

## TRADE AGREEMENTS ACT OF 1979

[Public Law 96-39]

[As Amended Through P.L. 116-260, Enacted December 27, 2020]

【Currency: This publication is a compilation of the text of Public Law 96-39. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes.

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

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the “Trade Agreements Act of 1979”.【(19 U.S.C. 2501)】

(b) TABLE OF CONTENTS.—

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(c) **PURPOSES.**—The purposes of this Act are—

- (1) to approve and implement the trade agreements negotiated under the Trade Act of 1974;
- (2) to foster the growth and maintenance of an open world trading system;
- (3) to expand opportunities for the commerce of the United States in international trade; and
- (4) to improve the rules of international trade and to provide for the enforcement of such rules, and for other purposes.

**[19 U.S.C. 2502]**

**SEC. 2. APPROVAL OF TRADE AGREEMENTS.**

(a) **APPROVAL OF AGREEMENTS AND STATEMENTS OF ADMINISTRATIVE ACTION.**—In accordance with the provisions of sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves the trade agreements described in subsection (c) submitted to the Congress on June 19, 1979, and the statements of administrative action proposed to implement such trade agreements submitted to the Congress on that date.

(b) **ACCEPTANCE OF AGREEMENTS BY THE PRESIDENT.**—

(1) **IN GENERAL.**—The President may accept for the United States the final legal instruments or texts embodying each of the trade agreements approved by the Congress under subsection (a). The President shall submit a copy of each final instrument or text to the Congress on the date such text or instrument is available, together with a notification of any changes in the instruments or texts, including their annexes, if any, as accepted and the texts of such agreements as submitted to the Congress under subsection (a). Such final legal instruments or texts shall be deemed to be the agreements submitted to and approved by the Congress under subsection (a) if such changes are—

(A) only recertifications of a formal character or minor technical or clerical changes which do not affect the substance or meaning of the texts as submitted to the Congress on June 19, 1979, or

(B) changes in annexes to such agreements, and the President determines that the balance of United States rights and obligations under such agreements is maintained.

(2) APPLICATION OF AGREEMENT BETWEEN THE UNITED STATES AND OTHER COUNTRIES.—No agreement accepted by the President under paragraph (1) shall apply between the United States and any other country unless the President determines that such country—

(A) has accepted the obligations of the agreement with respect to the United States, and

(B) should not otherwise be denied the benefits of the agreement with respect to the United States because such country has not accorded adequate benefits, including substantially equal competitive opportunities for the commerce of the United States to the extent required under section 126(c) of the Trade Act of 1974 (19 U.S.C. 2136(c)), to the United States.

(3) LIMITATION ON ACCEPTANCE CONCERNING MAJOR INDUSTRIAL COUNTRIES.—The President may not accept an agreement described in paragraph (1), (2), (3), (4), (5), (6), (7), (9), (10), or (11) of subsection (c), unless he determines that each major industrial country (as defined in section 126(d) of the Trade Act of 1974 (19 U.S.C. 2136(d))) is also accepting the agreement. Notwithstanding the preceding sentence, the President may accept such an agreement, if he determines that only one major industrial country is not accepting that agreement and the acceptance of that agreement by that country is not essential to the effective operation of the agreement, and if—

(A) that country is not a major factor in trade in the products covered by that agreement,

(B) the President has authority to deny the benefits of the agreement to that country and has taken steps to deny the benefits of the agreement to that country, or

(C) a significant portion of United States trade would benefit from the agreement, notwithstanding such non-acceptance, and the President determines and reports to the Congress that it is in the national interest of the United States to accept the agreement.

For purposes of this paragraph, the acceptance of an agreement by the European Communities on behalf of its member countries shall also be treated as acceptance of that agreement by each member country, and acceptance of an agreement by all the member countries of the European Communities shall also be treated as acceptance of that agreement by the European Communities.

(c) TRADE AGREEMENTS TO WHICH THIS ACT APPLIES.—The trade agreements to which subsection (a) applies are the following:

(1) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (relating to customs valuation).

(2) The Agreement on Government Procurement.

(3) The Agreement on Import Licensing Procedures.

(4) The Agreement on Technical Barriers to Trade (relating to product standards).

(5) The Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tar-

iffs and Trade (relating to subsidies and countervailing measures).

(6) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to anti-dumping measures).

(7) The International Dairy Arrangement.

(8) Certain bilateral agreements on cheese, other dairy products, and meat.

(9) The Arrangement Regarding Bovine Meat.

(10) The Agreement on Trade in Civil Aircraft.

(11) Texts Concerning a Framework for the Conduct of World Trade.

(12) Certain Bilateral Agreements to Eliminate the Wine-Gallon Method of Tax and Duty Assessment.

(13) Certain other agreements to be reflected in Schedule XX of the United States to the General Agreement on Tariffs and Trade, including Agreements—

(A) to Modify United States Watch Marking Requirements, and to Modify United States Tariff Nomenclature and Rates of Duty for Watches,

(B) to Provide Duty-Free Treatment for Agricultural and Horticultural Machinery, Equipment, Implements, and Parts Thereof, and

(C) to Modify United States Tariff Nomenclature and Rates of Duty for Ceramic Tableware.

(14) The Agreement with the Hungarian People's Republic.

[19 U.S.C. 2503]

### SEC. 3. RELATIONSHIP OF TRADE AGREEMENTS TO UNITED STATES LAW.

(a) UNITED STATES STATUTES TO PREVAIL IN CONFLICT.—No provision of any trade agreement approved by the Congress under section 2(a), nor the application of any such provision to any person or circumstances, which is in conflict with any statute of the United States shall be given effect under the laws of the United States. (19 U.S.C. 2504)

(b) IMPLEMENTING REGULATIONS.—Regulations necessary or appropriate to carry out actions proposed in any statement of proposed administrative action submitted to the Congress under section 102 of the Trade Act of 1974 to implement each agreement approved under section 2(a) shall be issued within 1 year after the date of the entry into force of such agreement with respect to the United States.

(c) CHANGES IN STATUTES TO IMPLEMENT A REQUIREMENT, AMENDMENT, OR RECOMMENDATION.—

(1) PRESIDENTIAL DETERMINATION.—Whenever the President determines that it is necessary or appropriate to amend, repeal, or enact a statute of the United States in order to implement any requirement of, amendment to, or recommendation under such an agreement, he shall submit to the Congress a draft of a bill to accomplish the amendment, repeal, or enactment and a statement of any administrative action proposed to implement the requirement, amendment, or recommendation. Not less than 30 days before submitting such a bill, the Presi-

dent shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and each committee of the House or Senate which has jurisdiction over legislation involving subject matters which would be affected by such amendment, repeal, or enactment. The consultation shall treat all matters relating to the implementation of such requirement, amendment, or recommendation, as provided in paragraphs (2) and (3).

(2) CONDITIONS FOR TAKING EFFECT UNDER UNITED STATES LAW.—No such amendment shall enter into force with respect to the United States, and no such requirement, amendment, or recommendation shall be implemented under United States law, unless—

(A) the President, after consultation with the Congress under paragraph (1), notifies the House of Representatives and the Senate of his determination and publishes notice of that determination in the Federal Register.

(B) the President transmits a document to the House of Representatives and to the Senate containing a copy of the text of such requirement, amendment, or recommendation, together with—

(i) a draft of a bill to amend or repeal provisions of existing statutes or to create statutory authority and an explanation as to how the bill and any proposed administrative action affect existing law, and

(ii) a statement of how the requirement, amendment, or recommendation serves the interests of United States commerce and why the legislative and administrative action is necessary or appropriate to carry out the requirement, amendment, or recommendation, and

(C) the bill submitted by the President is enacted into law.

(3) RECOMMENDATIONS AS TO APPLICATION.—The President may make the same type of recommendations, in the same manner and subject to the same conditions, to the Congress with respect to the application of any such requirement, amendment, or recommendation as he may make, under section 102(f) of the Trade Act of 1974, with respect to a trade agreement.

(4) CONGRESSIONAL PROCEDURES APPLICABLE.—The bill submitted by the President shall be introduced in accordance with the provisions of subsection (c)(1) of section 151 of the Trade Act of 1974, and the provisions of subsections (d), (e), (f), and (g) of such section shall apply to the consideration of the bill. For the purposes of applying section 151 of such Act to such bill—

(A) the term “trade agreement” shall be treated as a reference to the requirement, amendment, or recommendation, and

(B) the term “implementing bill” or “implementing revenue bill”, whichever is appropriate, shall be treated as a reference to the bill submitted by the President.

(e)

(f) UNSPECIFIED PRIVATE REMEDIES NOT CREATED.—Neither the entry into force with respect to the United States of any agreement approved under section 2(a), nor the enactment of this Act, shall be construed as creating any private right of action or remedy for which provision is not explicitly made under this Act or under the laws of the United States.

[19 U.S.C. 2504]

## TITLE I—COUNTERVAILING AND ANTIDUMPING DUTIES

SEC. 101.<sup>1</sup> \* \* \*.

### SEC. 102. PENDING INVESTIGATIONS.

(a) PENDING INVESTIGATIONS OF BOUNTIES OR GRANTS.—If, on the effective date of the application of title VII of the Tariff Act of 1930 to imports from a country, there is an investigation in progress under section 303 of that Act as to whether a bounty or grant is being paid or bestowed on imports from such country, then:

(1) If the Secretary of the Treasury has not yet made a preliminary determination under section 303 of that Act as to whether a bounty or grant is being paid or bestowed, he shall terminate the investigation under section 303 and the matter previously under investigation shall be subject to this title as if the affirmative determination called for in section 702 of that Act were made with respect to that matter on the effective date of the application of title VII of that Act to such country.

(2) If the Secretary has made a preliminary determination under such section 303, but not a final determination, as to whether a bounty or grant is being paid or bestowed, he shall terminate the investigation under such section 303 and the matter previously under investigation shall be subject to the provisions of title VII of that Act as if the preliminary determination under section 303 were a preliminary determination under section 703 of that title made on the effective date of the application of that title to such country.

(b) PENDING INVESTIGATIONS OF LESS-THAN-FAIR-VALUES SALES.—If, on the effective date of title VII of the Tariff Act of 1930, there is an investigation in progress under the Antidumping Act, 1921, as to whether imports from a country are being, or are likely to be, sold in the United States or elsewhere at less than fair value, then:

(1) If the Secretary has not yet made a preliminary determination under the Antidumping Act, 1921, as to the question of less-than-fair-value sales, he shall terminate the investigation and the United States International Trade Commission shall terminate any investigation under section 201(c)(2) of the Antidumping Act, 1921, and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 as if the affirmative determination called for in section 732 were made with respect to such matter on the effective date of title VII of the Tariff Act of 1930.

<sup>1</sup> Sec. 101 of title I added a new title VII to the Tariff Act of 1930.

(2) If the Secretary has made under the Antidumping Act, 1921, a preliminary determination, but not a final determination, that imports from such country are being or are likely to be sold in the United States or elsewhere at less than fair value, the investigation shall be terminated and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 as if the preliminary determination under the Antidumping Act, 1921, were a preliminary determination under section 733 of that title made on the effective date of title VII of the Tariff Act of 1930.

(c) PENDING INVESTIGATIONS OF INJURY.—If, on the effective date of the application of title VII of the Tariff Act of 1930 to imports from a country, the United States International Trade Commission is conducting an investigation under section 303 of the Tariff Act of 1930 or section 201(a) of the Antidumping Act, 1921, as to whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, it shall terminate any such investigation and initiate an investigation, under subtitle A or B of title VII of the Tariff Act of 1930, which shall be completed within 75 days, and—

(1) treat any final determination of the Secretary of the Treasury under section 303 as a final determination under section 705(a) of the Tariff Act of 1930 and consider the net amount of the bounty or grant estimated or determined under section 303 as the net subsidy amount under subtitle A of that title; and

(2) treat any final determination of the Secretary of the Treasury under the Antidumping Act of 1921, as a final determination under section 735(a) of the Tariff Act of 1930.

[19 U.S.C. 1671 nt]

SEC. 103.<sup>2</sup> \* \* \*

**SEC. 104. TRANSITION RULES FOR COUNTERVAILING DUTY ORDERS.**

(a) WAIVED COUNTERVAILING DUTY ORDERS.—

(1) NOTIFICATION OF COMMISSION.—The administering authority shall notify the United States International Trade Commission by January 7, 1980, of any countervailing duty order in effect on January 1, 1980—

(A)(i) for which the Secretary of the Treasury has waived the imposition of countervailing duties under section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), and

(ii) which applies to merchandise other than quota cheese (as defined in section 701(c)(1) of this Act), which is a product of a country under the Agreement.

(B) published on or after the date of the enactment of this Act, and before January 1, 1980, with respect to products of a country under the Agreement (as defined in section 701(b) of the Tariff Act of 1930), or

(C) applicable to frozen, boneless beef from the European Communities under Treasury Decision 76-109,

<sup>2</sup>Sec. 103 consisted of amendments to sec. 303 of the Tariff Act of 1930.



and shall furnish to the Commission the most current information it has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order.

(2) DETERMINATION BY THE COMMISSION.—Within 180 days after the date on which it receives the information from the administering authority under paragraph (1), the Commission shall make a determination of whether—

(A) an industry in the United States—

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise subject to the order.

(3) EFFECT OF DETERMINATION.—

(A) AFFIRMATIVE DETERMINATION.—Upon being notified by the Commission of an affirmative determination under paragraph (2), the administering authority shall terminate the waiver of imposition of countervailing duties for merchandise subject to the order, if any. The countervailing duty order under section 303 of the Tariff Act of 1930 which applies to that merchandise shall remain in effect until revoked, in whole or in part, under section 751(d) of such Act.

(B) NEGATIVE DETERMINATION.—Upon being notified by the Commission of a negative determination under paragraph (2), the administering authority shall revoke the countervailing duty order, and publish notice in the Federal Register of the revocation.

(b) OTHER COUNTERVAILING DUTY ORDERS.—

(1) REVIEW BY COMMISSION UPON REQUEST.—In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)—

(A) which is not a countervailing duty order to which subsection (a) applies,

(B) which applies to merchandise which is the product of a country under the Agreement, and

(C) which is in effect on January 1, 1980, or which is issued pursuant to court order in an action brought under section 516(d) of that Act before that date,

the Commission, upon the request of the government of such a country or of exporters accounting for a significant proportion of exports to the United States or merchandise which is covered by the order, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 shall make a determination under paragraph (2) of this subsection.

(2) DETERMINATION BY THE COMMISSION.—In a case described in paragraph (1) with respect to which it has received a request for review the Commission shall commence an investigation to determine whether—

(A) an industry in the United States—

(i) would be materially injured, or

(ii) would be threatened with material injury, or

(B) the establishment of an industry in the United States would be materially retarded,

by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked. A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other changes levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

(3) **SUSPENSION OF LIQUIDATION; INVESTIGATION TIME LIMITS.**—Whenever the Commission receives a request under paragraph (1) it shall promptly notify the administering authority and the administering authority shall suspend liquidation of entries of the affected merchandise made on or after the date of receipt of the Commission's notification, or in the case of butter from Australia, entries of merchandise subject to the assessment of countervailing duties under Treaty Decision 42937, as amended, and collect estimated countervailing duties pending the determination of the Commission. The Commission shall issue its determination in any investigation under this subsection not later than 3 years after the date of commencement of such investigation.

(4) **EFFECT OF DETERMINATION.**—

(A) **AFFIRMATIVE DETERMINATION.**—Upon being notified of an affirmative determination under paragraph (2) by the Commission the administering authority shall liquidate entries of merchandise the liquidation of which was suspended under paragraph (3) of this subsection and impose countervailing duties in the amount of the estimated duties required to be deposited. The countervailing duty order shall remain in effect until revoked, in whole or in part, under section 751(c) of the Tariff Act of 1930.

(B) **NEGATIVE DETERMINATION.**—Upon being notified of a negative determination under paragraph (2) by the Commission, the administering authority shall revoke the countervailing duty order then in effect, publish notice thereof in the Federal Register, and refund, without payment of interest, any estimated countervailing duties collected during the period of suspension of liquidation.

(c) **ALL OUTSTANDING COUNTERVAILING DUTY ORDERS.**—Subject to the provisions of subsections (a) and (b), any countervailing duty order issued under section 303 of the Tariff Act of 1930 which is—

(1) in effect on the effective date of title VII of the Tariff Act of 1930 (as added by section 101 of this Act), or

(2) issued pursuant to court order in a proceeding brought before that date under section 516(d) of the Tariff Act of 1930 shall remain in effect after that date and shall be subject to review under section 751 of the Tariff Act of 1930.

(d) **PUBLICATION OF NOTICE OF DETERMINATIONS.**—Whenever the Commission makes a determination under subsection (a) or (b) it shall publish notice of that determination in the Federal Register and notify the administering authority of its determination.

(e) **DEFINITIONS.**—Whenever any term which is defined in section 771 of the Tariff Act of 1930 is used in this section, it has the same meaning as when it is used in title VII of that Act.

【19 U.S.C. 1671 nt】

**SEC. 105.**<sup>3</sup> \* \* \***SEC. 106. CONFORMING CHANGES.**

(a) REPEAL OF OLD LAW.—The Antidumping Act, 1921 (19 U.S.C. 160 et seq.) is hereby repealed but findings in effect on the effective date of this Act, or issued pursuant to court order in an action brought before that date, shall remain in effect, subject to review under section 751 of the Tariff Act of 1920.

(b)<sup>4</sup>

**SEC. 107. EFFECTIVE DATE.**

Except as otherwise provided in this title, this title and the amendments made by it shall take effect on January 1, 1980, if—

(1) the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), and

(2) the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to anti-dumping measures),

approved by the Congress under section 2(a) of this Act have entered into force with respect to the United States as of that date.<sup>5</sup>

[19 U.S.C. 1671 nt]

**TITLE II—CUSTOMS VALUATION****Subtitle A—Valuation Standards Amendments****SEC. 201.**<sup>6</sup> \* \* \***SEC. 202.**<sup>6</sup> \* \* \***SEC. 203. PRESIDENTIAL REPORT ON OPERATION OF THE AGREEMENT.**

As soon as practicable after the close of the 2-year period beginning on the date on which the amendments made by this title (other than section 223(b), relating to certain rubber footwear) take effect, the President shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade approved under section 2(a) (hereinafter in this subtitle referred to as the “Agreement”), both domestically and internationally, during that period.

[19 U.S.C. 1401a nt]

**SEC. 204. TRANSITION TO VALUATION STANDARDS UNDER THIS TITLE.**

(a) EFFECTIVE DATE OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title (except the amendments made by section 223(b)) shall take effect on—

<sup>3</sup>Sec. 105 consisted of amendments to sec. 304(d)(4) of the Tariff Act of 1930 concerning the continuation of certain waivers.

<sup>4</sup>Subsec. (b) consisted of conforming amendments to several statutes.

<sup>5</sup>These agreements entered into force with respect to the United States on December 17, 1979.

<sup>6</sup>Sec. 201 amended sec. 402 of the Tariff Act of 1930 to reflect changes brought about by the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (relating to customs valuation). Sec. 202 consisted of conforming amendments to several other laws.

(A) January 1, 1981, if the Agreement enters into force with respect to the United States by that date; or  
(B) if subparagraph (A) does not apply, that date after January 1, 1981, on which the Agreement enters into such force;  
and shall apply with respect to merchandise that is exported to the United States on or after whichever of such dates applies.

(2) EARLIER EFFECTIVE DATE UNDER CERTAIN CIRCUMSTANCES.—If the President determines before January 1, 1981, that—

(A) the European Economic Community has accepted the obligations of the Agreement with respect to the United States; and

(B) each of the member states of the European Economic Community has implemented the Agreement under its laws;

the President shall by proclamation announce such determination and the amendments made by this title (except the amendments made by section 223(b)) shall take effect on the date specified in the proclamation (but not before July 1, 1980) and shall apply with respect to merchandise that is exported to the United States on or after such date; except that unless the Agreement enters into force with respect to the United States by January 1, 1981, all provisions of law that were amended by such amendments are revised (as in effect on the day before such amendments took effect) on January 1, 1981, and such provisions—

(i) shall remain in effect until the date on which the Agreement enters into force with respect to the United States (and on such date the amendments made by this title (except the amendments made by section 223(b)) are revived and shall apply with respect to merchandise exported to the United States on or after such date); and

(ii) shall apply with respect to merchandise exported to the United States on or after January 1, 1981, and before the date on which the Agreement enters into such force.

(b) APPLICATION OF OLD LAW VALUATION STANDARDS.—For purposes of the administration of the customs laws, all merchandise (other than merchandise to which subsections (a) and (c) apply) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

(c) SPECIAL TREATMENT FOR CERTAIN RUBBER FOOTWEAR.—The amendments made by section 223(b) shall take effect July 1, 1981, or, if later, the date on which the Agreement enters into force with respect to the United States, and shall apply, together with the other amendments made by this title, to rubber footwear exported to the United States on or after such date. For purposes of the administration of the customs laws, all rubber footwear (other than rubber footwear to which the preceding sentence applies) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

(d) DEFINITION.—For purposes of this section, the term “rubber footwear” means articles described in item 700.60 of the Tariff Schedules of the United States (as in effect on the day before the day on which the amendments made by section 223(b) take effect).

[19 U.S.C. 1401a nt]

**Subtitle B—Final List and American Selling Price Rate  
Conversions<sup>7</sup>**

\* \* \* \* \*

**TITLE III—GOVERNMENT PROCUREMENT**

**SEC. 301. GENERAL AUTHORITY TO MODIFY DISCRIMINATION PURCHASING REQUIREMENTS.**

(a) PRESIDENTIAL WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS.—Subject to subsection (f) of this section, the President may waive, in whole or in part, with respect to eligible products of any foreign country or instrumentality designated under subsection (b), and suppliers of such products, the application of any law, regulation, procedure, or practice regarding Government procurement that would, if applied to such products and suppliers, result in treatment less favorable than that accorded—

(1) to United States products and suppliers of such products; or

(2) to eligible products of another foreign country or instrumentality which is a party to the Agreement and suppliers of such products.

(b) DESIGNATION OF ELIGIBLE COUNTRIES AND INSTRUMENTALITIES.—The President may designate a foreign country or instrumentality for purposes of subsection (a) only if he determines that such country or instrumentality—

(1) is a country or instrumentality which (A) has become a party to the Agreement or the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act), and (B) will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products;

(2) is a country or instrumentality, other than a major industrial country, which (A) will otherwise assume the obligations of the Agreement, and (B) will provide such opportunities to such products and suppliers;

(3) is a country or instrumentality, other than a major industrial country, which will provide such opportunities to such products and suppliers; or

(4) is a least developed country.

(c) MODIFICATION OR WITHDRAWAL OF WAIVERS AND DESIGNATIONS.—The President may modify or withdraw any waiver granted pursuant to subsection (a) or designation made pursuant to subsection (b).

(d) LIMITATIONS ON WAIVER AUTHORITY NOT EFFECTIVE UNLESS PROVISION AMENDED.—The authority of the President under

<sup>7</sup> Subtitle B of title II consisted of amendments to the Tariff Schedules of the United States and presidential proclamation authority with respect to those amendments.

subsection (a) to waive any laws, regulation, procedure, or practice shall be effective notwithstanding any other provision of law hereafter enacted (excluding the provisions of and amendments made by the Buy American Act of 1988) unless such other provision specifically refers to and amends this section.

(e) **PROCUREMENT PROCEDURES BY CERTAIN FEDERAL AGENCIES.**—Notwithstanding any other provision of law, the President may direct any agency of the United States listed in Annex 13–A of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act) to procure eligible products in compliance with the procedural provisions of chapter 13 of the USMCA.

(f) **SMALL BUSINESS AND MINORITY PREFERENCES.**—The authority of the President under subsection (a) of this section to waive any law, regulation, procedure, or practice regarding Government procurement does not authorize the waiver of any small business or minority preference.

[19 U.S.C. 2511]

**SEC. 302. AUTHORITY TO ENCOURAGE RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.**

(a) **AUTHORITY TO BAR PROCUREMENT FROM NON-DESIGNATED COUNTRIES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products—

(A) shall, with respect to procurement covered by the Agreement, prohibit the procurement, after the date on which any waiver under section 301(a) first takes effect, of products—

(i) which are products of a foreign country or instrumentality which is not designated pursuant to section 301(b), and

(ii) which would otherwise be eligible products; and

(B) may, with respect to procurement covered by the Agreement, take such other actions within the President's authority as the President deems necessary.

(2) **EXCEPTION.**—Paragraph (1) shall not apply in the case of procurements for which—

(A) there are no offers of products or services of the United States or of eligible products; or

(B) the offers of products or services of the United States or of eligible products are insufficient to fulfill the requirements of the United States Government.

(b) **DEFERRALS AND WAIVERS.**—Notwithstanding subsection (a), but in furtherance of the objective of encouraging countries to become parties to the Agreement and provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products, the President may—

(1) waive the prohibition required by subsection (a)(1) on procurement of products of a foreign country or instrumentality which has not yet become a party to the Agreement but—

(A) has agreed to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement, and

(B) maintains and enforces effective prohibitions on bribery and other corrupt practices in connection with its government procurement;

(2) authorize agency heads to waive, subject to interagency review and general policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)), such prohibition on a case-by-case basis when in the national interest; and

(3) authorize the Secretary of Defense to waive, subject to interagency review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)), such prohibition for products of any country or instrumentality which enters into a reciprocal procurement agreement with the Department of Defense.

Before exercising the waiver authority under paragraph (1), the President shall consult with the appropriate private sector advisory committees established under section 135 of the Trade Act of 1974 and with the appropriate committees of the Congress.

(c) REPORT ON IMPACT OF RESTRICTIONS.—

(1) IMPACT ON THE ECONOMY.—On or before July 1, 1981, the President shall report to the Committee on Ways and Means and the Committee on Government Operations of the House of Representatives and to the Committee on Finance and the Committee on Governmental Affairs of the Senate on the effects on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget) of the refusal of developed countries to allow the Agreement to cover the entities of the governments of such countries which are the principal purchasers of goods and equipment in appropriate product sectors.

(2) RECOMMENDATIONS FOR ATTAINING RECIPROCITY.—The report required by paragraph (1) shall include an evaluation of alternative means to obtain equity and reciprocity in such product sectors, including (A) prohibiting the procedures of products of such countries by United States entities not covered by the Agreement, and (B) modifying the application of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the Buy American Act. The report shall include an analysis of the effect of such alternative means on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget), and on successful negotiations on the expansion of the coverage of the Agreement pursuant to section 304 (a) and (b), other trade negotiating objectives, the relationship of the Federal Government to State and local gov-

ernments, and such other factors as the President deems appropriate.

(3) CONSULTATION.—In the preparation of the report required by paragraph (1) and the evaluation and analysis required by paragraph (2), the President shall consult with representatives of the public, industry, and labor, and make available pertinent, nonconfidential information obtained in the course of such preparation to the advisory committees established pursuant to section 135 of the Trade Act of 1974.

(d) PROPOSED ACTION.—

(1) PRESIDENTIAL REPORT.—On or before October 1, 1981, the President shall prepare and transmit to the congressional committees referred to in subsection (c)(1) a report which describes the actions he deems appropriate to establish reciprocity with major industrialized countries in the area of Government procurement.

(2) PROCEDURE.—

(A) PRESIDENTIAL DETERMINATION.—If the President determines that any changes in existing law or new statutory authority are required to authorize or to implement any action proposed in the report submitted under paragraph (1), he shall, on or after January 1, 1982, submit to the Congress a bill to accomplish such changes or provide such new statutory authority. Prior to submitting such a bill, the President shall consult with the appropriate committees of the Congress having jurisdiction over legislation involving subject matters which would be affected by such action, and shall submit to such committees a proposed draft of such bill.

(B) CONGRESSIONAL CONSIDERATION.—The appropriate committee of each House of the Congress shall give a bill submitted pursuant to subparagraph (A) prompt consideration and shall make its best efforts to take final committee action on such bill in an expeditious manner.

[19 U.S.C. 2512]

**SEC. 303. WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS WITH RESPECT TO PURCHASES OF CIVIL AIRCRAFT.**

The President may waive the application of the provisions of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), popularly referred to as the Buy American Act, in the case of any procurement of civil aircraft and related articles of a country or instrumentality which is a party to the Agreement on Trade in Civil Aircraft referred to in section 2(c) and approved under section 2(a). The President may modify or withdraw any waiver granted pursuant to this section.

[19 U.S.C. 2513]

**SEC. 304. EXPANSION OF THE COVERAGE OF THE AGREEMENT.**

(a) OVERALL NEGOTIATING OBJECTIVE.—The President shall seek in the renegotiations provided for in article XXIV(7) of the Agreement more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to Government procurement, with the



overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and nondiscriminatory world trade. In carrying out the provisions of this subsection, the President shall consider the assessment made in the report required under section 306(a).

(b) **SECTOR NEGOTIATING OBJECTIVES.**—The President shall seek, consistent with the overall objective set forth in subsection (a) and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for the export of United States products to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting that sector.

(c) **INDEPENDENT VERIFICATION OBJECTIVE.**—The President shall seek to establish in the renegotiation provided for in article XXIV(7) of the Agreement a system for independent verification of information provided by parties to the Agreement to the Committee on Government Procurement pursuant to article XIX(5) of the Agreement.

(d) **REPORTS OF NEGOTIATIONS.**—

(1) **REPORT IN THE EVENT OF INADEQUATE PROGRESS.**—If, during the renegotiations of the Agreement, the President at any time determines that the renegotiations are not progressing satisfactorily and are not likely to result, within twelve months of the commencement thereof, in an expansion of the Agreement to cover purchases by the entities of the governments of developed countries which are the principal purchasers of goods and equipment in appropriate product sectors, he shall so report to the congressional committees referred to in section 302(c)(1). Taking into account the objectives set forth in subsections (a) and (b) of this section and the factors required to be analyzed under section 302(c), the President shall further report to such committees appropriate actions to seek reciprocity in such product sectors with such countries in the area of Government procurement.

(2) **LEGISLATIVE RECOMMENDATIONS.**—Taking into account the factors required to be analyzed under section 302(c), the President may recommend to the Congress legislation (with respect to entities of the Government which are not covered by the Agreement) which may prohibit such entities from purchasing products of such countries.

(3) **ANNUAL REPORTS.**—Each annual report of the President under section 163(a) of the Trade Act of 1974 made after the date of enactment of this Act shall report the actions, if any the President deemed appropriate to establish reciprocity in appropriate product sectors with major industrial countries in the area of government procurement.

(e) **EXTENSION OF NONDISCRIMINATION AND NATIONAL TREATMENT.**—Before exercising the waiver authority in section 301 for procurement not covered by the Agreement on the date it enters into force with respect to the United States, the President shall follow the consultation provisions of section 135 and chapter 6 of title

I of the trade Act of 1974 for private sector and congressional consultations.

[19 U.S.C. 2514]

**SEC. 305. MONITORING AND ENFORCEMENT.**

(a) **MONITORING AND ENFORCEMENT STRUCTURE RECOMMENDATIONS.**—In the preparation of the recommendations for the reorganization of trade functions, the President shall insure that careful consideration is given to monitoring and enforcing the requirements of the Agreement and this title, with particular regard to the tendering procedures required by the Agreement or otherwise agreed to by a country or instrumentality likely to be designated pursuant to section 301(b).

(b) **RULES OF ORIGIN.**—

(1) **ADVISORY RULINGS AND FINAL DETERMINATIONS.**—For the purposes of this title, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 308(4)(B), an article is or would be a product of a foreign country or instrumentality designated pursuant to section 301(b).

(2) **PENALTIES FOR FRAUDULENT CONDUCT.**—In addition to any other provisions of law which may be applicable, section 1001 of title 18, United States Code, shall apply to fraudulent conduct with respect to the origin of products for purposes of qualifying for a waiver under section 301 or avoiding a prohibition under section 302.

(c) **REPORT TO CONGRESS ON RULES OF ORIGIN.**—

(1) **DOMESTIC ADMINISTRATIVE PRACTICES.**—As soon as practicable after the close of the two-year period beginning on the date on which any waiver under section 301(a) first takes effect, the President shall prepare and transmit to Congress a report containing an evaluation of administrative practices under any provision of law which requires determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce. Such evaluation shall be accompanied by the President's recommendations for legislative and executive measures required to improve and simplify and to make more uniform and consistent such practices. Such evaluation and recommendations shall take into account the special problems affecting insular possessions of the United States with respect to such practices.

(2) **FOREIGN ADMINISTRATIVE PRACTICES.**—The report required under paragraph (1) shall contain an evaluation of the administrative practices under the laws of each major industrial country which require determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce, including an assessment of such practices on the exports of the United States.

(d)<sup>8</sup> **ANNUAL REPORT ON FOREIGN DISCRIMINATION.**—

<sup>8</sup>Subsecs. (d) through (k) were added by sec. 7003 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 102 Stat. 1548).

Sec. 7004 of that Act also contained the following provision, entitled "Sunset Provisions":

"The amendments made by this title shall cease to be effective on April 30, 1996, unless the Congress, after reviewing the report required by section 305(k) of the Trade Agreements Act of

(1) ANNUAL REPORT REQUIRED.—The President shall, no later than April 30 of each year, submit to the appropriate committees of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, a report on the extent to which foreign countries discriminate against United States products or services in making government procurements.

(2) IDENTIFICATIONS REQUIRED.—In the annual report, the President shall identify (and continue to identify subject to subsections (f)(5) and (g)(3)) any countries, other than least developed countries, that—

(A) are signatories to the Agreement and not in compliance with the requirements of the Agreement;

(B)(i) are signatories to the Agreement; (ii) are in compliance with the Agreement but, in the government procurement of products or services not covered by the Agreement, maintain a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government;

(C)(i) are not signatories to the Agreement; (ii) maintain, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government;

(D)(i) are not signatories to the Agreement;

(ii) fail to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement; and

(iii) whose products or services are acquired in significant amounts by the United States Government; or

(E)(i) are not signatories to the Agreement;

(ii) fail to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement; and

(iii) whose products or services are acquired in significant amounts by the United States Government.

(3) CONSIDERATIONS IN MAKING IDENTIFICATIONS.—In making the identifications required by paragraph (1), the President shall—

(A) use the requirements of the Agreement, government procurement practices, and the effects of such practices on United States businesses as a basis for evaluating whether the procurement practices of foreign governments do not provide fair market opportunities for United States products or services;

1979, and other relevant information, extends such date. After such date, the President may modify or terminate any or all actions taken pursuant to such amendments.”

(B) take into account, among other factors, whether and to what extent countries that are signatories to the Agreement, and other countries described in paragraph (1) of this subsection—

(i) use sole-sourcing or otherwise noncompetitive procedures for procurements that could have been conducted using competitive procedures;

(ii) conduct what normally would have been one procurement as two or more procurements, to decrease the anticipated contract values below the Agreement's value threshold or to make the procurements less attractive to United States businesses;

(iii) announce procurement opportunities with inadequate time intervals for United States businesses to submit bids; and

(iv) use specifications in such a way as to limit the ability of United States suppliers to participate in procurements; and

(C) use any other additional criteria deemed appropriate, including the failure to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement.

(4) CONTENTS OF REPORTS.—The reports required by this subsection shall include, with respect to each country identified under subparagraph (A), (B), or (C) of paragraph (1), the following:

(A) a description of the specific nature of the discrimination, including (for signatory countries) any provision of the Agreement with which the country is not in compliance;

(B) an identification of the United States products or services that are affected by the noncompliance or discrimination;

(C) an analysis of the impact of the noncompliance or discrimination on the commerce of the United States and the ability of United States companies to compete in foreign government procurement markets; and

(D) a description of the status, action taken, and disposition of cases of noncompliance or discrimination identified in the preceding annual report with respect to such country.

(5) INFORMATION AND ADVICE FROM GOVERNMENT AGENCIES AND UNITED STATES BUSINESSES.—In developing the annual reports required by this subsection, the President shall seek information and advice from executive agencies through the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and from United States businesses in the United States and in countries that are signatories to the Agreement and in other foreign countries whose products or services are acquired in significant amounts by the United States Government.

(6) IMPACT OF NONCOMPLIANCE.—The President shall take into account, in identifying countries in the annual report and in any action required by this section, the relative impact of

any noncompliance with the Agreement or of other discrimination on United States commerce and the extent to which such noncompliance or discrimination has impeded the ability of United States suppliers to participate in procurements on terms comparable to those available to suppliers of the country in question when seeking to sell goods or services to the United States Government.

(7) **IMPACT ON PROCUREMENT COSTS.**—Such report shall also include an analysis of the impact on United States Government procurement costs that may occur as a consequence of any sanctions that may be required by subsection (f) or (g) of this section.

(e) **CONSULTATION.**—No later than the date the annual report is submitted under subsection (d)(1), the United States Trade Representative, on behalf of the United States, shall request consultations with any countries identified in the report to obtain their compliance with the Agreement or the elimination of their discriminatory procurement practices unless the country is identified as discriminatory pursuant to section 305(d)(1) in the preceding annual report.

(f) **PROCEDURES WITH RESPECT TO VIOLATIONS OF THE AGREEMENT.**—

(1) **INITIATION OF DISPUTE SETTLEMENT PROCEDURES.**—If, within 60 days after the annual report is submitted under subsection (d)(1), a signatory country identified pursuant to subsection (d)(1)(A) has not complied with the Agreement, then the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under the Agreement unless such proceedings are already underway pursuant to the identification of the signatory country under section 305(d)(1) as not in compliance in a preceding annual report.

(2) **SETTLEMENT OF DISPUTES.**—If, before the end of the 18 months following the initiation of dispute settlement procedures—

(A) the other participant to the dispute settlement procedures has complied with the Agreement,

(B) the other participant to the procedures takes the action recommended as a result of the procedures to the satisfaction of the President,

(C) the procedures result in a determination providing a specific period of time for the other participant to bring its practices into compliance with the Agreement, or

(D) the procedures result in a determination requiring no action by the other participant,  
the President shall take no action to limit Government procurement from that participant.

(3) **SANCTIONS AFTER DISPUTE RESOLUTION FAILS.**—

(A) **FAILURES RESULTING IN SANCTIONS.**—If—

(i) within 18 months from the date dispute settlement procedures are initiated with a signatory country pursuant to this section—

(I) such procedures are not concluded, or

(II) the country has not met the requirements of subparagraph (A) or (B) of paragraph (2), or  
 (ii) the period of time provided for pursuant to paragraph (2)(C) has expired and procedures for suspending concessions under the Agreement have been completed,

then the sanctions described in subparagraph (B) shall be imposed.

(B) SANCTIONS.—

(i) IN GENERAL.—If subparagraph (A) applies to any signatory country—

(I) the signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 4 of the Act of March 3, 1933 (41 U.S.C. 10b–1) shall apply to such country, and

(II) the President shall revoke the waiver of discriminatory purchasing requirements granted to the signatory country pursuant to section 301(a).

(ii) TIME SANCTIONS ARE IMPOSED.—Any sanction—

(I) described in clause (i)(I) shall apply from the date that is the last day of the 18-month period described in subparagraph (A)(i) or, in the case of paragraph (2)(C), from the date procedures for suspending concessions under the Agreement have been completed, and

(II) described in clause (i)(II) shall apply beginning on the day after the date described in subclause (I).

(4) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanctions required by subclause (I) or (II) of paragraph (3)(B)(i) would harm the public interest of the United States, the President may, to the extent necessary to apply appropriate limitations that are equivalent, in their effect, to the noncompliance with the Agreement by that signatory country—

(A) withhold the imposition of either (but not both) of such sanctions;

(B) modify or restrict the application of either or both such sanctions, subject to such terms and conditions as the President considers appropriate; or

(C) take any combination of the actions permitted by subparagraph (A) or (B) of this paragraph.

(5) TERMINATION OF SANCTIONS AND REINSTATEMENT OF WAIVERS.—The President may terminate the sanctions imposed under paragraph (3) or (4), reinstate the waiver of discriminatory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act, and remove that country from the report under subsection (d)(1) of this section at such time as the President determines that—

(A) the signatory country has complied with the Agreement;

(B) the signatory country has taken corrective action as a result of the dispute settlement procedures to the satisfaction of the President; or

(C) the dispute settlement procedures result in a determination requiring no action by the other signatory country.

(g) PROCEDURES WITH RESPECT TO OTHER DISCRIMINATION.—

(1) IMPOSITION OF SANCTIONS.—If, within 60 days after the annual report is submitted under subsection (d)(1), a country that is identified pursuant to subparagraph (B), (C), (D), or (E) of subsection (d)(2) has not eliminated the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be) of subsection (d)(2), then, on the day after the end of such 60-day period—

(A) the President shall identify such country as a country that maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and

(B) the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country.

(2) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanction required by paragraph (1) would harm the public interest of the United States, the President may, to the extent necessary to impose appropriate limitations that are equivalent, in their effect, to the discrimination against United States products or services in government procurement by that country, modify or restrict the application of such sanction, subject to such terms and conditions as the President considers appropriate.

(3) TERMINATION OF SANCTIONS.—The President may terminate the sanctions imposed under paragraph (1) or (2) and remove a country from the report under subsection (d)(1) at such time as the President determines that the country has eliminated the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be) of subsection (d)(2).

(h) LIMITATIONS ON IMPOSING SANCTIONS.—

(1) AVOIDING ADVERSE IMPACT ON COMPETITION.—The President shall not take any action under subsection (f) or (g) of this section if the President determines that such action—

(A) would limit the procurement or class of procurements to, or would establish a preference for, the products or services of a single manufacturer or supplier; or

(B) would, with respect to any procurement or class of procurements, result in an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices.

(2) ADVICE FROM U.S. AGENCIES AND BUSINESSES.—The President, in taking any action under this subsection to limit government procurements from foreign countries, shall seek the advice of executive agencies through the interagency trade

organization established under section 242(a) of the Trade Expansion Act of 1962 and the advice of United States businesses and other interested parties.

(i) **RENEGOTIATION TO SECURE FULL AND OPEN COMPETITION.**—The President shall instruct the United States Trade Representative, in conducting renegotiations of the Agreement, to seek improvements in the Agreement that will secure full and open competition consistent with the requirements imposed by the amendments made by the Competition in Contracting Act (Public Law 98–369; 98 Stat. 1175).

(j) **FEDERAL REGISTER NOTICES OF ACTIONS.**—

(1) **NOTICES REQUIRED.**—A notice shall be published in the Federal Register on the date of any action under this section, describing—

(A) the results of dispute settlement proceedings under subsection (f)(2);

(B) any sanction imposed under subsection (f)(3) or (g)(1);

(C) any withholding, modification, or restriction of any sanction under subsection (f)(4) or (g)(2); and

(D) the termination of any sanction under subsection (f)(5) or (g)(3).

(2) **PUBLICATION OF DETERMINATIONS LIFTING SANCTIONS.**—A notice describing the termination of any sanction under subsection (f)(5) or (g)(3) shall include a copy of the President's determination under such subsection.

(k) **GENERAL REPORT ON ACTIONS UNDER THIS SECTION.**—

(1) **ADVICE TO THE CONGRESS.**—The President shall, as necessary, advise the Congress and, by no later than April 30, 1994, submit to the appropriate committees of the House of Representatives, and to the Committee on Governmental Affairs and other appropriate committees of the Senate, a general report on actions taken pursuant to this section.

(2) **CONTENTS OF REPORT.**—The general report required by this subsection shall include an evaluation of the adequacy and effectiveness of actions taken pursuant to subsections (e), (f), and (g) of this section as a means toward eliminating discriminatory government procurement practices against United States businesses.

(3) **LEGISLATIVE RECOMMENDATIONS.**—The general report may also include, if appropriate, legislative recommendations for enhancing the usefulness of this section or for other measures to be used as means for eliminating or responding to discriminatory foreign government procurement practices.

[19 U.S.C. 2515]



**SEC. 306. [Repealed by P.L. 103-465]****SEC. 307. AVAILABILITY OF INFORMATION TO CONGRESSIONAL ADVISERS.**

The Special Representative for Trade Negotiations<sup>9</sup> shall make available to the Members of Congress designated as official advisers pursuant to section 161 of the Trade Act of 1974 information compiled by the Committee on Government Procurement under article XIX(5) of the Agreement.

[19 U.S.C. 2517]

**SEC. 308. DEFINITIONS.**

As used in this title—

(1) **AGREEMENT.**—The term “Agreement” means the Agreement on Government Procurement referred to in section 101(d)(17) of the Uruguay Round Agreements Act, as submitted to the Congress, but including rectifications, modifications, and amendments which are accepted by the United States.

(2) **CIVIL AIRCRAFT.**—The term “civil aircraft and related articles” means—

(A) all aircraft other than aircraft to be purchased for use by the Department of Defense or the United States Coast Guard;

(B) the engines (and parts and components for incorporation therein) of such aircraft;

(C) any other parts, components, and subassemblies for incorporation in such aircraft; and

(D) any ground flight simulators, and parts and components thereof, for use with respect to such aircraft, whether to be purchased for use as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of such aircraft, and without regard to whether such aircraft or articles receive duty-free treatment pursuant to section 601(a)(2).

(3) **DEVELOPED COUNTRIES.**—The term “developed countries” means countries so designated by the President.

(4) **ELIGIBLE PRODUCTS.**—

(A) **IN GENERAL.**—The term “eligible product” means, with respect to any foreign country or instrumentality that is—

(i) a party to the Agreement, a product or service of that country or instrumentality which is covered under the Agreement for procurement by the United States;

(ii) Mexico, as a party to the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act), a product or service of that country or instrumentality which is covered under the USMCA for procurement by the United States;

<sup>9</sup>Section 1(a) of the Reorganization Plan No. 3 of 1979 (44 F.R. 69273; 93 Stat. 1381; 19 U.S.C. 2171 nt) states the Office of the Special Representative for Trade Negotiations is redesignated as the Office of the United States Trade Representative.

(iii) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2003, and before January 2, 2005, a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States;

(iv) a party to the Dominican Republic-Central America-United States Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States;

(v) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2005, and before July 2, 2006, a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States;

(vi) a party to the United States-Oman Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States;

(vii) a party to the United States-Peru Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States;

(viii) a party to the United States-Korea Free Trade Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States;

(ix) a party to the United States-Colombia Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States; or

(x) a party to the United States-Panama Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States.

(B) **RULE OF ORIGIN.**—An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

(C) **LOWERED THRESHOLD FOR CERTAIN PRODUCTS AS A CONSEQUENCE OF UNITED STATES-ISRAEL FREE TRADE AREA PROVISIONS.**—The term “eligible product” includes a product or service of Israel for which the United States is obligated to waive Buy National restrictions under—

(i) the Agreement on the Establishment of a Free Trade Area between the Government of the United

States of America and the Government of Israel, regardless of the thresholds provided for in the Agreement (as defined in paragraph (1)), or

(ii) any subsequent agreement between the United States and Israel which lowers on a reciprocal basis the applicable threshold for entities covered by the Agreement.

(D) LOWERED THRESHOLD FOR CERTAIN PRODUCTS AS A CONSEQUENCE OF UNITED STATES-CANADA FREE-TRADE AGREEMENT.—Except as otherwise agreed by the United States and Canada under paragraph 3 of article 1304 of the United States-Canada Free-Trade Agreement, the term “eligible product” includes a product or service of Canada having a contract value of \$25,000 or more that would be covered for procurement by the United States under the Agreement (as defined in paragraph (1)), but for the thresholds provided for in the Agreement.

(5) INSTRUMENTALITY.—The term “instrumentality” shall not be construed to include an agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

(6) LEAST DEVELOPED COUNTRY.—The term “least developed country” means any country on the United Nations General Assembly list of least developed countries.

(7) MAJOR INDUSTRIAL COUNTRY.—The term “major industrial country” means any such country as defined in section 126 of the Trade Act of 1974 and any instrumentality of such a country.

[19 U.S.C. 2518]

#### **SEC. 309. EFFECTIVE DATES.**

The provisions of this title shall be effective on the date of enactment of this Act, except that—

(1) the authority of the President to grant waivers under section 303 shall be effective on January 1, 1980; and

(2) the authority of the President to grant waivers under section 301 shall be effective on January 1, 1981.

[19 U.S.C. 2511 note]

### **TITLE IV—TECHNICAL BARRIERS TO TRADE (STANDARDS)**

#### **Subtitle A—Obligations of the United States**

#### **SEC. 401. CERTAIN STANDARDS-RELATED ACTIVITIES.**

(a) NO BAR TO ENGAGING IN STANDARDS ACTIVITY.—Nothing in this title may be construed—

(1) to prohibit a Federal agency from engaging in activity related to standards-related measures, including any such measure relating to safety, the protection of human, animal, or plant life or health, the environment, or consumers; or

(2) to limit the authority of a Federal agency to determine the level it considers appropriate of safety or of protection of

human, animal, or plant life or health, the environment, or consumers.

(b) **UNNECESSARY OBSTACLES.**—Nothing in this title may be construed as prohibiting any private person, Federal agency, or State agency from engaging in standards-related activities that do not create unnecessary obstacles to the foreign commerce of the United States. No standards-related activity of any private person, Federal agency, or State agency shall be deemed to constitute an unnecessary obstacle to the foreign commerce of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective including, but not limited to, the protection of legitimate health or safety, essential security, environmental, or consumer interests and if such activity does not operate to exclude imported products which fully meet the objectives of such activity.

[19 U.S.C. 2531]

**SEC. 402. FEDERAL STANDARDS-RELATED ACTIVITIES.**

No Federal agency may engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States, including, but not limited to, standards-related activities that violate any of the following requirements:

(1) **NONDISCRIMINATORY TREATMENT.**—Each Federal agency shall ensure, in applying standards-related activities with respect to any imported product, that such product is treated no less favorably than are like domestic or imported products, including, but not limited to, when applying tests or test methods, no less favorable treatment with respect to—

(A) the acceptance of the product for testing in comparable situations;

(B) the administration of the tests in comparable situations;

(C) the fees charged for tests;

(D) the release of test results to the exporter, importer, or agents;

(E) the siting of testing facilities and the selection of samples for testing; and

(F) the treatment of confidential information pertaining to the product.

(2) **USE OF INTERNATIONAL STANDARDS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B)(ii), each Federal agency, in developing standards, shall take into consideration international standards and shall, if appropriate, base the standards on international standards.

(B) **APPLICATION OF REQUIREMENT.**—For purposes of this paragraph, the following apply:

(i) **INTERNATIONAL STANDARDS NOT APPROPRIATE.**—The reasons for which the basing of a standard on an international standard may not be appropriate include, but are not limited to, the following:

(I) National security requirements.

(II) The prevention of deceptive practices.

(III) The protection of human health or safety, animal or plant life or health, or the environment.

(IV) Fundamental climatic or other geographical factors.

(V) Fundamental technological problems.

(ii) REGIONAL STANDARDS.—In developing standards, a Federal agency may, but is not required to, take into consideration any international standard promulgated by an international standards organization the membership of which is described in section 451(6)(A)(ii).

(3) PERFORMANCE CRITERIA.—Each Federal agency shall, if appropriate, develop standards based on performance criteria, such as those relating to the intended use of a product and the level of performance that the product must achieve under defined conditions, rather than on design criteria, such as those relating to the physical form of the product or the types of material of which the product is made.

(4) ACCESS FOR FOREIGN SUPPLIERS.—Each Federal agency shall, with respect to any conformity assessment procedure used by it, permit access for obtaining an assessment of conformity and the mark of the system, if any, to foreign suppliers of a product on the same basis as access is permitted to suppliers of like products whether of domestic or foreign origin.

[19 U.S.C. 2532]

#### **SEC. 403. STATE AND PRIVATE STANDARDS-RELATED ACTIVITIES.**

(a) IN GENERAL.—It is the sense of the Congress that no State agency and no private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States.

(b) PRESIDENTIAL ACTION.—The President shall take such reasonable measures as may be available to promote the observance by State agencies and private persons, in carrying out standards-related activities, or requirements equivalent to those imposed on Federal agencies under section 402, and of procedures that provide for notification, participation and publication with respect to such activities.

[19 U.S.C. 2533]

### **Subtitle B—Functions of Federal Agencies**

#### **SEC. 411. FUNCTIONS OF TRADE REPRESENTATIVE.**

(a) IN GENERAL.—The Trade Representative shall coordinate the consideration of international trade policy issues that arise as a result of, and shall develop international trade policy as it relates to, the implementation of this title.

(b) NEGOTIATING FUNCTIONS.—The Trade Representative has responsibility for coordinating United States discussions and negotiations with foreign countries for the purpose of establishing mutual arrangements with respect to standards-related activities. In carrying out this responsibility, the Trade Representative shall inform and consult with any Federal agency having expertise in the matters under discussion and negotiation.

(c) CROSS REFERENCE.—【For provisions of law regarding general authority of the Trade Representative with respect to trade agreements, see section 141 of the Trade Act of 1974 (19 U.S.C. 2171).】

【19 U.S.C. 2541】

**SEC. 412. ESTABLISHMENT AND OPERATION OF TECHNICAL OFFICES.**

(a) ESTABLISHMENT.—

(1) FOR NONAGRICULTURAL PRODUCTS.—The Secretary of Commerce shall establish and maintain within the Department of Commerce a technical office that shall carry out the functions prescribed under subsection (b) with respect to non-agricultural products.

(2) FOR AGRICULTURAL PRODUCTS.—The Secretary of Agriculture shall establish and maintain within the Department of Agriculture a technical office that shall carry out the functions prescribed under subsection (b) with respect to agricultural products.

(b) FUNCTIONS OF OFFICES.—The President shall prescribe for each technical office established under subsection (a) such functions as the President deems necessary or appropriate to implement this title.

【19 U.S.C. 2542】

**SEC. 413. REPRESENTATION OF UNITED STATES INTERESTS BEFORE INTERNATIONAL STANDARDS ORGANIZATIONS.**

(a) OVERSIGHT AND CONSULTATION.—The Secretary concerned shall—

(1) inform, and consult and coordinate with, the Trade Representative with respect to international standards-related activities identified under paragraph (2);

(2) keep adequately informed regarding international standards-related activities and identify those that may substantially affect the commerce of the United States; and

(3) carry out such functions as are required under subsections (b) and (c).

(b) REPRESENTATION OF UNITED STATES INTERESTS BY PRIVATE PERSONS.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) ORGANIZATION MEMBER.—The term “organization member” means the private person who holds membership in a private international standards organization.

(B) PRIVATE INTERNATIONAL STANDARDS ORGANIZATION.—The term “Private international standards organization” means any international standards organization before which the interests of the United States are represented by a private person who is officially recognized by that organization for such purpose.

(2) IN GENERAL.—Except as otherwise provided for in this subsection, the representation of United States interests before any private international standards organization shall be carried out by the organization member.

(3) INADEQUATE REPRESENTATION.—If the Secretary concerned, after inquiry instituted on his own motion or at the re-

quest of any private person, Federal agency, or State agency having an interest therein, has reason to believe that the participation by the organization member in the proceedings of a private international standards organization will not result in the adequate representation of United States interests that are, or may be, affected by the activities of such organization (particularly with regard to the potential impact of any such activity on the international trade of the United States), the Secretary concerned shall immediately notify the organization member concerned. During any such inquiry, the Secretary concerned may solicit and consider the advice of the appropriate representatives referred to in section 417.

(4) ACTION BY ORGANIZATION MEMBER.—If within the 90-day period after the date on which notification is received under paragraph (3) (or such shorter period as the Secretary concerned determines to be necessary in extraordinary circumstances), the organization member demonstrates to the Secretary concerned its willingness and ability to represent adequately United States interests before the private international standards organization, the Secretary concerned shall take no further action under this subsection.

(5) ACTION BY SECRETARY CONCERNED.—If—

(A) within the appropriate period referred to in paragraph (4), the organization member does not respond to the Secretary concerned with respect to the notification, or does respond but does not demonstrate to the Secretary concerned the requisite willingness and ability to represent adequately United States interests; or

(B) there is no organization member of the private international standards organization;  
the Secretary concerned shall make appropriate arrangements to provide for the adequate representation of United States interests. In cases where subparagraph (A) applies, such provision shall be made by the Secretary concerned through the appropriate organization member if the private international standards organization involved requires representation by that member.

(c) REPRESENTATION OF UNITED STATES INTERESTS BY FEDERAL AGENCIES.—With respect to any international standards organization before which the interests of the United States are represented by one or more Federal agencies that are officially recognized by that organization for such purpose, the Secretary concerned shall—

(1) encourage cooperation among interested Federal agencies with a view toward facilitating the development of a uniform position with respect to the technical activities with which the organization is concerned;

(2) encourage such Federal agencies to seek information from, and to cooperate with, the affected domestic interests when undertaking such representation; and

(3) not preempt the responsibilities of any Federal agency that has jurisdiction with respect to the activities undertaken by such organization, unless requested to do so by such agency.

[19 U.S.C. 2543]

**SEC. 414. STANDARDS INFORMATION CENTER.**

(a) **ESTABLISHMENT.**—The Secretary of Commerce shall maintain within the Department of Commerce a standards information center.

(b) **FUNCTIONS.**—The standards information center shall—

(1) serve as the central national collection facility for information relating to (A) standards, technical regulations, conformity assessment procedures, and standards-related activities, whether such standards, technical regulations, conformity assessment procedures, or activities are public or private, domestic or foreign, or international, regional, national, or local and (B) the membership and participation of Federal, State, or local government bodies or private bodies in the United States in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements concerning standards-related activities;

(2) make available to the public at such reasonable fee as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) other than information to which paragraph (3) applies;

(3) use its best efforts to make available to the public, at such reasonable fees as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) that is of private origin, on a cooperative basis with the private individual or entity, foreign or domestic, who holds the copyright on the information;

(4) in case of such information that is of foreign origin, provide, at such reasonable fee as the Secretary shall prescribe, such translation services as may be necessary;

(5) serve as the inquiry point for requests for information regarding standards-related activities, whether adopted or proposed, within the United States, except that in carrying out this paragraph, the Secretary of Commerce shall refer all inquiries regarding agricultural products to the technical office established under section 412(a)(2) within the Department of Agriculture; and

(6) provide such other services as may be appropriate, including but not limited to, such services to the technical offices established under section 412 as may be requested by those offices in carrying out their functions.

(c) **SANITARY AND PHYTOSANITARY MEASURES.**—

(1) **PUBLIC INFORMATION.**—The standards information center shall, in addition to the functions specified under subsection (b), make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

(A) any sanitary or phytosanitary measure of general application, including any inspection procedure or approval procedure proposed, adopted, or maintained by a Federal agency or agency of a State or local government;

(B) the procedures of a Federal agency or an agency of a State or local government for risk assessment and factors the agency considers in conducting the assessment;



(C) the determination of the levels of protection that a Federal agency or an agency of a State or local government considers appropriate; and

(D) the membership and participation of the Federal Government and State and local governments in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements.

(2) DEFINITIONS.—The definitions in section 463 apply for purposes of this subsection.

[19 U.S.C. 2544]

#### SEC. 415. CONTRACTS AND GRANTS.

(a) IN GENERAL.—For purposes of carrying out this title, and otherwise encouraging compliance with the Agreement, the Trade Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make grants to, or enter into contracts with, any other Federal agency, any State agency, or any private person, to assist such agency or person to implement appropriate programs and activities, including, but not limited to, programs and activities—

(1) to increase awareness of proposed and adopted standards-related activities;

(2) to facilitate international trade through the appropriate international and domestic standards-related activities;

(3) to provide, if appropriate, and pursuant to section 413, adequate United States representation in international standards-related activities; and

(4) to encourage United States exports through increased awareness of foreign standards-related activities that may affect United States exports.

No contract entered into under this section shall be effective except to such extent, and in such amount, as is provided in advance in appropriation Acts.

(b) TERMS AND CONDITIONS.—Any contract entered into, or any grant made, under subsection (a) shall be subject to such terms and conditions as the Trade Representative or Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States.

(c) LIMITATIONS.—Financial assistance extended under this section shall not exceed 75 percent of the total costs (as established by the Trade Representative or Secretary concerned, as the case may be) of the program or activity for which assistance is made available. The non-Federal share of such costs shall be made in cash or kind, consistent with the maintenance of the program or activity concerned.

(d) AUDIT.—Each recipient of a grant or contract under this section shall make available to the Trade Representative or the Secretary concerned, as the case may be, and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, or record that is pertinent to the funds received under such grant or contract.

[19 U.S.C. 2545]

**SEC. 416. TECHNICAL ASSISTANCE.**

The Trade Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make available, on a reimbursable basis or otherwise, to any other Federal agency, State agency, or private person such assistance, including, but not limited to, employees, services, and facilities, as may be appropriate to assist such agency or person in carrying out standards-related activities in a manner consistent with this title.

[19 U.S.C. 2546]

**SEC. 417. CONSULTATIONS WITH REPRESENTATIVES OF DOMESTIC INTERESTS.**

In carrying out the functions for which responsible under this title, the Trade Representative and the Secretary concerned shall solicit technical and policy advice from the committees, established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), that represent the interests concerned, and may solicit advice from appropriate State agencies and private persons.

[19 U.S.C. 2547]

**Subtitle C—Administrative and Judicial Proceedings  
Regarding Standards-Related Activities**

**CHAPTER 1—REPRESENTATIONS ALLEGING UNITED STATES VIOLATIONS OF OBLIGATIONS**

**SEC. 421. RIGHT OF ACTION UNDER THIS CHAPTER.**

Except as provided under this chapter, the provisions of this subtitle do not create any right of action under the laws of the United States with respect to allegations that any standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement.

[19 U.S.C. 2551]

**SEC. 422. REPRESENTATIONS.**

Any—

- (1) Party to the Agreement; or
- (2) foreign country that is not a Party to the Agreement but is found by the Trade Representative to extend rights and privileges to the United States that are substantially the same as those that would be so extended if that foreign country were a Party to the Agreement;

may make a representation to the Trade Representative alleging that a standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement. Any such representation must be made in accordance with procedures that the Trade Representative shall by regulation prescribe and must provide a reasonable indication that the standard-related activity concerned is having a significant trade effect. No person other than a Party to the Agreement or a foreign country described in paragraph (2) may make such a representation.

[19 U.S.C. 2552]

**SEC. 423. ACTION AFTER RECEIPT OF REPRESENTATIONS.**

(a) **REVIEW.**—Upon receipt of any representations made under section 422, the Trade Representative shall review the issues concerned in consultation with—

(1) the agency of persons alleged to be engaging in violations under the Agreement;

(2) the member agencies of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a));

(3) other appropriate Federal agencies; and

(4) appropriate representatives referred to in section 417.

(b) **RESOLUTION.**—The Trade Representative shall undertake to resolve, on a mutually satisfactory basis, the issues set forth in the representation through consultation with the parties concerned.

[19 U.S.C. 2553]

**SEC. 424. PROCEDURE AFTER FINDING BY INTERNATIONAL FORUM.**

(a) **IN GENERAL.**—If an appropriate international forum finds that a standards-related activity being engaged in within the United States conflicts with the obligations of the United States under the Agreement, the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) shall review the finding and the matters related thereto with a view to recommending appropriate action.

(b) **CROSS REFERENCE.**—For provisions of law regarding remedies available to domestic persons alleging that standards activities engaged in by Parties to the Agreement (other than the United States) violate the obligations of the Agreement, see section 301 of the Trade Act of 1974 (19 U.S.C. 2411).<sup>10</sup>

[19 U.S.C. 2554]

**CHAPTER 2—OTHER PROCEEDINGS REGARDING CERTAIN STANDARDS-RELATED ACTIVITIES****SEC. 441. FINDINGS OF RECIPROCITY REQUIRED IN ADMINISTRATIVE PROCEEDINGS.**

(a) **IN GENERAL.**—Except as provided under chapter 1, no Federal agency may consider a complaint or petition against any standards-related activity regarding an imported product, if that activity is engaged in within the United States and is covered by the Agreement, unless the Trade Representative finds, and informs the agency concerned in writing, that—

(1) the country of origin of the imported product is a Party to the Agreement or a foreign country described in section 422(2); and

(2) the dispute settlement procedures provided under the Agreement are not appropriate.

(b) **EXEMPTIONS.**—This section does not apply with respect to causes of action arising under—

(1) the antitrust laws as defined in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); or

<sup>10</sup>The text of subsection (b) of section 424 appears below the heading on its own line (i.e. text does not run into the subsection heading) and such text appears in boldface type in the original law (see 93 Stat. 248).

(2) statutes administered by the Secretary of Agriculture. This section does not apply with respect to petitions and proceedings that are provided for under the practices of any Federal agency for the purpose of ensuring, in accordance with section 553 of title 5, United States Code, that interested persons are given an opportunity to participate in agency rulemaking or to seek the issuance, amendment, or repeal of a rule.

[19 U.S.C. 2561]

**SEC. 442. NOT CAUSE FOR STAY IN CERTAIN CIRCUMSTANCES.**

No standards-related activity being engaged in within the United States may be stayed in any judicial or administrative proceeding on the basis that such activity is currently being considered, pursuant to the Agreement, by an international forum.

[19 U.S.C. 2562]

**Subtitle D—Definitions and Miscellaneous Provisions**

**SEC. 451. DEFINITIONS.**

As used in this title—

(1) **AGREEMENT.**—The term “Agreement” means the Agreement on Technical Barriers to Trade referred to in section 101(d)(5) of the Uruguay Round Agreements Act.

(2) **CONFORMITY ASSESSMENT PROCEDURE.**—The term “conformity assessment procedure” means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

(3) **FEDERAL AGENCY.**—The term “Federal agency” means any of the following within the meaning of chapter 2 of part 1 of title 5, United States Code:

- (A) Any executive department.
- (B) Any military department.
- (C) Any Government corporation.
- (D) Any Government-controlled corporation.
- (E) Any independent establishment.

(4) **INTERNATIONAL CONFORMITY ASSESSMENT PROCEDURE.**—The term “international conformity assessment procedure” means a conformity assessment procedure that is adopted by an international standards organization.

(5) **INTERNATIONAL STANDARD.**—The term “international standard” means any standard that is promulgated by an international standards organization.

(6) **INTERNATIONAL STANDARDS ORGANIZATION.**—The term “international standards organization” means any organization—

(A) the membership of which is open to representatives, whether public or private, of the United States and at least all Members; and

(B) that is engaged in international standards-related activities.

(7) **INTERNATIONAL STANDARDS-RELATED ACTIVITY.**—The term “international standards-related activity” means the negotiation, development, or promulgation of, or any amendment

or change to, an international standard, or an international conformity assessment procedure, or both.

(8) MEMBER.—The term “Member” means a WTO member as defined in section 2(10) of the Uruguay Round Agreements Act.

(9) PRIVATE PERSON.—The term “private person” means—

(A) any individual who is a citizen or national of the United States; and

(B) any corporation, partnership, association, or other legal entity organized or existing under the law of any State, whether for profit or not for profit.

(10) PRODUCT.—The term “product” means any natural or manufactured item.

(11) SECRETARY CONCERNED.—The term “Secretary concerned” means the Secretary of Commerce with respect to functions under this title relating to nonagricultural products, and the Secretary of Agriculture with respect to functions under this title relating to agricultural products.

(12) TRADE REPRESENTATIVE.—The term “Trade Representative” means the United States Trade Representative.

(13) STANDARD.—The term “standard” means a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines, or characteristics for products or related processes and production methods, with which compliance is not mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

(14) STANDARDS-RELATED ACTIVITY.—The term “standards-related activity” means the development, adoption, or application of any standard, technical regulation, or conformity assessment procedure.

(15) STATE.—The term “state” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and any other Commonwealth, territory, or possession of the United States.

(16) STATE AGENCY.—The term “State agency” means any department, agency, or other instrumentality of the government of any State or of any political subdivision of any State.

(17) TECHNICAL REGULATION.—The term “technical regulation” means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

(18) UNITED STATES.—The term “United States”, when used in a geographical context, means all States.

[19 U.S.C. 2571]

#### SEC. 452. EXEMPTIONS UNDER TITLE.

This title does not apply to—

(1) any standards activity engaged in by any Federal agency or State agency for the use (including, but not limited to, use with respect to research and development, production, or consumption) of that agency or the use of another such agency; or

(2) any standards activity engaged in by any private person solely for use in the production or consumption of products by that person.

[19 U.S.C. 2572]

**SEC. 453. REPORTS TO CONGRESS ON OPERATION OF AGREEMENT.**

As soon as practicable after the close of the 3-year period beginning on the date on which this title takes effect, and as soon as practicable after the close of each succeeding 3-year period through 2001, the Trade Representative shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement, both domestically and internationally, during the period.

[19 U.S.C. 2573]

**SEC. 454. [Repealed. P.L. 103-465]**

## **Subtitle E—Standards and Measures Under the North American Free Trade Agreement**

### **CHAPTER 1—SANITARY AND PHYTOSANITARY MEASURES**

**SEC. 461. GENERAL.**

Nothing in this chapter may be construed—

(1) to prohibit a Federal agency or State agency from engaging in activity related to sanitary or phytosanitary measures to protect human, animal, or plant life or health; or

(2) to limit the authority of a Federal agency or State agency to determine the level of protection of human, animal, or plant life or health the agency considers appropriate.

[19 U.S.C. 2575]

**SEC. 462. INQUIRY POINT.**

The standards information center maintained under section 414 shall, in addition to the functions specified therein, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

(1) any sanitary or phytosanitary measure of general application, including any control or inspection procedure or approval procedure proposed, adopted, or maintained by a Federal or State agency;

(2) the procedures of a Federal or State agency for risk assessment, and factors the agency considers in conducting the assessment and in establishing the levels of protection that the agency considers appropriate;

(3) the membership and participation of the Federal Government and State governments in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements; and

(4) the location of notices of the type required under article 719 of the NAFTA, or where the information contained in such notices can be obtained.

[19 U.S.C. 2575a]

**SEC. 463. CHAPTER DEFINITIONS.**

Notwithstanding section 451, for purposes of this chapter—

(1) **ANIMAL.**—The term “animal” includes fish, bees, and wild fauna.

(2) **APPROVAL PROCEDURE.**—The term “approval procedure” means any registration, notification, or other mandatory administrative procedure for—

(A) approving the use of an additive for a stated purpose or under stated conditions, or

(B) establishing a tolerance for a stated purpose or under stated conditions for a contaminant, in a food, beverage, or feedstuff prior to permitting the use of the additive or the marketing of a food, beverage, or feedstuff containing the additive or contaminant.

(3) **CONTAMINANT.**—The term “contaminant” includes pesticide and veterinary drug residues and extraneous matter.

(4) **CONTROL OR INSPECTION PROCEDURE.**—The term “control or inspection procedure” means any procedure used, directly or indirectly, to determine that a sanitary or phytosanitary measure is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration, certification, or other procedure involving the physical examination of a good, of the packaging of a good, or of the equipment or facilities directly related to production, marketing, or use of a good, but does not mean an approval procedure.

(5) **PLANT.**—The term “plant” includes wild flora.

(6) **RISK ASSESSMENT.**—The term “risk assessment” means an evaluation of—

(A) the potential for the introduction, establishment or spread of a pest or disease and associated biological and economic consequences; or

(B) the potential for adverse effects on human or animal life or health arising from the presence of an additive, contaminant, toxin or disease-causing organism in a food, beverage, or feedstuff.

(7) **SANITARY OR PHYTOSANITARY MEASURE.**—

(A) **IN GENERAL.**—The term “sanitary or phytosanitary measure” means a measure to—

(i) protect animal or plant life or health in the United States from risks arising from the introduction, establishment, or spread of a pest or disease;

(ii) protect human or animal life or health in the United States from risks arising from the presence of an additive, contaminant, toxin, or disease-causing organism in a food, beverage, or feedstuff;

(iii) protect human life or health in the United States from risks arising from a disease-causing organism or pest carried by an animal or plant, or a product thereof; or

(iv) prevent or limit other damage in the United States arising from the introduction, establishment, or spread of a pest.

(B) FORM.—The form of a sanitary or phytosanitary measure includes—

(i) end product criteria;

(ii) a product-related processing or production method;

(iii) a testing, inspection, certification, or approval procedure;

(iv) a relevant statistical method;

(v) a sampling procedure;

(vi) a method of risk assessment;

(vii) a packaging and labeling requirement directly related to food safety; and

(viii) a quarantine treatment, such as a relevant requirement associated with the transportation of animals or plants or with material necessary for their survival during transportation.

[19 U.S.C. 2575b]

## CHAPTER 2—STANDARDS-RELATED MEASURES

### SEC. 471. GENERAL.

(a) NO BAR TO ENGAGING IN STANDARDS ACTIVITY.—Nothing in this chapter shall be construed—

(1) to prohibit a Federal agency from engaging in activity related to standards-related measures, including any such measure relating to safety, the protection of human, animal, or plant life or health, the environment or consumers; or

(2) to limit the authority of a Federal agency to determine the level it considers appropriate of safety or of protection of human, animal, or plant life or health, the environment or consumers.

(b) EXCLUSION.—This chapter does not apply to—

(1) technical specifications prepared by a Federal agency for production or consumption requirements of the agency; or

(2) sanitary or phytosanitary measures under chapter 1.

[19 U.S.C. 2576]

### SEC. 472. INQUIRY POINT.

The standards information center maintained under section 414 shall, in addition to the functions specified therein, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—



(1) the membership and participation of the Federal Government, State governments, and relevant nongovernmental bodies in the United States in international and regional standardizing bodies and conformity assessment systems, and in bilateral and multilateral arrangements regarding standards-related measures, and the provisions of those systems and arrangements;

(2) the location of notices of the type required under article 909 of the NAFTA, or where the information contained in such notice can be obtained; and

(3) the Federal agency procedures for assessment of risk, and factors the agency considers in conducting the assessment and establishing the levels of protection that the agency considers appropriate.

[19 U.S.C. 2576a]

**SEC. 473. CHAPTER DEFINITIONS.**

Notwithstanding section 451, for purposes of this chapter—

(1) **APPROVAL PROCEDURE.**—The term “approval procedure” means any registration, notification, or other mandatory administrative procedure for granting permission for a good or service to be produced, marketed, or used for a stated purpose or under stated conditions.

(2) **CONFORMITY ASSESSMENT PROCEDURE.**—The term “conformity assessment procedure” means any procedure used, directly or indirectly, to determine that a technical regulation or standard is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration, or approval used for such a purpose, but does not mean an approval procedure.

(3) **OBJECTIVE.**—The term “objective” includes—

(A) safety,

(B) protection of human, animal, or plant life or health, the environment or consumers, including matters relating to quality and identifiability of goods or services, and

(C) sustainable development,

but does not include the protection of domestic production.

(4) **SERVICE.**—The term “service” means a land transportation service or a telecommunications service.

(5) **STANDARD.**—The term “standard” means—

(A) characteristics for a good or a service,

(B) characteristics, rules, or guidelines for—

(i) processes or production methods relating to such good, or

(ii) operating methods relating to such service, and

(C) provisions specifying terminology, symbols, packaging, marking, or labelling for—

(i) a good or its related process or production methods, or

(ii) a service or its related operating methods,

for common and repeated use, including explanatory and other related provisions set out in a document approved by a standardizing body, with which compliance is not mandatory.

(6) **STANDARDS-RELATED MEASURE.**—The term “standards-related measure” means a standard, technical regulation, or conformity assessment procedure.

(7) **TECHNICAL REGULATION.**—The term “technical regulation” means—

(A) characteristics or their related processes and production methods for a good,

(B) characteristics for a service or its related operating methods, or

(C) provisions specifying terminology, symbols, packaging, marking, or labelling for—

(i) a good or its related process or production method, or

(ii) a service or its related operating method, set out in a document, including applicable administrative, explanatory, and other related provisions, with which compliance is mandatory.

(8) **TELECOMMUNICATIONS SERVICE.**—The term “telecommunications service” means a service provided by means of the transmission and reception of signals by any electromagnetic means, but does not mean the cable, broadcast, or other electromagnetic distribution of radio or television programming to the public generally.

[19 U.S.C. 2576b]

### CHAPTER 3—SUBTITLE DEFINITIONS

#### SEC. 481. DEFINITIONS.

Notwithstanding section 451, for purposes of this subtitle—

(1) **NAFTA.**—The term “NAFTA” means the North American Free Trade Agreement.

(2) **STATE.**—The term “State” means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

[19 U.S.C. 2577]

## Subtitle F—International Standard-Setting Activities

#### SEC. 491. NOTICE OF UNITED STATES PARTICIPATION IN INTERNATIONAL STANDARD-SETTING ACTIVITIES.

(a) **IN GENERAL.**—The President shall designate an agency to be responsible for informing the public of the sanitary and phytosanitary standard-setting activities of each international standard-setting organization.

(b) **NOTIFICATION.**—Not later than June 1 of each year, the agency designated under subsection (a) with respect to each international standard-setting organization shall publish notice in the Federal Register of the information specified in subsection (c) with respect to that organization. The notice shall cover the period end-

ing on June 1 of the year in which the notice is published, and beginning on the date of the preceding notice under this subsection, except that the first such notice shall cover the 1-year period ending on the date of the notice.

(c) **REQUIRED INFORMATION.**—The information to be provided in the notice under subsection (b) is—

(1) the sanitary or phytosanitary standards under consideration or planned for consideration by that organization;

(2) for each sanitary or phytosanitary standard specified in paragraph (1)—

(A) a description of the consideration or planned consideration of the standard;

(B) whether the United States is participating or plans to participate in the consideration of the standard;

(C) the agenda for the United States participation, if any; and

(D) the agency responsible for representing the United States with respect to the standard.

(d) **PUBLIC COMMENT.**—The agency specified in subsection (c)(2)(D) shall provide an opportunity for public comment with respect to the standards for which the agency is responsible and shall take the comments into account in participating in the consideration of the standards and in proposing matters to be considered by the organization.

[19 U.S.C. 2578]

#### **SEC. 492. EQUIVALENCE DETERMINATIONS.**

(a) **IN GENERAL.**—An agency may not determine that a sanitary or phytosanitary measure of a foreign country is equivalent to a sanitary or phytosanitary measure established under the authority of Federal law unless the agency determines that the sanitary or phytosanitary measure of the foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable sanitary or phytosanitary measure established under the authority of Federal law.

(b) **FDA DETERMINATION.**—If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a measure that is required to be promulgated as a rule under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or other statute administered by the Food and Drug Administration, the Commissioner shall issue a proposed regulation to incorporate such determination and shall include in the notice of proposed rulemaking the basis for the determination that the sanitary or phytosanitary measure of a foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary measure. The Commissioner shall provide opportunity for interested persons to comment on the proposed regulation. The Commissioner shall not issue a final regulation based on the proposal without taking into account the comments received.

(c) **NOTICE.**—If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a sanitary or phytosanitary measure of the Food and Drug Administration that is not required to be promul-

gated as a rule under the Federal Food, Drug, and Cosmetic Act or other statute administered by the Food and Drug Administration, the Commissioner shall publish a notice in the Federal Register that identifies the basis for the determination that the measure provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary measure. The Commissioner shall provide opportunity for interested persons to comment on the notice. The Commissioner shall not issue a final determination on the issue of equivalency without taking into account the comments received.

[19 U.S.C. 2578a]

**SEC. 493. DEFINITIONS.**

(a) **IN GENERAL.**—As used in this subtitle:

(1) **AGENCY.**—The term “agency” means a Federal department or agency (or combination of Federal departments or agencies).

(2) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of Food and Drugs.

(3) **INTERNATIONAL STANDARD-SETTING ORGANIZATION.**—The term “international standard-setting organization” means an organization consisting of representatives of 2 or more countries, the purpose of which is to negotiate, develop, promulgate, or amend an international standard.

(4) **SANITARY OR PHYTOSANITARY STANDARD.**—The term “sanitary or phytosanitary standard” means a standard intended to form a basis for a sanitary or phytosanitary measure.

(5) **INTERNATIONAL STANDARD.**—The term “international standard” means a standard, guideline, or recommendation—

(A) regarding food safety, adopted by the Codex Alimentarius Commission, including a standard, guideline, or recommendation regarding decomposition elaborated by the Codex Committee on Fish and Fishery Products, food additives, contaminants, hygienic practice, and methods of analysis and sampling;

(B) regarding animal health and zoonoses, developed under the auspices of the International Office of Epizootics;

(C) regarding plant health, developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with the North American Plant Protection Organization; or

(D) established by or developed under any other international organization agreed to by the USMCA countries (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502)) or by the WTO members (as defined in section 2(10) of the Uruguay Round Agreements Act).

(b) **OTHER DEFINITIONS.**—The definitions set forth in section 463 apply for purposes of this subtitle except that in applying paragraph (7) of section 463 with respect to a sanitary or phytosanitary measure of a foreign country, any reference in such paragraph to the United States shall be deemed to be a reference to that foreign country.

[19 U.S.C. 2578b]

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**TITLE VII—CERTAIN AGRICULTURAL MEASURES****SEC. 701. [Repealed by P.L. 103-465]****SEC. 702. ENFORCEMENT.**(a) **DETERMINATION AND LISTING OF SUBSIDIES.—**

(1) **INITIAL DETERMINATION AND ANNUAL LISTING.—**Not later than January 1, 1980, the administering authority shall—

(A) determine, in consultation with the Secretary, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, and

(B) publish a list of the type and the amount of each such subsidy which is determined to exist.

Not later than January 1 of each year beginning with 1981, the administering authority shall republish such list, incorporating the changes and additional subsidies determined for the preceding calendar year under paragraph (2).

(2) **QUARTERLY DETERMINATION OF CHANGES AND ADDITIONAL SUBSIDIES.—**Not later than April 1, July 1, and October 1 of each year beginning with 1980, and not later than January 1 of each year beginning with 1981, the administering authority shall determine, in consultation with the Secretary—

(A) whether any changes in the type or amount of any subsidy included in the current annual list under paragraph (1) (as modified by quarterly lists under this paragraph) have occurred, and

(B) whether any subsidy not included in such list is being provided with respect to any article of cheese subject to an in-quota rate of duty by a foreign government, and the type and amount of any such subsidy which is determined to exist.

Not later than April 1, July 1, and October 1, the administering authority shall publish such changes and additional subsidies for the preceding calendar quarter.

(3) **ADDITIONAL DETERMINATIONS.—**Any person, including the Secretary, may request the administering authority to make a determination under subparagraph (A) or (B) of paragraph (2). Not later than 30 days after receiving such a request, the administering authority shall (A) make the determination, in consultation with the Secretary, (B) notify the person making the request of such determination, and (C) publish such modification, if any. Any such determination shall be in addition to the quarterly determinations required under paragraph (2). Requests made under this paragraph shall be supported by information reasonably available to the person requesting the determination.

(b) **COMPLAINTS OF PRICE-UNDERCUTTING BY SUBSIDIZED IMPORTS.—**

(1) **IN GENERAL.—**Any person may make a written complaint to the Secretary alleging that—

(A) the price at which any article of cheese subject to an in-quota rate of duty is offered for sale in the United States on a duty-paid wholesale basis (hereinafter in this section referred to as the “duty-paid wholesale price”) is less than the domestic wholesale market price of similar articles produced in the United States, and

(B) a foreign government is providing a subsidy with respect to such article of cheese subject to an in-quota rate of duty.

(2) DETERMINATIONS.—(A) The Secretary shall investigate and determine, not later than 30 days after receiving a complaint under paragraph (1), the validity of the allegations made under paragraph (1)(A).

(B) Except as otherwise provided in this subparagraph, the existence and the type and amount of any subsidy alleged under paragraph (1)(B) shall be determined by reference to the current list, as determined and published under subsection (a). If the complaint alleges a subsidy which is not included in such current list, or which is different in type or amount from a subsidy which is included in such current list, the Secretary shall immediately request the administering authority to make a determination with respect to the subsidy pursuant to subsection (a)(3). The administering authority shall make such determination in accordance with such subsection and shall report such determination to the Secretary.

(c) REPORTS OF DETERMINATIONS.—

(1) PUBLICATION.—The Secretary shall publish the determinations made under subsection (b) in the Federal Register not later than 5 days after the date on which the Secretary makes his determination under subsection (b)(2)(A).

(2) NOTIFICATION OF FOREIGN GOVERNMENT.—Whenever it is determined under subsection (b) that the duty-paid wholesale price of any article of cheese subject to an in-quota rate of duty is less than the domestic wholesale market price of a similar article produced in the United States and that a foreign government is providing a subsidy with respect to such article of cheese subject to an in-quota rate of duty, the Secretary shall immediately notify the United States Trade Representative. The United States Trade Representative shall notify the foreign government or governments involved of such determination not later than 3 days after the date on which the Secretary makes his determination under subsection (b)(2)(A).

(3) REPORT TO PRESIDENT.—If, within 15 days after receiving notification under paragraph (2), the foreign government does not eliminate the subsidy or take such action as may be necessary to ensure that the duty-paid wholesale price of the article of cheese subject to an in-quota rate of duty will not be less than the domestic wholesale market price of similar articles produced in the United States, the Secretary shall immediately—

(A) report the determinations under subsection (b) to the President, and

(B) recommend the imposition of a fee with respect to the importation of such article of cheese subject to an in-

quota rate of duty from the country involved, in such amount as the Secretary determines necessary.

(d) PRESIDENTIAL ACTION.—

(1) IN GENERAL.—Not later than 7 days after receiving a report under subsection (c)(3) with respect to an article of cheese subject to an in-quota rate of duty (or not later than 3 days after receiving a report under paragraph (2) in any case in which such paragraph applies), the President shall proclaim the imposition of a fee on the importation of such article from the country involved in such amount (not to exceed the amount of the subsidy determined under subsection (b)(2)(B)) as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, and shall direct the Commissioner of Customs to administer and enforce such fee. Any such fee imposed shall be in addition to any customs duty or other fee imposed by law.

(2) ADDITIONAL INVESTIGATION.—If the President finds that the determinations or recommendations of the Secretary reported under subsection (c)(3) are unsubstantiated by fact, he shall, not later than 7 days after receiving such report, notify the Secretary and direct him to make a further investigation. The Secretary shall, within 7 days of receiving such notification, make such investigation and report his findings to the President, including any modification in such determinations or recommendations. The President shall thereupon make the proclamation required by paragraph (1), unless the Secretary finds that there is no basis for the determinations or recommendations reported under subsection (c)(3) whether or not modified.

(e) ADMINISTRATION.—Any fee proclaimed pursuant to subsection (d) and any termination or modification thereof pursuant to subsection (g) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date which is 3 days after the President makes the proclamation required by subsection (d). Such fees shall be treated for administrative purposes as duties imposed by the Tariff Act of 1930, but shall not be considered as duties for the purpose of granting any preferential concession under any law or international obligation of the United States.

(f) INAPPLICABILITY OF COUNTERVAILING DUTIES DURING EFFECTIVE PERIOD OF CHEESE AGREEMENTS.—No countervailing duty shall be imposed under title VII of the Tariff Act of 1930 or under section 303 of the Tariff Act of 1930 (as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) with respect to an article of cheese subject to an in-quota rate of duty which is the product of any country at any time during which an agreement relating to cheese described in section 2(c)(8) containing a commitment from a foreign government with respect to price undercutting is in effect between the United States and such country.

(g) TERMINATION OR MODIFICATION OF PRESIDENTIAL ACTION.—

(1) TERMINATION.—If, at any time after the President takes an action under subsection (d) with respect to the importation from a foreign country of an article of cheese subject to

an in-quota rate of duty, the Secretary receives reasonable evidence and assurance that, with respect to future entries of such article into the customs territory of the United States—

(A) the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, or

(B) the foreign government will no longer provide a subsidy with respect to such article of cheese subject to an in-quota rate of duty,

the Secretary shall notify the President of such finding and the President shall, by proclamation, terminate such action with respect to the importation of such article from such country.

(2) MODIFICATION.—The Secretary shall recommend to the President such modifications of fees imposed under subsection (d) with respect to any article of cheese subject to an in-quota rate of duty as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, and the President shall, by proclamation, make such modifications. The amount of any fee, as so modified, shall not be greater than the amount of the subsidy provided by the foreign government with respect to the article of cheese subject to an in-quota rate of duty.

(h) DEFINITIONS.—For purposes of this section—

(1) ADMINISTERING AUTHORITY.—The term “administering authority” has the same meaning such term has in section 771(1) of the Tariff Act of 1930.

(2) SUBSIDY.—The term “subsidy” has the same meaning such term has in section 771(5) of the Tariff Act of 1930.

(3) DOMESTIC WHOLESALE MARKET, DOMESTIC WHOLESALE MARKET PRICE, AND DUTY-PAID WHOLESALE PRICE.—The domestic wholesale market and the domestic wholesale market price of any article similar to an article of cheese subject to an in-quota rate of duty, and the duty-paid wholesale price of any article of cheese subject to an in-quota rate of duty shall be determined under regulations prescribed by the Secretary not later than January 1, 1980, in accordance with chapter 5 of title 5 of the United States Code.

(4) CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY.—The term “cheese subject to an in-quota rate of duty” means the articles and the quantities of such articles provided for in the Additional U. S. Notes 14 through 23 of chapter 4 of Schedule XX (as defined in section 2(5) of the Uruguay Round Agreements Act).

(5) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

**SEC. 703. [Repealed by P.L. 103-465]**

**SEC. 704. \* \* \*<sup>11</sup>**

\* \* \* \* \*

<sup>11</sup>Section 704 provided for amendments to section 2 of the Act entitled “An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products” (78 Stat. 594).



## TITLE XI—MISCELLANEOUS PROVISIONS

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**SEC. 1102. AUCTION OF IMPORT LICENSES.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the President may sell import licenses at public auction under such terms and conditions as he deems appropriate. Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

(b) **DEFINITION OF IMPORT LICENSE.**—For purposes of this section, the term “import license” means any documentation used to administer a quantitative restriction imposed or modified after the date of enactment of this Act under—

(1) section 125, 203, 301, or 406 of the Trade Act of 1974 (19 U.S.C. 2135, 2253, 2411, or 2436),

(2) the International Emergency Economic Powers Act (50 U.S.C. App. 1701–1706),

(3) authority under the notes of the Harmonized Tariff Schedule of the United States, but not including any quantitative restriction imposed under section 22 of the Agricultural Adjustment Act of 1934 (7 U.S.C. 624),

(4) the Trading With the Enemy Act (50 U.S.C. App. 1–44),

(5) section 204 of the Agriculture Act of 1956 (7 U.S.C. 1854) other than for meat or meat products, or

(6) any Act enacted explicitly for the purpose of implementing an international agreement to which the United States is a party, including such agreements relating to commodities, but not including any agreement relating to cheese or dairy products.

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[19 U.S.C. 2581]

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**SEC. 1109. REORGANIZING AND RESTRUCTURING OF INTERNATIONAL TRADE FUNCTIONS OF THE UNITED STATES GOVERNMENT.**

(a) **IN GENERAL.**—The President shall submit to the Congress, not later than July 10, 1979, a proposal to restructure the international trade functions of the Executive Branch of the United States Government. In developing his proposal, the President shall consider, among other possibilities, strengthening the coordination and functional responsibilities of the Office of the United States Trade Representative to include, among other things, representation of the United States in all matters before the General Agreement on Tariffs and Trade, the establishment of a board of trade with a coordinating mechanism in the Executive Office of the President, and the establishment of a Department of International Trade and Investment. The recommendations of the President, as embodied in such proposal, should include a monitoring and enforcement structure which would insure protection of United States rights under agreements negotiated pursuant to the Tokyo Round

of the Multilateral Trade Negotiations and all other elements of multilateral and bilateral international trade agreements. The proposal should result in an upgrading of commercial programs and commercial attachés overseas to assure that the United States trading partners are meeting their trade agreement obligations, particularly those entered into under such agreements, including the tendering procedures of the Agreement on Government Procurement.

(b) CONGRESSIONAL ACTION.—In order to ensure that the 96th Congress takes final action on a comprehensive reorganization of trade functions as soon as possible, the appropriate committee of each House of the Congress shall give the proposal by the President immediate consideration and shall make its best efforts to take final committee action to reorganize and restructure the international trade functions of the United States Government by November 10, 1979.

【19 U.S.C. 2111 note】

**SEC. 1110. STUDY OF EXPORT TRADE POLICY.**

(a) REVIEW OF EXPORT PROMOTION AND DISINCENTIVES.—The President shall review all export promotion functions of the executive branch and potential programmatic and regulatory disincentives to exports, and shall submit to the Congress a report of that review not later than July 15, 1980. The report should make particular reference to those activities which enhance the role of small- and medium-sized businesses in export trade.

(b) CONDITIONS OF COMPETITION STUDY.—Not later than July 15, 1980, the President shall submit to the Congress a study of the factors bearing on the competitive posture of United States producers and the policies and programs required to strengthen the relative competitive position of the United States in world markets.

【19 U.S.C. 2111 note】

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**SEC. 1112. CONCESSION-RELATED REVENUE LOSSES TO UNITED STATES POSSESSIONS. \* \* \* [Repealed—1983]**

**SEC. 1113. NO BUDGET AUTHORITY FOR ANY FISCAL YEAR BEFORE FISCAL YEAR 1981.**

Nothing in this Act shall be construed as authorizing the enactment of new budget authority for any fiscal year beginning before October 1, 1980.

**SEC. 1114. EFFECTIVE DATE.**

Except as otherwise provided in this title, this title shall take effect on the date of enactment of this Act.

【19 U.S.C. 2581 note】