and (II) of clause (iii).

7 “(v) SPECIAL RULES.—For purposes
8 of this subparagraph—

9 “(I) a series of related trans-
10 actions shall be treated as 1 trans-
11 action, and

12 “(II) stock held by members of
13 the expanded affiliated group which
14 includes the acquiring corporation
15 shall not be taken into account in de-
16 termining ownership.

17 “(vi) OTHER DEFINITIONS.—For pur-
18 poses of this subparagraph—

19 “(I) NOMINALLY FOREIGN COR-
20 PORATION.—The term ‘nominally for-
21 eign corporation’ means any corpora-
22 tion which would (but for this sub-
23 paragraph) be treated as a foreign
24 corporation.

1 “(II) EXPANDED AFFILIATED
2 GROUP.—The term ‘expanded affili-
3 ated group’ means an affiliated group
4 (as defined in section 1504(a) without
5 regard to section 1504(b)).

6 “(III) RELATED FOREIGN PART-
7 NERSHIP.—A foreign partnership is
8 related to a domestic partnership if
9 they are under common control (with-
10 in the meaning of section 482), or
11 they shared the same trademark or
12 tradenname.”.

13 (b) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendment made by
15 this section shall apply to corporate expatriation
16 transactions completed after December 31, 2003.

17 (2) SPECIAL RULE.—The amendment made by
18 this section shall also apply to corporate expatriation
19 transactions completed on or before December 31,
20 2003, but only with respect to taxable years of the
21 acquiring corporation beginning after such date.

22 **SEC. 502. INCLUSION OF INCOME FROM U.S. IMPORTS IN**
23 **SUBPART F INCOME.**

24 (a) IN GENERAL.—Subsection (a) of section 954 of
25 the Internal Revenue Code of 1986 (defining foreign base

1 company income) is amended by striking “and” at the end
2 of paragraph (4), by striking the period at the end of para-
3 graph (5) and inserting “, and”, and by adding at the
4 end the following:

5 “(6) the foreign base company United States
6 import income for the taxable year (determined
7 under subsection (j) and reduced as provided in sub-
8 section (b)(5)).”.

9 (b) Section 954 of such Code (defining foreign base
10 company income) is amended by adding at the end the
11 following:

12 “(j) FOREIGN BASE COMPANY UNITED STATES IM-
13 PORT INCOME.—For purposes of subsection (a)(6)—

14 “(1) IN GENERAL.—The term ‘foreign base
15 company United States import income’ means gross
16 income derived from the sale of goods manufactured,
17 produced, grown, or extracted outside the United
18 States and imported into the United States.

19 “(2) NOT TREATED AS ANOTHER KIND OF BASE
20 COMPANY INCOME.—Income of a corporation which
21 is foreign base company United States import in-
22 come shall not be considered foreign base company
23 income of such corporation under paragraph (2),
24 (3), (4), or (5) of subsection (a).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section apply to taxable years of controlled foreign
3 corporations beginning after the date of enactment of this
4 Act and to taxable years of United States shareholders
5 in which or with which such taxable years of controlled
6 foreign corporations end.

7 **SEC. 503. DENIAL OF TREATY BENEFITS FOR CERTAIN DE-**
8 **DUCTIBLE PAYMENTS.**

9 (a) IN GENERAL.—Section 894 of the Internal Rev-
10 enue Code of 1986 (relating to income affected by treaty)
11 is amended by adding at the end the following new sub-
12 section:

13 “(d) DENIAL OF TREATY BENEFITS FOR CERTAIN
14 DEDUCTIBLE PAYMENTS.—

15 “(1) IN GENERAL.—A foreign entity shall not
16 be entitled under any income tax treaty of the
17 United States with a foreign country to any reduced
18 rate of any withholding tax imposed by this title on
19 any deductible foreign payment unless such entity is
20 predominantly owned by individuals who are resi-
21 dents of such foreign country.

22 “(2) DEDUCTIBLE FOREIGN PAYMENT.—For
23 purposes of paragraph (1), the term ‘deductible for-
24 eign payment’ means any payment—

1 “(A) which is made by a domestic entity
2 directly or indirectly to a related person which
3 is a foreign entity, and

4 “(B) which is allowable as a deduction
5 under this chapter.

6 “(3) DOMESTIC AND FOREIGN ENTITIES; RE-
7 LATED PERSON.—For purposes of this subsection—

8 “(A) DOMESTIC ENTITY.—The term ‘do-
9 mestic entity’ means any domestic corporation
10 or domestic partnership.

11 “(B) FOREIGN ENTITY.—The term ‘for-
12 eign entity’ means any foreign corporation or
13 foreign partnership.

14 “(C) RELATED PERSON.—The term ‘re-
15 lated person’ has the meaning given such term
16 by section 954(d)(3) (determined by sub-
17 stituting ‘domestic entity’ for ‘controlled foreign
18 corporation’ each place it appears).

19 “(4) PREDOMINANT OWNERSHIP.—For pur-
20 poses of this subsection—

21 “(A) IN GENERAL.—An entity is predomi-
22 nantly owned by individuals who are residents
23 of a foreign country if—

24 “(i) in the case of a corporation, more
25 than 50 percent (by value) of the stock of

1 such corporation is owned (within the
2 meaning of section 883(c)(4)) by individ-
3 uals who are residents of such foreign
4 country, or

5 “ (ii) in the case of a partnership,
6 more than 50 percent (by value) of the
7 beneficial interests in such partnership are
8 so owned.

9 “(B) PUBLICLY TRADED CORPORATIONS.—
10 A foreign corporation also shall be treated as
11 predominantly owned by individuals who are
12 residents of a foreign country if—

13 “(i)(I) the stock of such corporation is
14 primarily and regularly traded on an estab-
15 lished securities market in such foreign
16 country, and

17 “(II) such corporation has activities
18 within such foreign country which are sub-
19 stantial in relation to the total activities of
20 such corporation and its related persons,
21 or

22 “(ii) such corporation is wholly owned
23 (directly or indirectly) by another foreign
24 corporation which is described in clause (i).

1 “(5) CONDUIT PAYMENTS.—Under regulations
2 prescribed by the Secretary, paragraph (1) shall not
3 apply to a payment received by a foreign entity re-
4 ferred to in paragraph (1) if—

5 “(A) within a reasonable period after such
6 entity receives such payment, such entity makes
7 a comparable payment directly or indirectly to
8 another related person,

9 “(B) such related person is a resident of a
10 foreign country with which the United States
11 has an income tax treaty,

12 “(C) such related person is predominantly
13 owned by individuals who are residents of such
14 country, and

15 “(D) the withholding tax rate reduction
16 under such treaty is not less than the with-
17 holding tax rate reduction applicable (without
18 regard to this paragraph) to the payment re-
19 ceived by such foreign entity.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall take effect on the date of the enactment
22 of this Act.

1 **SEC. 504. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL**
2 **INCOME.**

3 (a) IN GENERAL.—Section 114 of the Internal Rev-
4 enue Code of 1986 is hereby repealed.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Subpart E of part III of subchapter N of
7 chapter 1 of such Code (relating to qualifying for-
8 eign trade income) is hereby repealed.

9 (2) The table of subparts for such part III is
10 amended by striking the item relating to subpart E.

11 (3) The table of sections for part III of sub-
12 chapter B of chapter 1 of such Code is amended by
13 striking the item relating to section 114.

14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall apply to transactions occurring
17 after the date of the enactment of this Act.

18 (2) BINDING CONTRACTS.—The amendments
19 made by this section shall not apply to any trans-
20 action in the ordinary course of a trade or business
21 which occurs pursuant to a binding contract—

22 (A) which is between the taxpayer and a
23 person who is not a related person (as defined
24 in section 943(b)(3) of such Code, as in effect
25 on the day before the date of the enactment of
26 this Act), and

1 (B) which is in effect on April 11, 2003,
2 and at all times thereafter.

3 For purposes of this paragraph, a binding contract
4 shall include a purchase option, renewal option, or
5 replacement option which is included in such con-
6 tract.

7 (d) REVOCATION OF SECTION 943(e) ELECTIONS.—

8 (1) IN GENERAL.—In the case of a corporation
9 that elected to be treated as a domestic corporation
10 under section 943(e) of the Internal Revenue Code
11 of 1986 (as in effect on the day before the date of
12 the enactment of this Act)—

13 (A) the corporation may revoke such elec-
14 tion, effective as of the date of the enactment
15 of this Act, and

16 (B) if the corporation does revoke such
17 election—

18 (i) such corporation shall be treated
19 as a domestic corporation transferring (as
20 of the date of the enactment of this Act)
21 all of its property to a foreign corporation
22 in connection with an exchange described
23 in section 354 of the Internal Revenue
24 Code of 1986, and

1 (ii) no gain or loss shall be recognized
2 on such transfer.

3 (2) EXCEPTION.—Subparagraph (B)(ii) of
4 paragraph (1) shall not apply to gain on any asset
5 held by the revoking corporation if—

6 (A) the basis of such asset is determined
7 in whole or in part by reference to the basis of
8 such asset in the hands of the person from
9 whom the revoking corporation acquired such
10 asset,

11 (B) the asset was acquired by transfer (not
12 as a result of the election under section 943(e)
13 of such Code) occurring on or after the 1st day
14 on which its election under section 943(e) of
15 such Code was effective, and

16 (C) a principal purpose of the acquisition
17 was the reduction or avoidance of tax.

18 (e) GENERAL TRANSITION.—

19 (1) IN GENERAL.—In the case of a taxable year
20 ending after the date of the enactment of this Act
21 and beginning before January 1, 2009, for purposes
22 of chapter 1 of such Code, each current FSC/ETI
23 beneficiary shall be allowed a deduction equal to the
24 transition amount determined under this subsection
25 with respect to such beneficiary for such year.

1 (2) CURRENT FSC/ETI BENEFICIARY.—The
 2 term “current FSC/ETI beneficiary” means any cor-
 3 poration which entered into one or more transactions
 4 during its taxable year beginning in calendar year
 5 2001 with respect to which FSC/ETI benefits were
 6 allowable.

7 (3) TRANSITION AMOUNT.—For purposes of
 8 this subsection—

9 (A) IN GENERAL.—The transition amount
 10 applicable to any current FSC/ETI beneficiary
 11 for any taxable year is the phaseout percentage
 12 of the adjusted base period amount.

13 (B) PHASEOUT PERCENTAGE.—

14 (i) IN GENERAL.—In the case of a
 15 taxpayer using the calendar year as its
 16 taxable year, the phaseout percentage shall
 17 be determined under the following table:

Years:	The phaseout percentage is:
2004 and 2005	100
2006	75
2007	75
2008	50
2009 and thereafter	0.

18 (ii) SPECIAL RULE FOR 2003.—The
 19 phaseout percentage for 2003 shall be the
 20 amount that bears the same ratio to 100
 21 percent as the number of days after the

1 date of the enactment of this Act bears to
 2 365.

3 (iii) SPECIAL RULE FOR FISCAL YEAR
 4 TAXPAYERS.—In the case of a taxpayer
 5 not using the calendar year as its taxable
 6 year, the phaseout percentage is the
 7 weighted average of the phaseout percent-
 8 ages determined under the preceding provi-
 9 sions of this paragraph with respect to cal-
 10 endar years any portion of which is in-
 11 cluded in the taxpayer’s taxable year. The
 12 weighted average shall be determined on
 13 the basis of the respective portions of the
 14 taxable year in each calendar year.

15 (4) ADJUSTED BASE PERIOD AMOUNT.—For
 16 purposes of this subsection—

17 (A) IN GENERAL.—In the case of a tax-
 18 payer using the calendar year as its taxable
 19 year, the adjusted base period amount for any
 20 taxable year is the base period amount multi-
 21 plied by the applicable percentage, as deter-
 22 mined in the following table:

Years:	The applicable percentage is:
2003	100
2004	100
2005	105
2006	110
2007	115

Years:	The applicable percentage is:
2008	120
2009 and thereafter	0.

1 (B) **BASE PERIOD AMOUNT.**—The base pe-
 2 riod amount is the aggregate FSC/ETI benefits
 3 for the taxpayer’s taxable year beginning in cal-
 4 endar year 2001.

5 (C) **SPECIAL RULES FOR FISCAL YEAR**
 6 **TAXPAYERS, ETC.**—Rules similar to rules of
 7 clauses (ii) and (iii) of paragraph (3)(B) shall
 8 apply for purposes of this paragraph.

9 (5) **FSC/ETI BENEFIT.**—For purposes of this
 10 subsection, the term “FSC/ETI benefit” means—

11 (A) amounts excludable from gross income
 12 under section 114 of such Code, and

13 (B) the exempt foreign trade income of re-
 14 lated foreign sales corporations from property
 15 acquired from the taxpayer (determined without
 16 regard to section 923(a)(5) of such Code (relat-
 17 ing to special rule for military property), as in
 18 effect on the day before the date of the enact-
 19 ment of the FSC Repeal and Extraterritorial
 20 Income Exclusion Act of 2000).

21 In determining the FSC/ETI benefit there shall be
 22 excluded any amount attributable to a transaction
 23 with respect to which the taxpayer is the lessor un-

1 less the leased property was manufactured or pro-
2 duced in whole or in part by the taxpayer.

3 (6) SPECIAL RULE FOR FARM COOPERATIVES.—
4 Under regulations prescribed by the Secretary, de-
5 terminations under this subsection with respect to
6 an organization described in section 943(g)(1) of
7 such Code, as in effect on the day before the date
8 of the enactment of this Act, shall be made at the
9 cooperative level and the purposes of this subsection
10 shall be carried out by excluding amounts from the
11 gross income of its patrons.

12 (7) CERTAIN RULES TO APPLY.—Rules similar
13 to the rules of section 41(f) of such Code shall apply
14 for purposes of this subsection.

15 (8) COORDINATION WITH BINDING CONTRACT
16 RULE.—The deduction determined under paragraph
17 (1) for any taxable year shall be reduced by the
18 phaseout percentage of any FSC/ETI benefit real-
19 ized for the taxable year by reason of subsection
20 (c)(2). The preceding sentence shall not apply to any
21 FSC/ETI benefit attributable to a transaction de-
22 scribed in the last sentence of paragraph (5).

23 (9) SPECIAL RULE FOR TAXABLE YEAR WHICH
24 INCLUDES DATE OF ENACTMENT.—In the case of a
25 taxable year which includes the date of the enact-

1 ment of this Act, the deduction allowed under this
2 subsection to any current FSC/ETI beneficiary shall
3 in no event exceed—

4 (A) 100 percent of such beneficiary's ad-
5 justed base period amount for calendar year
6 2003, reduced by

7 (B) the aggregate FSC/ETI benefits of
8 such beneficiary with respect to transactions oc-
9 curring during the portion of the taxable year
10 ending on the date of the enactment of this Act.

11 **SEC. 505. DEDUCTION RELATING TO INCOME ATTRIB-**
12 **UTABLE TO UNITED STATES PRODUCTION**
13 **ACTIVITIES.**

14 (a) IN GENERAL.—Part VIII of subchapter B of
15 chapter 1 of the Internal Revenue Code of 1986 (relating
16 to special deductions for corporations) is amended by add-
17 ing at the end the following new section:

18 **“SEC. 250. INCOME ATTRIBUTABLE TO DOMESTIC PRODUC-**
19 **TION ACTIVITIES.**

20 “(a) IN GENERAL.—In the case of a corporation,
21 there shall be allowed as a deduction an amount equal to
22 10 percent of the qualified production activities income of
23 the corporation for the taxable year.

24 “(b) PHASE IN.—In the case of taxable years begin-
25 ning in 2006, 2007, 2008 or 2009, subsection (a) shall

1 be applied by substituting for the percentage contained
 2 therein the transition percentage determined under the
 3 following table:

“Taxable years beginning in:	The transition percentage is:
2006	1
2007	2
2008	4
2009	9.

4 “(c) QUALIFIED PRODUCTION ACTIVITIES IN-
 5 COME.—For purposes of this section, the term ‘qualified
 6 production activities income’ means the product of—

7 “(1) the portion of the modified taxable income
 8 of the taxpayer which is attributable to domestic
 9 production activities, and

10 “(2) the domestic/foreign fraction.

11 “(d) DETERMINATION OF INCOME ATTRIBUTABLE
 12 TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes
 13 of this section—

14 “(1) IN GENERAL.—The portion of the modified
 15 taxable income which is attributable to domestic pro-
 16 duction activities is so much of the modified taxable
 17 income for the taxable year as does not exceed—

18 “(A) the taxpayer’s domestic production
 19 gross receipts for such taxable year, reduced by

20 “(B) the sum of—

21 “(i) the costs of goods sold that are
 22 allocable to such receipts,

1 “(ii) other deductions, expenses, or
2 losses directly allocable to such receipts,
3 and

4 “(iii) a ratable portion of other deduc-
5 tions, expenses, and losses that are not di-
6 rectly allocable to such receipts or another
7 class of income.

8 “(2) ALLOCATION METHOD.—Except as pro-
9 vided in regulations, allocations under clauses (ii)
10 and (iii) of paragraph (1)(B) shall be made under
11 the principles used in determining the portion of tax-
12 able income from sources within and without the
13 United States.

14 “(3) SPECIAL RULE.—

15 “(A) For purposes of determining costs
16 under clause (i) of paragraph (1)(B), any item
17 or service brought into the United States with-
18 out a transfer price meeting the requirements
19 of section 482 shall be treated as acquired by
20 purchase, and its cost shall be treated as not
21 less than its value when it entered the United
22 States. A similar rule shall apply in determining
23 the adjusted basis of leased or rented property
24 where the lease or rental gives rise to domestic
25 production gross receipts.

1 “(B) In the case of any property described
2 in subparagraph (A) that had been exported by
3 the taxpayer for further manufacture, the in-
4 crease in cost (or adjusted basis) under sub-
5 paragraph (A) shall not exceed the difference
6 between the value of the property when ex-
7 ported and the value of the property when
8 brought back into the United States after the
9 further manufacture.

10 “(4) MODIFIED TAXABLE INCOME.—The term
11 ‘modified taxable income’ means taxable income
12 computed without regard to the deduction allowable
13 under this section.

14 “(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—
15 For purposes of this section—

16 “(1) IN GENERAL.—The term ‘domestic produc-
17 tion gross receipts’ means the gross receipts of the
18 taxpayer which are derived from—

19 “(A) any sale, exchange, or other disposi-
20 tion of, or

21 “(B) any lease, rental or license of,
22 qualifying production property which was manufac-
23 tured, produced, grown, or extracted in whole or in
24 significant part by the taxpayer within the United
25 States.

1 “(2) SPECIAL RULE.—The term ‘domestic pro-
2 duction gross receipts’ includes gross receipts of the
3 taxpayer from the sale, exchange, or other disposi-
4 tion of replacement parts if—

5 “(A) such parts are sold by the taxpayer
6 as replacement parts for qualified production
7 property produced or manufactured in whole or
8 significant part by the taxpayer in the United
9 States, and

10 “(B) the taxpayer (or a related party)
11 owns the designs for such parts.

12 “(3) RELATED PARTY.—The term ‘related
13 party’ means any corporation which is a member of
14 the taxpayer’s expanded affiliated group.

15 “(f) QUALIFYING PRODUCTION PROPERTY.—For
16 purposes of this section—

17 “(1) IN GENERAL.—Except as otherwise pro-
18 vided in this paragraph, the term ‘qualifying produc-
19 tion property’ means—

20 “(A) any tangible personal property,

21 “(B) any computer software, and

22 “(C) any films, tapes, records, or similar
23 reproductions.

1 “(2) EXCLUSIONS FROM QUALIFYING PRODUC-
2 TION PROPERTY.—The term ‘qualifying production
3 property’ shall not include—

4 “(A) consumable property that is sold,
5 leased, or licensed by the taxpayer as an inte-
6 gral part of the provision of services,

7 “(B) oil or gas (or any primary product
8 thereof),

9 “(C) electricity,

10 “(D) water supplied by pipeline to the con-
11 sumer,

12 “(E) any unprocessed timber which is
13 softwood,

14 “(F) utility services, or

15 “(G) any property (not described in para-
16 graph (1)(B)) which is a film, tape, recording,
17 book, magazine, newspaper, or similar property
18 the market for which is primarily topical or oth-
19 erwise essentially transitory in nature.

20 For purposes of subparagraph (E), the term ‘un-
21 processed timber’ means any log, cant, or similar
22 form of timber.

23 “(g) DOMESTIC/FOREIGN FRACTION.—For purposes
24 of this section—

1 “(1) IN GENERAL.—The term ‘domestic/foreign
2 fraction’ means a fraction—

3 “(A) the numerator of which is the value
4 of the domestic production of the taxpayer, and

5 “(B) the denominator of which is the value
6 of the worldwide production of the taxpayer.

7 “(2) VALUE OF DOMESTIC PRODUCTION.—The
8 value of domestic production is the excess of—

9 “(A) the domestic production gross re-
10 cepts, over

11 “(B) the cost of purchased inputs allocable
12 to such receipts that are deductible under this
13 chapter for the taxable year.

14 “(3) PURCHASED INPUTS.—

15 “(A) IN GENERAL.—Purchased inputs are
16 any of the following items acquired by pur-
17 chase:

18 “(i) Services (other than services of
19 employees) used in manufacture, produc-
20 tion, growth, or extraction activities.

21 “(ii) Items consumed in connection
22 with such activities.

23 “(iii) Items incorporated as part of
24 the property being manufactured, pro-
25 duced, grown, or extracted.

1 “(B) SPECIAL RULE.—Rules similar to the
2 rules of subsection (d)(3) shall apply for pur-
3 poses of this subsection.

4 “(4) VALUE OF WORLDWIDE PRODUCTION.—

5 “(A) IN GENERAL.—The value of world-
6 wide production shall be determined under the
7 principles of paragraph (2), except that—

8 “(i) worldwide production gross re-
9 cepts shall be taken into account, and

10 “(ii) paragraph (3)(B) shall not apply.

11 “(B) WORLDWIDE PRODUCTION GROSS RE-
12 CEIPTS.—The worldwide production gross re-
13 cepts is the amount that would be determined
14 under subsection (e) if such subsection were ap-
15 plied without any reference to the United
16 States.

17 “(5) SPECIAL RULE FOR AFFILIATED
18 GROUPS.—

19 “(A) IN GENERAL.—In the case of a tax-
20 payer that is a member of an expanded affili-
21 ated group, the domestic/foreign fraction shall
22 be the amount determined under the preceding
23 provisions of this subsection by treating all
24 members of such group as a single corporation.

1 “(B) EXPANDED AFFILIATED GROUP.—

2 The term ‘expanded affiliated group’ means an
3 affiliated group as defined in section 1504(a),
4 determined—

5 “(i) by substituting ‘50 percent’ for
6 ‘80 percent’ each place it appears, and

7 “(ii) without regard to paragraphs
8 (2), (3), and (4) of section 1504(b).

9 “(h) DEFINITIONS AND SPECIAL RULES.—

10 “(1) UNITED STATES.—For purposes of this
11 section, the term ‘United States’ includes the Com-
12 monwealth of Puerto Rico and any other possession
13 of the United States.

14 “(2) SPECIAL RULE FOR PARTNERSHIPS.—For
15 purposes of this section, a corporation’s distributive
16 share of any partnership item shall be taken into ac-
17 count as if directly realized by the corporation.

18 “(3) COORDINATION WITH MINIMUM TAX.—The
19 deduction under this section shall be allowed for
20 purposes of the tax imposed by section 55; except
21 that for purposes of section 55, alternative minimum
22 taxable income shall be taken into account in deter-
23 mining the deduction under this section.

1 “(4) ORDERING RULE.—The amount of any
2 other deduction allowable under this chapter shall be
3 determined as if this section had not been enacted.

4 “(5) COORDINATION WITH TRANSITION
5 RULES.—For purposes of this section—

6 “(A) domestic production gross receipts
7 shall not include gross receipts from any trans-
8 action if the binding contract transition relief of
9 section 2(e)(2) of the Job Protection Act of
10 2003 applies to such transaction, and

11 “(B) any deduction allowed under section
12 2(e) of such Act shall be disregarded in deter-
13 mining the portion of the taxable income which
14 is attributable to domestic production gross re-
15 cepts.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for part VIII of subchapter B of chapter 1 of such Code
18 is amended by adding at the end the following new item:

“250. Income attributable to domestic production activities.”.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to taxable years beginning
22 after 2005.

23 (2) APPLICATION OF SECTION 15.—Section 15
24 of the Internal revenue Code of 1986 shall apply to

1 the amendments made to this section as if they were
2 changes in a rate of tax.

3 **TITLE VI—BUY AMERICAN**
4 **PROVISIONS**

5 **SEC. 601. REQUIREMENTS FOR WAIVERS.**

6 (a) IN GENERAL.—Section 2 of the Buy American
7 Act (41 U.S.C. 10a) is amended—

8 (1) by striking “Notwithstanding” and insert-
9 ing the following:

10 “(a) IN GENERAL.—Notwithstanding”; and

11 (2) by adding at the end the following:

12 “(b) SPECIAL RULES.—The following rules shall
13 apply in carrying out the provisions of subsection (a):

14 “(1) PUBLIC INTEREST WAIVER.—A determina-
15 tion that it is not in the public interest to enter into
16 a contract in accordance with this Act may not be
17 made after a notice of solicitation of offers for the
18 contract is published in accordance with section 18
19 of the Office of Federal Procurement Policy Act (41
20 U.S.C. 416) and section 8(e) of the Small Business
21 Act (15 U.S.C. 637(e)).

22 “(2) DOMESTIC BIDDER.—A Federal agency
23 entering into a contract shall give preference to a
24 company submitting an offer on the contract that

1 manufactures in the United States the article, mate-
2 rial, or supply for which the offer is solicited, if—

3 “(A) that company’s offer is substantially
4 the same as an offer made by a company that
5 does not manufacture the article, material, or
6 supply in the United States; or

7 “(B) that company is the only company
8 that manufactures in the United States the ar-
9 ticle, material, or supply for which the offer is
10 solicited.

11 “(3) USE OUTSIDE THE UNITED STATES.—

12 “(A) IN GENERAL.—Subsection (a) shall
13 apply without regard to whether the articles,
14 materials, or supplies to be acquired are for use
15 outside the United States if the articles, mate-
16 rials, or supplies are not needed on an urgent
17 basis or if they are acquired on a regular basis.

18 “(B) COST ANALYSIS.—In any case where
19 the articles, materials, or supplies are to be ac-
20 quired for use outside the United States and
21 are not needed on an urgent basis, before enter-
22 ing into a contract an analysis shall be made of
23 the difference in the cost for acquiring the arti-
24 cles, materials, or supplies from a company
25 manufacturing the articles, materials, or sup-

1 plies in the United States (including the cost of
2 shipping) and the cost for acquiring the arti-
3 cles, materials, or supplies from a company
4 manufacturing the articles, materials, or sup-
5 plies outside the United States (including the
6 cost of shipping).

7 “(4) DOMESTIC AVAILABILITY.—The head of a
8 Federal agency may not make a determination under
9 subsection (a) that an article, material, or supply is
10 not mined, produced, or manufactured, as the case
11 may be, in the United States in sufficient and rea-
12 sonably available commercial quantities and of satis-
13 factory quality, unless the head of the agency has
14 conducted a study and, on the basis of such study,
15 determined that—

16 “(A) domestic production cannot be initi-
17 ated to meet the procurement needs; and

18 “(B) a comparable article, material, or
19 supply is not available from a company in the
20 United States.

21 “(c) REPORTS.—

22 “(1) IN GENERAL.—Not later than 60 days
23 after the end of each fiscal year, the head of each
24 Federal agency shall submit to Congress a report on
25 the amount of the acquisitions made by the agency

1 from entities that manufacture the articles, mate-
2 rials, or supplies outside the United States in that
3 fiscal year.

4 “(2) CONTENT OF REPORT.—The report re-
5 quired by paragraph (1) shall separately indicate the
6 following information:

7 “(A) The dollar value of any articles, ma-
8 terials, or supplies for which this Act was
9 waived.

10 “(B) An itemized list of all waivers grant-
11 ed with respect to such articles, materials, or
12 supplies under this Act.

13 “(C) A list of all articles, materials, and
14 supplies acquired, their source, and the amount
15 of the acquisitions.

16 “(3) PUBLIC AVAILABILITY.—The head of each
17 Federal agency submitting a report under paragraph
18 (1) shall make the report publicly available by post-
19 ing on an Internet website.”.

20 (b) DEFINITIONS.—Section 1 of the Buy American
21 Act (41 U.S.C. 10c) is amended—

22 (1) by striking subsection (c) and inserting the
23 following:

24 “(c) FEDERAL AGENCY.—The term ‘Federal agency’
25 means any executive agency (as defined in section 4(1)

1 of the Federal Procurement Policy Act (41 U.S.C.
2 403(1))) or any establishment in the legislative or judicial
3 branch of the Government (except the Senate, the House
4 of Representatives, and the Architect of the Capitol and
5 activities under the Architect's direction).

6 “(d) SUBSTANTIALLY ALL.—Articles, materials, or
7 supplies shall be treated as made substantially all from
8 articles, materials, or supplies mined, produced, or manu-
9 factured, as the case may be, in the United States, if the
10 cost of the domestic components of such articles, mate-
11 rials, or supplies exceeds 75 percent.”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 2 of the Buy American Act (41
14 U.S.C. 10a) is amended by striking “department or
15 independent establishment” and inserting “Federal
16 agency”.

17 (2) Section 3 of such Act (41 U.S.C. 10b) is
18 amended—

19 (A) by striking “department or inde-
20 pendent establishment” in subsection (a), and
21 inserting “Federal agency”; and

22 (B) by striking “department, bureau, agen-
23 cy, or independent establishment” in subsection
24 (b) and inserting “Federal agency”.

1 (3) Section 633 of the National Military Estab-
2 lishment Appropriations Act, 1950 (41 U.S.C. 10d)
3 is amended by striking “department or independent
4 establishment” and inserting “Federal agency”.

5 **SEC. 602. GAO REPORT AND RECOMMENDATIONS.**

6 (a) SCOPE OF WAIVERS.—Not later than 6 months
7 after the date of enactment of this title, the Comptroller
8 General of the United States shall report to Congress rec-
9 ommendations for determining, for purposes of applying
10 the waiver provision of section 2(a) of the Buy American
11 Act—

12 (1) unreasonable cost; and

13 (2) inconsistent with the public interest.

14 (b) WAIVER PROCEDURES.—The report described in
15 subsection (a) shall also include recommendations for es-
16 tablishing procedures for applying the waiver provisions
17 of the Buy American Act that can be consistently applied.

18 **SEC. 603. DUAL USE TECHNOLOGIES.**

19 The head of a Federal agency (as defined in section
20 1(c) of the Buy American Act (as amended by section
21 601) may not enter into a contract, nor permit a sub-
22 contract under a contract of the Federal agency, with a
23 foreign entity that involves giving the foreign entity plans,
24 manuals, or other information that would facilitate the
25 manufacture of a dual-use item on the Commerce Control

1 List unless approval for providing such plans, manuals,
2 or information has been obtained in accordance with the
3 provisions of the Export Administration Act of 1979 (50
4 U.S.C. App. 2401 et seq.) and the Export Administration
5 Regulations (15 C.F.R. part 730 et seq.)

6 **TITLE VII—ESTABLISHMENT OF** 7 **CONGRESSIONAL TRADE OFFICE**

8 **SECTION 701. FINDINGS.**

9 Congress makes the following findings:

10 (1) Congress has responsibility under the Con-
11 stitution for international commerce.

12 (2) Congressional oversight of trade policy has
13 often been hampered by a lack of resources.

14 (3) The United States has entered into numer-
15 ous trade agreements with foreign trading partners,
16 including bilateral, regional, and multilateral agree-
17 ments.

18 (4) The purposes of the trade agreements are—

19 (A) to achieve a more open world trading
20 system which provides mutually advantageous
21 market opportunities for trade between the
22 United States and foreign countries;

23 (B) to facilitate the opening of foreign
24 country markets to exports of the United States
25 and other countries by eliminating trade bar-

1 riers and increasing the access of United States
2 industry and the industry of other countries to
3 such markets; and

4 (C) to reduce diversion of third country ex-
5 ports to the United States because of restricted
6 market access in foreign countries.

7 (5) Foreign country performance under certain
8 agreements has been less than contemplated, and in
9 some cases rises to the level of noncompliance.

10 (6) The credibility of, and support for, the
11 United States Government's trade policy is, to a sig-
12 nificant extent, a function of the belief that trade
13 agreements made are trade agreements enforced.

14 (7) The accession of the People's Republic of
15 China to the World Trade Organization will create
16 unprecedented challenges and it is important to the
17 world trading system that China comply with the
18 numerous and significant commitments China makes
19 as part of the accession process. Congress must play
20 a key role in ensuring full and continuous moni-
21 toring of the People's Republic of China's compli-
22 ance with its commitments.

1 **SEC. 702. ESTABLISHMENT OF OFFICE.**

2 (a) IN GENERAL.—There is established an office in
3 Congress to be known as the Congressional Trade Office
4 (in this title referred to as the “Office”).

5 (b) PURPOSES.—The purposes of the Office are as
6 follows:

7 (1) To reassert the constitutional responsibility
8 of Congress with respect to international trade.

9 (2) To provide Congress, through the Com-
10 mittee on Finance of the Senate and the Committee
11 on Ways and Means of the House of Representa-
12 tives, with additional independent, nonpartisan, neu-
13 tral trade expertise.

14 (3) To assist Congress in providing more effec-
15 tive and active oversight of trade policy.

16 (4) To assist Congress in providing to the exec-
17 utive branch more effective direction on trade policy.

18 (5) To provide Congress with long-term, institu-
19 tional memory on trade issues.

20 (6) To provide Congress with more analytical
21 capability on trade issues.

22 (7) To advise relevant committees on the im-
23 pact of trade negotiations, including past, ongoing,
24 and future negotiations, with respect to the areas of
25 jurisdiction of the respective committees.

1 (c) FUNCTIONS.—The functions of the Office are as
2 follows:

3 (1) ASSISTANCE TO CONGRESS.—To provide the
4 Committee on Finance of the Senate and the Com-
5 mittee on Ways and Means of the House of Rep-
6 resentative and any other appropriate committee of
7 Congress or joint committee of Congress information
8 which will assist the committees in the discharge of
9 the matters within their jurisdiction.

10 (2) MONITOR COMPLIANCE.—To monitor com-
11 pliance with major bilateral, regional, and multilat-
12 eral trade agreements by—

13 (A) consulting with the affected industries
14 and interested parties;

15 (B) analyzing the success of those agree-
16 ments based on commercial results;

17 (C) recommending actions, including legis-
18 lative action, necessary to ensure that foreign
19 countries that have made commitments through
20 those agreements with the United States fully
21 abide by their commitments;

22 (D) annually assessing the extent to which
23 those agreements comply with environmental
24 goals; and

1 (E) annually assessing the extent to which
2 those agreements comply with labor goals.

3 (3) ANALYSIS.—

4 (A) IN GENERAL.—To perform the fol-
5 lowing analyses:

6 (i) Not later than 60 days after the
7 date the National Trade Estimates report
8 is delivered to Congress each year, analyze
9 the major outstanding trade barriers based
10 on cost to the United States economy.

11 (ii) Not later than 60 days after the
12 date the Trade Policy Agenda is delivered
13 to Congress each year, analyze the Admin-
14 istration's Agenda, including alternative
15 goals, strategies, and tactics, as appro-
16 priate.

17 (iii) Analyze the trade accounts quar-
18 terly, including the global current account,
19 global trade account, and key bilateral
20 trade accounts.

21 (B) ANALYSIS REQUESTED BY COM-
22 MITTEE.—To perform one or more of the fol-
23 lowing analyses as directed by the Committee
24 on Finance of the Senate or the Committee on

1 Ways and Means of the House of Representa-
2 tives:

3 (i) Analyze proposed trade legislation.

4 (ii) Analyze proposed trade agree-
5 ments, including agreements that do not
6 require implementing legislation.

7 (iii) Analyze the impact of the Admin-
8 istration's trade policy and actions, includ-
9 ing assessing the Administration's deci-
10 sions for not accepting unfair trade prac-
11 tices cases.

12 (4) DISPUTE SETTLEMENT DELIBERATIONS.—
13 To perform the following functions with respect to
14 dispute resolution:

15 (A) Participate as observers on the United
16 States delegation at dispute settlement panel
17 meetings of the World Trade Organization.

18 (B) Evaluate each World Trade Organiza-
19 tion decision with respect to which the United
20 States is a participant. In any case in which the
21 United States does not prevail, evaluate the de-
22 cision and in any case in which the United
23 States does prevail, measure the commercial re-
24 sults of that decision.

1 (C) Evaluate each dispute resolution pro-
2 ceeding under the North American Free Trade
3 Agreement. In any case in which the United
4 States does not prevail, evaluate the decision
5 and in any case in which the United States does
6 prevail, measure the commercial results of that
7 decision.

8 (D) Participate as observers in other dis-
9 pute settlement proceedings that the Chairman
10 and Ranking Member of the Committee on Fi-
11 nance and the Chairman and Ranking Member
12 of the Committee on Ways and Means deem ap-
13 propriate.

14 (5) PARTICIPATION IN TRADE NEGOTIATIONS.—

15 To participate as observers in selected bilateral, re-
16 gional, and multilateral trade negotiations.

17 (6) OTHER FUNCTIONS OF THE OFFICE.—

18 (A) To provide the Committee on Finance
19 and the Committee on Ways and Means with
20 quarterly reports regarding the activities of the
21 Office.

22 (B) To be available for consultation with
23 congressional committees on trade-related legis-
24 lation.

1 (C) To receive and review classified infor-
2 mation and participate in classified briefings in
3 the same manner as the staff of the Committee
4 on Finance and the Committee on Ways and
5 Means.

6 (D) To consult nongovernmental experts
7 and utilize nongovernmental resources.

8 (E) To perform such other functions as
9 the Chairman and Ranking Member of the
10 Committee on Finance and the Chairman and
11 Ranking Member of the Committee on Ways
12 and Means may request.

13 (d) DIRECTOR AND STAFF.—

14 (1) DIRECTOR.—

15 (A) IN GENERAL.—The Office shall be
16 headed by a Director. The Director shall be ap-
17 pointed by the Speaker of the House of Rep-
18 resentatives and the President pro tempore of
19 the Senate after considering the recommenda-
20 tions of the Chairman and Ranking Member of
21 the Committee on Finance of the Senate and
22 the Chairman and Ranking Member of the
23 Committee on Ways and Means of the House of
24 Representatives. The Director shall be chosen
25 without regard to political affiliation and solely

1 on the basis of the Director's expertise and fit-
2 ness to perform the duties of the Director.

3 (B) TERM.—The term of office of the Di-
4 rector shall be 5 years and the Director may be
5 reappointed for subsequent terms.

6 (C) VACANCY.—Any individual appointed
7 to fill a vacancy prior to the expiration of a
8 term shall serve only for the unexpired portion
9 of that term.

10 (D) REMOVAL.—The Director may be re-
11 moved by either House by resolution.

12 (E) COMPENSATION.—The Director shall
13 receive compensation at a per annum gross rate
14 equal to the rate of basic pay, as in effect from
15 time to time, for level III of the Executive
16 Schedule under section 5314 of title 5, United
17 States Code.

18 (2) STAFF.—

19 (A) IN GENERAL.—The Director shall ap-
20 point and fix the compensation of such per-
21 sonnel as may be necessary to carry out the du-
22 ties and functions of the Office. All personnel
23 shall be appointed without regard to political
24 affiliation and solely on the basis of their fit-
25 ness to perform their duties. The personnel of

1 the Office shall consist of individuals with ex-
2 pertise in international trade, including exper-
3 tise in economics, trade law, various industrial
4 sectors, and various geographical regions.

5 (B) BENEFITS.—For purposes of pay
6 (other than the pay of the Director) and em-
7 ployment, benefits, rights, and privileges, all
8 personnel of the Office shall be treated as if
9 they were employees of the House of Represent-
10 atives.

11 (3) EXPERTS AND CONSULTANTS.—In carrying
12 out the duties and functions of the Office, the Direc-
13 tor may procure the temporary (not to exceed 1
14 year) or intermittent services of experts or consult-
15 ants or organizations thereof by contract as inde-
16 pendent contractors, or, in the case of individual ex-
17 perts or consultants, by employment at rates of pay
18 not in excess of the daily equivalent of the highest
19 rate of basic pay payable under the General Sched-
20 ule under section 5332 of title 5, United States
21 Code.

22 (4) RELATIONSHIP TO EXECUTIVE BRANCH.—
23 The Director is authorized to secure information,
24 data, estimates, and statistics directly from the var-
25 ious departments, agencies, and establishments of

1 the executive branch of Government and the regu-
2 latory agencies and commissions of the Government.
3 All such departments, agencies, establishments, and
4 regulatory agencies and commissions shall furnish
5 the Director any available material which the Direc-
6 tor determines to be necessary in the performance of
7 his or her duties and functions (other than material
8 the disclosure of which would be a violation of law).
9 The Director is also authorized, upon agreement
10 with the head of any such department, agency, es-
11 tablishment, or regulatory agency or commission, to
12 utilize its services and facilities with or without re-
13 imbursement; and the head of each such depart-
14 ment, agency, establishment, or regulatory agency or
15 commission is authorized to provide the Office such
16 services and facilities.

17 (5) RELATIONSHIP TO OTHER AGENCIES OF
18 CONGRESS.—In carrying out the duties and func-
19 tions of the Office, and for the purpose of coordi-
20 nating the operations of the Office with those of
21 other congressional agencies with a view to utilizing
22 most effectively the information, services, and capa-
23 bilities of all such agencies in carrying out the var-
24 ious responsibilities assigned to each, the Director is
25 authorized to obtain information, data, estimates,

1 and statistics developed by the General Accounting
2 Office, the Library of Congress, and other offices of
3 Congress, and (upon agreement with them) to utilize
4 their services and facilities with or without reim-
5 bursement. The Comptroller General, the Librarian
6 of Congress, and the head of other offices of Con-
7 gress are authorized to provide the Office with the
8 information, data estimates, statistics, services, and
9 facilities referred to in the preceding sentence.

10 **SEC. 703. PUBLIC ACCESS TO DATA.**

11 (a) **RIGHT TO COPY.**—Except as provided in sub-
12 sections (b) and (c), the Director shall make all informa-
13 tion, data, estimates, and statistics obtained under this
14 title available for public copying during normal business
15 hours, subject to reasonable rules and regulations, and
16 shall to the extent practicable, at the request of any per-
17 son, furnish a copy of any such information, data, esti-
18 mates, or statistics upon payment by such person of the
19 cost of making and furnishing such copy.

20 (b) **EXCEPTIONS.**—Subsection (a) of this section
21 shall not apply to information, data, estimates, and statis-
22 tics—

23 (1) which are specifically exempted from disclo-
24 sure by law; or

1 (2) which the Director determines will dis-
2 close—

3 (A) matters necessary to be kept secret in
4 the interests of national defense or the con-
5 fidential conduct of the foreign relations of the
6 United States;

7 (B) information relating to trade secrets or
8 financial or commercial information pertaining
9 specifically to a given person if the information
10 has been obtained by the Government on a con-
11 fidential basis, other than through an applica-
12 tion by such person for a specific financial or
13 other benefit, and is required to be kept secret
14 in order to prevent undue injury to the competi-
15 tive position of such person; or

16 (C) personnel or medical data or similar
17 data the disclosure of which would constitute a
18 clearly unwarranted invasion of personal pri-
19 vacy;

20 unless the portions containing such matters, information,
21 or data have been excised.

22 (c) INFORMATION OBTAINED FOR COMMITTEES AND
23 MEMBERS.—Subsection (a) of this section shall apply to
24 any information, data, estimates, and statistics obtained
25 at the request of any committee, joint committee, or Mem-

1 ber unless such committee, joint committee, or Member
2 of Congress has instructed the Director not to make such
3 information, data, estimates, or statistics available for
4 public copying.

5 **SEC. 704. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated to the Office
7 for each fiscal year such sums as may be necessary to en-
8 able it to carry out its duties and functions. Until sums
9 are first appropriated pursuant to the preceding sentence,
10 for a period not to exceed 12 months following the effec-
11 tive date of this title, the expenses of the Office shall be
12 paid from the contingent fund of the Senate, in accordance
13 with the provisions of the paragraph relating to contingent
14 funds under the heading “UNDER LEGISLATIVE” in
15 the Act of October 2, 1888 (25 Stat. 546; 2 U.S.C. 68),
16 and upon vouchers approved by the Director.

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