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H. R. 5110

One Hundred Third Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Uruguay Round Agreements Act".

(b) TABLE OF CONTENTS.—

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

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE URUGUAY ROUND AGREEMENTS

Subtitle A—Approval of Agreements and Related Provisions

Sec. 101. Approval and entry into force of the Uruguay Round Agreements.
Sec. 102. Relationship of the agreements to United States law and State law.
Sec. 103. Implementing actions in anticipation of entry into force; regulations.

Subtitle B—Tariff Modifications

Sec. 111. Tariff modifications.
Sec. 112. Implementation of Schedule XX provisions on ship repairs.
Sec. 113. Liquidation or reliquidation and refund of duty paid on certain entries.
Sec. 114. Modifications to the HTS.
Sec. 115. Consultation and layover requirements for, and effective date of, proclaimed actions.
Sec. 116. Effective date.

Subtitle C—Uruguay Round Implementation and Dispute Settlement

Sec. 121. Definitions.
Sec. 122. Implementation of Uruguay Round Agreements.
Sec. 123. Dispute settlement panels and procedures.
Sec. 124. Annual report on the WTO.
Sec. 125. Review of participation in the WTO.
Sec. 126. Increased transparency.
Sec. 127. Access to the WTO dispute settlement process.
Sec. 128. Advisory committee participation.
Sec. 129. Administrative action following WTO panel reports.
Sec. 130. Effective date.

Subtitle D—Related Provisions

Sec. 131. Working party on worker rights.
Sec. 132. Implementation of rules of origin work program.
Sec. 133. Membership in WTO of boycotting countries.
Sec. 134. Africa trade and development policy.
Sec. 135. Objectives for extended negotiations.
Sec. 136. Repeal of tax on imported perfumes; drawback of tax on distilled spirits used in perfume manufacture.
Sec. 137. Certain nonrubber footwear.
Sec. 138. Effective date.

TITLE II—ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

Sec. 201. Reference.

Subtitle A—General Provisions

Sec. 211. Action with respect to petitions.
Sec. 212. Petition and preliminary determination.
Sec. 213. De minimis dumping margin.
Sec. 214. Critical circumstances.
Sec. 215. Provisional measures.
Sec. 216. Conditions on acceptance of suspension agreements.
Sec. 217. Termination of investigation.
Sec. 218. Special rules for regional industries.
Sec. 219. Determination of weighted average dumping margin.
Sec. 220. Review of determinations.
Sec. 221. Review determinations.
Sec. 222. Definitions.
Sec. 223. Export price and constructed export price.
Sec. 224. Normal value.
Sec. 225. Currency conversion.
Sec. 226. Proprietary and nonproprietary information.
Sec. 227. Opportunity for comment by consumers and industrial users.
Sec. 228. Public notice and explanation of determinations.
Sec. 229. Sampling and averaging; determination of weighted average dumping margin.
Sec. 230. Anticircumvention.
Sec. 231. Evidence.
Sec. 232. Antidumping petitions by third countries.
Sec. 233. Conforming amendments.
Sec. 234. Application to Canada and Mexico.

Subtitle B—Subsidies Provisions

PART 1—COUNTERVAILABLE SUBSIDIES

Sec. 251. Countervailable subsidy.

PART 2—REPEAL OF SECTION 303 AND CONFORMING AMENDMENTS

Sec. 261. Repeal of section 303.
Sec. 262. Imposition of countervailing duties.
Sec. 263. De minimis countervailable subsidy.
Sec. 264. Determination of countervailable subsidy rate.
Sec. 265. Assessment of countervailing duty.
Sec. 266. Nature of countervailable subsidy.
Sec. 267. Definition of developing and least-developed country.
Sec. 268. Upstream subsidies.
Sec. 269. Sampling and averaging; determination of countervailable subsidy rate.
Sec. 270. Conforming amendments.

PART 3—SECTION 303 INJURY INVESTIGATIONS

Sec. 271. Special rules for injury investigations for certain section 303 countervailing duty orders and investigations.

PART 4—ENFORCEMENT OF UNITED STATES RIGHTS UNDER THE SUBSIDIES AGREEMENT

Sec. 281. Subsidies enforcement.
Sec. 282. Review of subsidies agreement.
Sec. 283. Amendments to title VII of the Tariff Act of 1930.

Subtitle C—Effective Date

Sec. 291. Effective date.

TITLE III—ADDITIONAL IMPLEMENTATION OF AGREEMENTS

Subtitle A—Safeguards

Sec. 301. Investigations, determinations, and recommendations by International Trade Commission.
Sec. 302. Action by President after determination of import injury.
Sec. 303. Miscellaneous amendments.
Sec. 304. Effective date.

Subtitle B—Foreign Trade Barriers and Unfair Trade Practices

Sec. 311. Identification of foreign anticompetitive practices.

Sec. 312. Consultation with committees.
Sec. 313. Identification of countries that deny protection of intellectual property rights.
Sec. 314. Amendments to title III of the Trade Act of 1974.
Sec. 315. Objectives in intellectual property.
Sec. 316. Effective date.

Subtitle C—Unfair Practices in Import Trade

Sec. 321. Unfair practices in import trade.
Sec. 322. Effective date.

Subtitle D—Textiles

Sec. 331. Textile product integration.
Sec. 332. Amendment to section 204 of the Agricultural Act of 1956.
Sec. 333. Textile transshipments.
Sec. 334. Rules of origin for textile and apparel products.
Sec. 335. Effective date.

Subtitle E—Government Procurement

Sec. 341. Monitoring and enforcement of the agreement on government procurement.
Sec. 342. Conforming amendments.
Sec. 343. Reciprocal competitive procurement practices.
Sec. 344. Effective date.

Subtitle F—Technical Barriers to Trade

Sec. 351. Technical barriers to trade.
Sec. 352. Effective date.

TITLE IV—AGRICULTURE-RELATED PROVISIONS

Subtitle A—Agriculture

PART I—MARKET ACCESS

Sec. 401. Section 22 amendments.
Sec. 402. Cheese and chocolate crumb imports.
Sec. 403. Meat Import Act.
Sec. 404. Administration of tariff-rate quotas.
Sec. 405. Special agricultural safeguard authority.

PART II—EXPORTS

Sec. 411. Export programs.
Sec. 412. Other conforming amendments.

PART III—OTHER PROVISIONS

Sec. 421. Authority for certain actions under Article XXVIII.
Sec. 422. Tobacco imports.
Sec. 423. Tobacco proclamation authority.
Sec. 424. Report to Congress on access to Canadian dairy and poultry markets.
Sec. 425. Study of milk marketing order system.
Sec. 426. Additional program funding.

Subtitle B—Sanitary and Phytosanitary Measures

Sec. 431. Sanitary and phytosanitary measures.
Sec. 432. International standard-setting activities.

Subtitle C—Standards

Sec. 441. The Federal Seed Act.

Subtitle D—General Effective Date

Sec. 451. General effective date.

TITLE V—INTELLECTUAL PROPERTY

Sec. 501. Definition.

Subtitle A—Copyright Provisions

Sec. 511. Rental rights in computer programs.
Sec. 512. Civil penalties for unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.

Sec. 513. Criminal penalties for unauthorized fixation of and trafficking in sound recordings and music videos or live musical performances.
Sec. 514. Restored works.

Subtitle B—Trademark Provisions

Sec. 521. Definition of "abandoned".
Sec. 522. Nonregistrability of misleading geographic indications for wines and spirits.
Sec. 523. Effective date.

Subtitle C—Patent Provisions

Sec. 531. Treatment of inventive activity.
Sec. 532. Patent term and internal priority.
Sec. 533. Patent rights.
Sec. 534. Effective dates and application.

TITLE VI—RELATED PROVISIONS

Subtitle A—Expiring Provisions

Sec. 601. Generalized System of Preferences.
Sec. 602. U.S. insular possessions.

Subtitle B—Certain Customs Provisions

Sec. 611. Reimbursements from customs user fee account.
Sec. 612. Merchandise processing fees.

Subtitle C—Conforming Amendments

Sec. 621. Conforming amendments.

TITLE VII—REVENUE PROVISIONS

Sec. 700. Amendment of 1986 Code and table of contents.

Subtitle A—Withholding Tax Provisions

Sec. 701. Withholding on distributions of Indian casino profits to tribal members.
Sec. 702. Voluntary withholding on certain Federal payments and on unemployment compensation.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

Sec. 711. Treatment of subpart F and section 936 income of taxpayers using annualized method for estimated tax.
Sec. 712. Time for payments and deposits of certain taxes.
Sec. 713. Reduction in rate of interest paid on certain corporate overpayments.

Subtitle C—Earned Income Tax Credit

Sec. 721. Extension of earned income tax credit to military personnel stationed outside the United States.
Sec. 722. Certain nonresident aliens ineligible for earned income tax credit.
Sec. 723. Income of prisoners disregarded in determining earned income tax credit.

Subtitle D—Provisions Relating To Retirement Benefits

Sec. 731. Treatment of excess pension assets used for retiree health benefits.
Sec. 732. Rounding rules for cost-of-living adjustments.
Sec. 733. Increase in inclusion of social security benefits paid to nonresidents.

Subtitle E—Other Provisions

Sec. 741. Partnership distributions of marketable securities.
Sec. 742. Taxpayer identification numbers required at birth.
Sec. 743. Extension of Internal Revenue Service user fees.
Sec. 744. Modification of substantial understatement penalty for corporations participating in tax shelters.
Sec. 745. Modification of authority to set terms and conditions for savings bonds.

Subtitle F—Pension Plan Funding and Premiums

Sec. 750. Short title.

PART I—PENSION PLAN FUNDING

SUBPART A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 751. Minimum funding requirements.

Sec. 752. Limitation on changes in current liability assumptions.
Sec. 753. Anticipation of bargained benefit increases.
Sec. 754. Modification of quarterly contribution requirement.
Sec. 755. Exceptions to excise tax on nondeductible contributions.

SUBPART B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 761. Minimum funding requirements.
Sec. 762. Limitation on changes in current liability assumptions.
Sec. 763. Anticipation of bargained benefit increases.
Sec. 764. Modification of quarterly contribution requirement.

SUBPART C—OTHER FUNDING PROVISIONS

Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.
Sec. 767. Single sum distributions.
Sec. 768. Adjustments to lien for missed minimum funding contributions.
Sec. 769. Special funding rules for certain plans.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 771. Reportable events.
Sec. 772. Certain information required to be furnished to PBGC.
Sec. 773. Enforcement of minimum funding requirements.
Sec. 774. Computation of additional PBGC premium.
Sec. 775. Disclosure to participants.
Sec. 776. Missing participants.
Sec. 777. Modification of maximum guarantee for disability benefits.
Sec. 778. Procedures to facilitate distribution of termination benefits.

PART III—EFFECTIVE DATES

Sec. 781. Effective dates.

TITLE VIII—PIONEER PREFERENCES

Sec. 801. Pioneer preferences.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) GATT 1947; GATT 1994.—

(A) GATT 1947.—The term "GATT 1947" means the General Agreement on Tariffs and Trade, dated October 30, 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended, or modified by the terms of legal instruments which have entered into force before the date of entry into force of the WTO Agreement.

(B) GATT 1994.—The term "GATT 1994" means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

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

(3) INTERNATIONAL TRADE COMMISSION.—The term "International Trade Commission" means the United States International Trade Commission.

(4) MULTILATERAL TRADE AGREEMENT.—The term "multilateral trade agreement" means an agreement described in section 101(d) of this Act (other than an agreement described in paragraph (17) or (18) of such section).

(5) SCHEDULE XX.—The term "Schedule XX" means Schedule XX—United States of America annexed to the Marrakesh Protocol to the GATT 1994.

(6) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(7) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" means the agreements approved by the Congress under section 101(a)(1).

(8) WORLD TRADE ORGANIZATION AND WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(9) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(10) WTO MEMBER AND WTO MEMBER COUNTRY.—The terms "WTO member" and "WTO member country" mean a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO Agreement.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE URUGUAY ROUND AGREEMENTS

Subtitle A—Approval of Agreements and Related Provisions

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE URUGUAY ROUND AGREEMENTS.

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

(1) the trade agreements described in subsection (d) resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade, entered into on April 15, 1994, and submitted to the Congress on September 27, 1994; and

(2) the statement of administrative action proposed to implement the agreements that was submitted to the Congress on September 27, 1994.

(b) ENTRY INTO FORCE.—At such time as the President determines that a sufficient number of foreign countries are accepting the obligations of the Uruguay Round Agreements, in accordance with article XIV of the WTO Agreement, to ensure the effective operation of, and adequate benefits for the United States under, those Agreements, the President may accept the Uruguay Round Agreements and implement article VIII of the WTO Agreement.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the WTO.

(d) TRADE AGREEMENTS TO WHICH THIS ACT APPLIES.—Subsection (a) applies to the WTO Agreement and to the following agreements annexed to that Agreement:

(1) The General Agreement on Tariffs and Trade 1994.

(2) The Agreement on Agriculture.

(3) The Agreement on the Application of Sanitary and Phytosanitary Measures.

(4) The Agreement on Textiles and Clothing.

(5) The Agreement on Technical Barriers to Trade.

(6) The Agreement on Trade-Related Investment Measures.

(7) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(8) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

(9) The Agreement on Preshipment Inspection.

(10) The Agreement on Rules of Origin.

(11) The Agreement on Import Licensing Procedures.

(12) The Agreement on Subsidies and Countervailing Measures.

(13) The Agreement on Safeguards.

(14) The General Agreement on Trade in Services.

(15) The Agreement on Trade-Related Aspects of Intellectual Property Rights.

(16) The Understanding on Rules and Procedures Governing the Settlement of Disputes.

(17) The Agreement on Government Procurement.

(18) The International Bovine Meat Agreement.

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

(a) RELATIONSHIP OF AGREEMENTS TO UNITED STATES LAW.—

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

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

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

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

(ii) the protection of the environment, or

(iii) worker safety, or

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

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENTS TO STATE LAW.—

(1) FEDERAL-STATE CONSULTATION.—

(A) IN GENERAL.—Upon the enactment of this Act, the President shall, through the intergovernmental policy advisory committees on trade established under section 306(c)(2)(A) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114c(2)(A)), consult with the States for the purpose of achieving conformity of State laws and practices with the Uruguay Round Agreements.

(B) FEDERAL-STATE CONSULTATION PROCESS.—The Trade Representative shall establish within the Office of the United States Trade Representative a Federal-State consultation process for addressing issues relating to the Uruguay Round Agreements that directly relate to, or will

potentially have a direct effect on, the States. The Federal-State consultation process shall include procedures under which—

(i) the States will be informed on a continuing basis of matters under the Uruguay Round Agreements that directly relate to, or will potentially have a direct impact on, the States;

(ii) the States will be provided an opportunity to submit, on a continuing basis, to the Trade Representative information and advice with respect to matters referred to in clause (i); and

(iii) the Trade Representative will take into account the information and advice received from the States under clause (ii) when formulating United States positions regarding matters referred to in clause (i).

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

(C) FEDERAL-STATE COOPERATION IN WTO DISPUTE SETTLEMENT.—

(i) When a WTO member requests consultations with the United States under Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) (hereafter in this subsection referred to as the "Dispute Settlement Understanding") concerning whether the law of a State is inconsistent with the obligations undertaken by the United States in any of the Uruguay Round Agreements, the Trade Representative shall notify the Governor of the State or the Governor's designee, and the chief legal officer of the jurisdiction whose law is the subject of the consultations, as soon as possible after the request is received, but in no event later than 7 days thereafter.

(ii) Not later than 30 days after receiving such a request for consultations, the Trade Representative shall consult with representatives of the State concerned regarding the matter. If the consultations involve the laws of a large number of States, the Trade Representative may consult with an appropriate group of representatives of the States concerned, as determined by those States.

(iii) The Trade Representative shall make every effort to ensure that the State concerned is involved in the development of the position of the United States at each stage of the consultations and each subsequent stage of dispute settlement proceedings regarding the matter. In particular, the Trade Representative shall—

(I) notify the State concerned not later than 7 days after a WTO member requests the establishment of a dispute settlement panel or gives notice of the WTO member's decision to appeal a report by a dispute settlement panel regarding the matter; and

(II) provide the State concerned with the opportunity to advise and assist the Trade Rep-

resentative in the preparation of factual information and argumentation for any written or oral presentations by the United States in consultations or in proceedings of a panel or the Appellate Body regarding the matter.

(iv) If a dispute settlement panel or the Appellate Body finds that the law of a State is inconsistent with any of the Uruguay Round Agreements, the Trade Representative shall consult with the State concerned in an effort to develop a mutually agreeable response to the report of the panel or the Appellate Body and shall make every effort to ensure that the State concerned is involved in the development of the United States position regarding the response.

(D) NOTICE TO STATES REGARDING CONSULTATIONS ON FOREIGN SUBCENTRAL GOVERNMENT LAWS.—

(i) Subject to clause (ii), the Trade Representative shall, at least 30 days before making a request for consultations under Article 4 of the Dispute Settlement Understanding regarding a subcentral government measure of another WTO member, notify, and solicit the views of, appropriate representatives of each State regarding the matter.

(ii) In exigent circumstances clause (i) shall not apply, in which case the Trade Representative shall notify the appropriate representatives of each State not later than 3 days after making the request for consultations referred to in clause (i).

(2) LEGAL CHALLENGE.—

(A) IN GENERAL.—No State law, or the application of such a State law, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with any of the Uruguay Round Agreements, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(B) PROCEDURES GOVERNING ACTION.—In any action described in subparagraph (A) that is brought by the United States against a State or any subdivision thereof—

(i) a report of a dispute settlement panel or the Appellate Body convened under the Dispute Settlement Understanding regarding the State law, or the law of any political subdivision thereof, shall not be considered as binding or otherwise accorded deference;

(ii) the United States shall have the burden of proving that the law that is the subject of the action, or the application of that law, is inconsistent with the agreement in question;

(iii) any State whose interests may be impaired or impeded in the action shall have the unconditional right to intervene in the action as a party, and the United States shall be entitled to amend its complaint to include a claim or cross-claim concerning the law of a State that so intervenes; and

(iv) any State law that is declared invalid shall not be deemed to have been invalid in its application during any period before the court's judgment becomes

final and all timely appeals, including discretionary review, of such judgment are exhausted.

(C) REPORTS TO CONGRESSIONAL COMMITTEES.—At least 30 days before the United States brings an action described in subparagraph (A), the Trade Representative shall provide a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) describing the proposed action;

(ii) describing efforts by the Trade Representative to resolve the matter with the State concerned by other means; and

(iii) if the State law was the subject of consultations under the Dispute Settlement Understanding, certifying that the Trade Representative has substantially complied with the requirements of paragraph (1)(C) in connection with the matter.

Following the submission of the report, and before the action is brought, the Trade Representative shall consult with the committees referred to in the preceding sentence concerning the matter.

(3) DEFINITION OF STATE LAW.—For purposes of this subsection—

(A) the term "State law" includes—

(i) any law of a political subdivision of a State; and

(ii) any State law regulating or taxing the business of insurance; and

(B) the terms "dispute settlement panel" and "Appellate Body" have the meanings given those terms in section 121.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—

(1) LIMITATIONS.—No person other than the United States—

(A) shall have any cause of action or defense under any of the Uruguay Round Agreements or by virtue of congressional approval of such an agreement, or

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

(2) INTENT OF CONGRESS.—It is the intention of the Congress through paragraph (1) to occupy the field with respect to any cause of action or defense under or in connection with any of the Uruguay Round Agreements, including by precluding any person other than the United States from bringing any action against any State or political subdivision thereof or raising any defense to the application of State law under or in connection with any of the Uruguay Round Agreements—

(A) on the basis of a judgment obtained by the United States in an action brought under any such agreement; or

(B) on any other basis.

(d) STATEMENT OF ADMINISTRATIVE ACTION.—The statement of administrative action approved by the Congress under section 101(a) shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE; REGULATIONS.

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

(1) the President may proclaim such actions, and

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

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date any of the Uruguay Round Agreements enters into force with respect to the United States is appropriately implemented on such date. Such proclamation or regulation may not have an effective date earlier than the date of entry into force with respect to the United States of the agreement to which the proclamation or regulation relates.

(b) REGULATIONS.—Any interim regulation necessary or appropriate to carry out any action proposed in the statement of administrative action approved under section 101(a) to implement an agreement described in section 101(d) (7), (12), or (13) shall be issued not later than 1 year after the date on which the agreement enters into force with respect to the United States.

Subtitle B—Tariff Modifications

SEC. 111. TARIFF MODIFICATIONS.

(a) IN GENERAL.—In addition to the authority provided by section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902), the President shall have the authority to proclaim—

(1) such other modification of any duty,

(2) such other staged rate reduction, or

(3) such additional duties,

as the President determines to be necessary or appropriate to carry out Schedule XX.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover requirements of section 115, the President may proclaim—

(1) the modification of any duty or staged rate reduction of any duty set forth in Schedule XX if—

(A) the United States agrees to such modification or staged rate reduction in a multilateral negotiation under the auspices of the WTO, and

(B) such modification or staged rate reduction applies to the rate of duty on an article contained in a tariff category that was the subject of reciprocal duty elimination or harmonization negotiations during the Uruguay Round of multilateral trade negotiations, and

(2) such modifications as are necessary to correct technical errors in Schedule XX or to make other rectifications to the Schedule.

(c) AUTHORITY TO INCREASE DUTIES ON ARTICLES FROM CERTAIN COUNTRIES.—

(1) IN GENERAL.—

(A) DETERMINATION WITH RESPECT TO CERTAIN COUNTRIES.—Notwithstanding section 251 of the Trade Expansion Act of 1962 (19 U.S.C. 1881), after the entry into force of the WTO Agreement with respect to the United States, if the President—

(i) determines that a foreign country (other than a foreign country that is a WTO member country) is not according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States, and

(ii) consults with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate,

the President may proclaim an increase in the rate of duty with respect to any article of such country in accordance with subparagraph (B).

(B) RATE OF DUTY DESCRIBED.—The President may proclaim a rate of duty on any article of a country identified under subparagraph (A) that is equal to the greater of—

(i) the rate of duty set forth for such article in the base rate of duty column of Schedule XX, or

(ii) the rate of duty set forth for such article in the bound rate of duty column of Schedule XX.

(2) TERMINATION OF INCREASED DUTIES.—The President shall terminate any increase in the rate of duty proclaimed under this subsection by a proclamation which shall be effective on the earlier of—

(A) the date set out in such proclamation of termination, or

(B) the date the WTO Agreement enters into force with respect to the foreign country with respect to which the determination under paragraph (1) was made.

(3) PUBLICATION OF DETERMINATION AND TERMINATION.—The President shall publish in the Federal Register notice of a determination made under paragraph (1) and a termination occurring by reason of paragraph (2).

(d) ADJUSTMENTS TO CERTAIN COLUMN 2 RATES OF DUTY.—At such time as the President proclaims any modification to the HTS to implement the provisions of Schedule XX, the President shall also proclaim the rate of duty set forth in Column B as the column 2 rate of duty for the subheading of the HTS that corresponds to the subheading in Schedule XX listed in Column A.

Column A	**Column B**
Schedule XX subheading:	Rate of duty for column 2 of the HTS:
0201.10.50	31.1%
0201.20.80	31.1%
0201.30.80	31.1%

0202.10.50	31.1%
0202.20.80	31.1%
0202.30.80	31.1%
0401.30.25	90.8¢/liter
0401.30.75	$1.936/kg
0402.10.50	$1.018/kg
0402.21.25	$1.018/kg
0402.21.50	$1.285/kg
0402.21.90	$1.831/kg
0402.29.50	$1.299/kg + 17.5%
0402.91.60	36.8¢/kg
0402.99.50	58.4¢/kg
0402.99.90	54.5¢/kg + 17.5%
0403.10.50	$1.217/kg + 20%
0403.90.16	90.8¢/liter
0403.90.45	$1.03/kg
0403.90.55	$1.285/kg
0403.90.65	$1.831/kg
0403.90.78	$1.936/kg
0403.90.95	$1.217/kg + 20%
0404.10.11	20%
0404.10.15	$1.217/kg + 10%
0404.10.90	$1.03/kg
0404.90.30	25%
0404.90.50	$1.399/kg + 10%
0405.00.40	$1.813/kg
0405.00.90	$2.194/kg + 10%
0406.10.08	$1.775/kg
0406.10.18	$2.67/kg
0406.10.28	$1.443/kg
0406.10.38	$1.241/kg
0406.10.48	$2.121/kg
0406.10.58	$2.525/kg
0406.10.68	$1.631/kg
0406.10.78	$1.328/kg
0406.10.88	$1.775/kg
0406.20.28	$2.67/kg
0406.20.33	$1.443/kg
0406.20.39	$1.241/kg
0406.20.48	$2.121/kg
0406.20.53	$2.525/kg
0406.20.63	$2.67/kg
0406.20.67	$1.443/kg
0406.20.71	$1.241/kg
0406.20.75	$2.121/kg
0406.20.79	$2.525/kg
0406.20.83	$1.631/kg
0406.20.87	$1.328/kg
0406.20.91	$1.775/kg
0406.30.18	$2.67/kg
0406.30.28	$1.443/kg
0406.30.38	$1.241/kg
0406.30.48	$2.121/kg
0406.30.53	$1.631/kg
0406.30.63	$2.67/kg
0406.30.67	$1.443/kg
0406.30.71	$1.241/kg
0406.30.75	$2.121/kg

0406.30.79	$2.525/kg
0406.30.83	$1.631/kg
0406.30.87	$1.328/kg
0406.30.91	$1.775/kg
0406.40.70	$2.67/kg
0406.90.12	$1.443/kg
0406.90.18	$2.121/kg
0406.90.33	$2.525/kg
0406.90.38	$2.525/kg
0406.90.43	$2.525/kg
0406.90.48	$2.208/kg
0406.90.64	$1.241/kg
0406.90.68	$2.525/kg
0406.90.74	$2.67/kg
0406.90.78	$1.443/kg
0406.90.84	$1.241/kg
0406.90.88	$2.121/kg
0406.90.92	$1.631/kg
0406.90.94	$1.328/kg
0406.90.97	$1.775/kg
1202.10.80	192.7%
1202.20.80	155%
1517.90.60	40.2¢/kg
1701.11.50	39.85¢/kg
1701.12.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1701.12.50	42.05¢/kg
1701.91.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1701.91.30	42.05¢/kg
1701.91.48	39.9¢/kg + 6%
1701.91.58	39.9¢/kg + 6%
1701.99.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1701.99.50	42.05¢/kg
1702.20.28	19.9¢/kg of total sugars + 6%
1702.30.28	19.9¢/kg of total sugars + 6%
1702.40.28	39.9¢/kg of total sugars + 6%
1702.60.28	39.9¢/kg of total sugars + 6%
1702.90.10	6.58170¢/kg of total sugars
1702.90.20	42.05¢/kg
1702.90.58	39.9¢/kg of total sugars + 6%
1702.90.68	39.9¢/kg + 6%
1704.90.58	47.4¢/kg + 12.2%
1704.90.68	47.4¢/kg + 12.2%
1704.90.78	47.4¢/kg + 12.2%
1806.10.15	25.5¢/kg
1806.10.28	39.5¢/kg
1806.10.38	39.5¢/kg

1806.10.55	39.5¢/kg
1806.10.75	39.5¢/kg
1806.20.26	43.8¢/kg + 5%
1806.20.28	62.1¢/kg + 5%
1806.20.36	43.8¢/kg + 5%
1806.20.38	62.1¢/kg + 5%
1806.20.73	35.9¢/kg + 10%
1806.20.77	35.9¢/kg + 10%
1806.20.82	43.8¢/kg + 10%
1806.20.83	62.1¢/kg + 10%
1806.20.87	43.8¢/kg + 10%
1806.20.89	62.1¢/kg + 10%
1806.20.92	43.8¢/kg + 10%
1806.20.93	62.1¢/kg + 10%
1806.20.96	43.8¢/kg + 10%
1806.20.97	62.1¢/kg + 10%
1806.32.06	43.8¢/kg + 5%
1806.32.08	62.1¢/kg + 5%
1806.32.16	43.8¢/kg + 5%
1806.32.18	62.1¢/kg + 5%
1806.32.70	43.8¢/kg + 7%
1806.32.80	62.1¢/kg + 7%
1806.90.08	43.8¢/kg + 7%
1806.90.10	62.1¢/kg + 7%
1806.90.18	43.8¢/kg + 7%
1806.90.20	62.1¢/kg + 7%
1806.90.28	43.8¢/kg + 7%
1806.90.30	62.1¢/kg + 7%
1806.90.38	43.8¢/kg + 7%
1806.90.40	62.1¢/kg + 7%
1806.90.48	43.8¢/kg + 7%
1806.90.50	62.1¢/kg + 7%
1806.90.58	43.8¢/kg + 7%
1806.90.60	62.1¢/kg + 7%
1901.10.30	$1.217/kg + 17.5%
1901.10.40	$1.217/kg + 17.5%
1901.10.75	$1.217/kg + 17.5%
1901.10.85	$1.217/kg + 17.5%
1901.20.15	49.8¢/kg + 10%
1901.20.25	49.8¢/kg + 10%
1901.20.35	49.8¢/kg + 10%
1901.20.50	49.8¢/kg + 10%
1901.20.60	49.8¢/kg + 10%
1901.20.70	49.8¢/kg + 10%
1901.90.36	$1.328/kg
1901.90.42	25%
1901.90.44	$1.217/kg + 16%
1901.90.46	25%
1901.90.48	$1.217/kg + 16%
1901.90.54	27.9¢/kg + 10%
1901.90.58	27.9¢/kg + 10%
2008.11.15	155%
2008.11.35	155%
2008.11.60	155%
2101.10.38	35.9¢/kg + 10%
2101.10.48	35.9¢/kg + 10%
2101.10.58	35.9¢/kg + 10%
2101.20.38	35.9¢/kg + 10%

2101.20.48	35.9¢/kg + 10%
2101.20.58	35.9¢/kg + 10%
2103.90.78	35.9¢/kg + 7.5%
2105.00.20	59¢/kg + 20%
2105.00.40	59¢/kg + 20%
2106.90.02	$1.014/kg
2106.90.04	$2.348/kg
2106.90.08	$2.348/kg
2106.90.11	6.58170¢/kg of total sugars
2106.90.12	42.05¢/kg
2106.90.34	82.8¢/kg + 10%
2106.90.38	82.8¢/kg + 10%
2106.90.44	82.8¢/kg + 10%
2106.90.48	82.8¢/kg + 10%
2106.90.57	33.9¢/kg + 10%
2106.90.67	33.9¢/kg + 10%
2106.90.77	33.9¢/kg + 10%
2106.90.87	33.9¢/kg + 10%
2202.90.28	27.6¢/liter + 17.5%
2309.90.28	94.6¢/kg + 7.5%
2309.90.48	94.6¢/kg + 7.5%
2401.10.70	85¢/kg
2401.10.90	85¢/kg
2401.20.30	$1.21/kg
2401.20.45	$1.15/kg
2401.20.55	$1.15/kg
2801.30.20	37%
2805.30.00	31.3%
2805.40.00	5.7%
2811.19.10	4.9%
2818.10.20	4.1%
2822.00.00	1.7%
2827.39.20	31.9%
2833.11.50	3.6%
2833.27.00	4.2%
2836.40.20	4.8%
2836.60.00	8.4%
2837.20.10	5.1%
2840.11.00	1.2%
2840.19.00	0.4%
2849.20.20	1.6%
2903.15.00	88%
2903.16.00	33.3%
2903.30.05	46.3%
2906.11.00	6.2%
2907.12.00	48.3%
2909.11.00	4%
2912.11.00	12.1%
2916.15.10	35.2%
2916.19.30	24.4%
2923.20.20	33.4%
3213.90.00	48.6%
3307.10.20	81.7%
3307.49.00	73.2%
3403.11.20	0.4%
3403.19.10	0.4%
3506.10.10	30.4%
3603.00.30	8.3%

3603.00.90	0.3%
3604.10.00	12.5%
3606.90.30	56.7%
3706.10.30	7%
3807.00.00	0.2%
3823.90.33	26.3%
3904.61.00	34.1%
3916.90.10	40.6%
3920.51.50	48.2%
3920.59.80	51.7%
3926.90.65	8.4%
5201.00.18	36.9¢/kg
5201.00.28	36.9¢/kg
5201.00.38	36.9¢/kg
5201.00.80	36.9¢/kg
5202.99.30	9.2¢/kg
5203.00.30	36.9¢/kg

(e) AUTHORITY TO CONSOLIDATE SUBHEADINGS AND MODIFY COLUMN 2 RATES OF DUTY FOR TARIFF SIMPLIFICATION PURPOSES.—

(1) IN GENERAL.—Whenever the HTS column 1 general rates of duty for 2 or more 8-digit subheadings are at the same level and such subheadings are subordinate to a provision required by the International Convention on the Harmonized Commodity Description and Coding System, the President may proclaim, subject to the consultation and layover requirements of section 115, that the goods described in such subheadings be provided for in a single 8-digit subheading of the HTS, and that—

(A) the HTS column 1 general rate of duty for such single subheading be the column 1 general rate of duty common to all such subheadings, and

(B) the HTS column 2 rate of duty for such single subheading be the highest column 2 rate of duty for such subheadings that is in effect on the day before the effective date of such proclamation.

(2) SAME LEVEL OF DUTY.—The provisions of this subsection apply to subheadings described in paragraph (1) that have the same column 1 general rate of duty—

(A) on the date of the enactment of this Act, or

(B) after such date of enactment as a result of a staged reduction in such column 1 rates of duty.

SEC. 112. IMPLEMENTATION OF SCHEDULE XX PROVISIONS ON SHIP REPAIRS.

(a) IN GENERAL.—Section 484E(b) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note; 104 Stat. 710) is amended—

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

(2) by striking the period at the end of paragraph (2) and inserting ", and"; and

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

"(3) any entry made pursuant to section 466(h) (1) or (2) of the Tariff Act of 1930 (19 U.S.C. 1466(h) (1) or (2)), on or after the date of the entry into force of the WTO Agreement with respect to the United States.".

(b) EXEMPTION FOR CERTAIN SPARE PARTS.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", or"; and

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

"(3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

SEC. 113. LIQUIDATION OR RELIQUIDATION AND REFUND OF DUTY PAID ON CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to subsection (b), the Secretary of the Treasury shall liquidate or reliquidate the entries listed or otherwise described in subsection (c) and refund any duty or excess duty that was paid, as provided in subsection (c).

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date on which the WTO Agreement enters into force with respect to the United States, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

(c) ENTRIES.—The entries referred to in subsection (a) are as follows:

(1) AGGLOMERATED STONE TILES.—Any goods—

(A) for which the importer claimed or would have claimed entry under subheading 6810.19.12 of the HTS on or after October 1, 1990, and before the effective date of a proclamation issued by the President under section 103(a) of this Act with respect to items under such subheading in order to carry out Schedule XX, or

(B) entered on or after January 1, 1989, and before October 1, 1990, for which entry would have been claimed under subheading 6810.19.12 of the HTS on or after October 1, 1990,

shall be liquidated or reliquidated as if the wording of that subheading were "Of stone agglomerated with binders other than cement", and the Secretary of the Treasury shall refund any excess duties paid with respect to such entries.

(2) CLOMIPHENE CITRATE.—

(A) Any entry, or withdrawal from warehouse for consumption, of goods described in heading 9902.29.95 of the HTS (relating to clomiphene citrate) which was made after December 31, 1988, and before January 1, 1993, and with respect to which there would have been no duty if the reference to subheading "2922.19.15" in such heading were a reference to subheading "2922.19.15 or any subheading of chapter 30" at the time of such entry or withdrawal, shall be liquidated or reliquidated as free of duty.

(B) The Secretary of the Treasury shall refund any duties paid with respect to entries described in subparagraph (A).

SEC. 114. MODIFICATIONS TO THE HTS.

(a) WOOL.—

(1) AMENDMENTS.—Chapter 51 of the HTS is amended—

(A) by striking subheading 5101.21.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5101.11.60:

"	Other:			
5101.21.65	Unimproved wool; other wool, not finer than 46s	Free		81.6¢/kg+20%
5101.21.70	Other	7.7¢/kg+6.25%	Free (MX) 0.8¢/kg+0.6% (IL) 3¢/kg+2.5% (CA)	81.6¢/kg+20% ;

(B) by striking subheading 5101.29.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5102.10.20:

"	Other:			
5101.29.65	Unimproved wool; other wool, not finer than 46s	Free		81.6¢/kg+20%
5101.29.70	Other	7.7¢/kg+6.25%	0.8¢/kg+0.6% (IL) 3¢/kg+2.5% (CA) 6.1¢/kg+5% (MX)	81.6¢/kg+20% ;

and

(C) by striking subheading 5101.30.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the superior text immediately preceding subheading 5102.10.20:

"	Other:			
5101.30.65	Unimproved wool; other wool, not finer than 46s	Free		81.6¢/kg+20%
5101.30.70	Other	7.7¢/kg+6.25%	Free (MX) 0.8¢/kg+0.6% (IL) 3¢/kg+2.5% (CA)	81.6¢/kg+20% ".

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the effective date of the proclamation issued by the President under section 103(a) to carry out Schedule XX.

(b) DUTY FREE TREATMENT FOR OCTADECYL ISOCYANATE AND 5-CHLORO-2-(2,4-DICHLORO-PHENOXY)PHENOL.—The President—

(1) shall proclaim duty-free entry for octadecyl isocyanate and 5-Chloro-2-(2,4-dichloro-phenoxy)phenol, to be effective on the effective date of the proclamation issued by the President under section 103(a) to carry out Schedule XX, and

(2) shall take such actions as are necessary to reflect such tariff treatment in Schedule XX.

SEC. 115. CONSULTATION AND LAYOVER REQUIREMENTS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

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

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

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

(B) the International Trade Commission;

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

(A) the action proposed to be proclaimed and the reasons for such actions, and

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

(3) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action, has expired; and

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

SEC. 116. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 114(a) and subsection (b) of this section, this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 115.—Section 115 takes effect on the date of the enactment of this Act.

Subtitle C—Uruguay Round Implementation and Dispute Settlement

SEC. 121. DEFINITIONS.

For purposes of this subtitle:

(1) ADMINISTERING AUTHORITY.—The term "administering authority" has the meaning given that term in section 771(1) of the Tariff Act of 1930.

(2) APPELLATE BODY.—The term "Appellate Body" means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES; CONGRESSIONAL COMMITTEES.—

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the committees referred to in subparagraph (B) and any other committees of the Congress that have jurisdiction involving the matter with respect to which consultations are to be held.

(B) CONGRESSIONAL COMMITTEES.—The term "congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(4) DISPUTE SETTLEMENT PANEL; PANEL.—The terms "dispute settlement panel" and "panel" mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(5) DISPUTE SETTLEMENT BODY.—The term "Dispute Settlement Body" means the Dispute Settlement Body administering the rules and procedures set forth in the Dispute Settlement Understanding.

(6) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16).

(7) GENERAL COUNCIL.—The term "General Council" means the General Council established under paragraph 2 of Article IV of the WTO Agreement.

(8) MINISTERIAL CONFERENCE.—The term "Ministerial Conference" means the Ministerial Conference established under paragraph 1 of Article IV of the WTO Agreement.

(9) OTHER TERMS.—The terms "Antidumping Agreement", "Agreement on Subsidies and Countervailing Measures", and "Safeguards Agreement" mean the agreements referred to in section 101(d) (7), (12), and (13), respectively.

SEC. 122. IMPLEMENTATION OF URUGUAY ROUND AGREEMENTS.

(a) DECISIONMAKING.—In the implementation of the Uruguay Round Agreements and the functioning of the World Trade Organization, it is the objective of the United States to ensure that the Ministerial Conference and the General Council continue the practice of decisionmaking by consensus followed under the GATT 1947, as required by paragraph 1 of article IX of the WTO Agreement.

(b) CONSULTATIONS WITH CONGRESSIONAL COMMITTEES.—In furtherance of the objective set forth in subsection (a), the Trade Representative shall consult with the appropriate congressional committees before any vote is taken by the Ministerial Conference or the General Council relating to—

(1) the adoption of an interpretation of the WTO Agreement or another multilateral trade agreement,

(2) the amendment of any such agreement,

(3) the granting of a waiver of any obligation under any such agreement,

(4) the adoption of any amendment to the rules or procedures of the Ministerial Conference or the General Council,

(5) the accession of a state or separate customs territory to the WTO Agreement, or

(6) the adoption of any other decision,

if the action described in paragraph (1), (2), (3), (4), (5), or (6) would substantially affect the rights or obligations of the United States under the WTO Agreement or another multilateral trade agreement or potentially entails a change in Federal or State law.

(c) REPORT ON DECISIONS.—

(1) IN GENERAL.—Not later than 30 days after the end of any calendar year in which the Ministerial Conference or the General Council adopts by vote any decision to take any

action described in paragraph (1), (2), (4), or (6) of subsection (b), the Trade Representative shall submit a report to the appropriate congressional committees describing—

(A) the nature of the decision;

(B) the efforts made by the United States to have the matter decided by consensus pursuant to paragraph 1 of article IX of the WTO Agreement, and the results of those efforts;

(C) which countries voted for, and which countries voted against, the decision;

(D) the rights or obligations of the United States affected by the decision and any Federal or State law that would be amended or repealed, if the President after consultation with the Congress determined that such amendment or repeal was an appropriate response; and

(E) the action the President intends to take in response to the decision or, if the President does not intend to take any action, the reasons therefor.

(2) ADDITIONAL REPORTING REQUIREMENTS.—

(A) GRANT OF WAIVER.—In the case of a decision to grant a waiver described in subsection (b)(3), the report under paragraph (1) shall describe the terms and conditions of the waiver and the rights and obligations of the United States that are affected by the waiver.

(B) ACCESSION.—In the case of a decision on accession described in subsection (b)(5), the report under paragraph (1) shall state whether the United States intends to invoke Article XIII of the WTO Agreement.

(d) CONSULTATION ON REPORT.—Promptly after the submission of a report under subsection (c), the Trade Representative shall consult with the appropriate congressional committees with respect to the report.

SEC. 123. DISPUTE SETTLEMENT PANELS AND PROCEDURES.

(a) REVIEW BY PRESIDENT.—The President shall review annually the WTO panel roster and shall include the panel roster and the list of persons serving on the Appellate Body in the annual report submitted by the President under section 163(a) of the Trade Act of 1974.

(b) QUALIFICATIONS OF APPOINTEES TO PANELS.—The Trade Representative shall—

(1) seek to ensure that persons appointed to the WTO panel roster are well-qualified, and that the roster includes persons with expertise in the subject areas covered by the Uruguay Round Agreements; and

(2) inform the President of persons nominated to the roster by other WTO member countries.

(c) RULES GOVERNING CONFLICTS OF INTEREST.—The Trade Representative shall seek the establishment by the General Council and the Dispute Settlement Body of rules governing conflicts of interest by persons serving on panels and members of the Appellate Body and shall describe, in the annual report submitted under section 124, any progress made in establishing such rules.

(d) NOTIFICATION OF DISPUTES.—Promptly after a dispute settlement panel is established to consider the consistency of Federal or State law with any of the Uruguay Round Agreements,

the Trade Representative shall notify the appropriate congressional committees of—

(1) the nature of the dispute, including the matters set forth in the request for the establishment of the panel, the legal basis of the complaint, and the specific measures, in particular any State or Federal law cited in the request for establishment of the panel;

(2) the identity of the persons serving on the panel; and

(3) whether there was any departure from the rule of consensus with respect to the selection of persons to serve on the panel.

(e) NOTICE OF APPEALS OF PANEL REPORTS.—If an appeal is taken of a report of a panel in a proceeding described in subsection (d), the Trade Representative shall, promptly after the notice of appeal is filed, notify the appropriate congressional committees of—

(1) the issues under appeal; and

(2) the identity of the persons serving on the Appellate Body who are reviewing the report of the panel.

(f) ACTIONS UPON CIRCULATION OF REPORTS.—Promptly after the circulation of a report of a panel or of the Appellate Body to WTO members in a proceeding described in subsection (d), the Trade Representative shall—

(1) notify the appropriate congressional committees of the report;

(2) in the case of a report of a panel, consult with the appropriate congressional committees concerning the nature of any appeal that may be taken of the report; and

(3) if the report is adverse to the United States, consult with the appropriate congressional committees concerning whether to implement the report's recommendation and, if so, the manner of such implementation and the period of time needed for such implementation.

(g) REQUIREMENTS FOR AGENCY ACTION.—

(1) CHANGES IN AGENCY REGULATIONS OR PRACTICE.—In any case in which a dispute settlement panel or the Appellate Body finds in its report that a regulation or practice of a department or agency of the United States is inconsistent with any of the Uruguay Round Agreements, that regulation or practice may not be amended, rescinded, or otherwise modified in the implementation of such report unless and until—

(A) the appropriate congressional committees have been consulted under subsection (f);

(B) the Trade Representative has sought advice regarding the modification from relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155);

(C) the head of the relevant department or agency has provided an opportunity for public comment by publishing in the Federal Register the proposed modification and the explanation for the modification;

(D) the Trade Representative has submitted to the appropriate congressional committees a report describing the proposed modification, the reasons for the modification, and a summary of the advice obtained under subparagraph (B) with respect to the modification;

(E) the Trade Representative and the head of the relevant department or agency have consulted with the appropriate congressional committees on the proposed contents of the final rule or other modification; and

(F) the final rule or other modification has been published in the Federal Register.

(2) EFFECTIVE DATE OF MODIFICATION.—A final rule or other modification to which paragraph (1) applies may not go into effect before the end of the 60-day period beginning on the date on which consultations under paragraph (1)(E) begin, unless the President determines that an earlier effective date is in the national interest.

(3) VOTE BY CONGRESSIONAL COMMITTEES.—During the 60-day period described in paragraph (2), the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate may vote to indicate the agreement or disagreement of the committee with the proposed contents of the final rule or other modification. Any such vote shall not be binding on the department or agency which is implementing the rule or other modification.

(4) INAPPLICABILITY TO ITC.—This subsection does not apply to any regulation or practice of the International Trade Commission.

(h) CONSULTATIONS REGARDING REVIEW OF WTO RULES AND PROCEDURES.—Before the review is conducted of the dispute settlement rules and procedures of the WTO that is provided for in the Decision on the Application of the Understanding on Rules and Procedures Governing the Settlement of Disputes, as such decision is set forth in the Ministerial Declarations and Decisions adopted on April 15, 1994, together with the Uruguay Round Agreements, the Trade Representative shall consult with the congressional committees regarding the policy of the United States concerning the review.

SEC. 124. ANNUAL REPORT ON THE WTO.

Not later than March 1 of each year beginning in 1996, the Trade Representative shall submit to the Congress a report describing, for the preceding fiscal year of the WTO—

(1) the major activities and work programs of the WTO, including the functions and activities of the committees established under article IV of the WTO Agreement, and the expenditures made by the WTO in connection with those activities and programs;

(2) the percentage of budgetary assessments by the WTO that were accounted for by each WTO member country, including the United States;

(3) the total number of personnel employed or retained by the Secretariat of the WTO, and the number of professional, administrative, and support staff of the WTO;

(4) for each personnel category described in paragraph (3), the number of citizens of each country, and the average salary of the personnel, in that category;

(5) each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law, and any efforts by the Trade Representative to provide for implementation of the recommendations contained in a report that is adverse to the United States;

(6) each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue;

(7) the status of consultations with any State whose law was the subject of a report adverse to the United States that was issued by a panel or the Appellate Body; and

(8) any progress achieved in increasing the transparency of proceedings of the Ministerial Conference and the General Council, and of dispute settlement proceedings conducted pursuant to the Dispute Settlement Understanding.

SEC. 125. REVIEW OF PARTICIPATION IN THE WTO.

(a) REPORT ON THE OPERATION OF THE WTO.—The first annual report submitted to the Congress under section 124—

(1) after the end of the 5-year period beginning on the date on which the WTO Agreement enters into force with respect to the United States, and

(2) after the end of every 5-year period thereafter,

shall include an analysis of the effects of the WTO Agreement on the interests of the United States, the costs and benefits to the United States of its participation in the WTO, and the value of the continued participation of the United States in the WTO.

(b) CONGRESSIONAL DISAPPROVAL OF U.S. PARTICIPATION IN THE WTO.—

(1) GENERAL RULE.—The approval of the Congress, provided under section 101(a), of the WTO Agreement shall cease to be effective if, and only if, a joint resolution described in subsection (c) is enacted into law pursuant to the provisions of paragraph (2).

(2) PROCEDURAL PROVISIONS.—(A) The requirements of this paragraph are met if the joint resolution is enacted under subsection (c), and—

(i) the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives a report referred to in subsection (a), and

(ii) if the President vetoes the joint resolution, each House of Congress votes to override that veto on or before the later of the last day of the 90-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which the Congress receives the veto message from the President.

(B) A joint resolution to which this section applies may be introduced at any time on or after the date on which the President transmits to the Congress a report described in subsection (a), and before the end of the 90-day period referred to in subparagraph (A).

(c) JOINT RESOLUTIONS.—

(1) JOINT RESOLUTIONS.—For purposes of this section, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round

Agreements Act, of the WTO Agreement as defined in section 2(9) of that Act.''.

(2) PROCEDURES.—(A) Joint resolutions may be introduced in either House of the Congress by any member of such House.

(B) Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(b), (d), (e), and (f)) apply to joint resolutions to the same extent as such provisions apply to resolutions under such section.

(C) If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).

(E) A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(3) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section.

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

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 126. INCREASED TRANSPARENCY.

The Trade Representative shall seek the adoption by the Ministerial Conference and General Council of procedures that will ensure broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions, through the observance of open and equitable procedures in trade matters by the Ministerial Conference and the General Council, and by the dispute settlement panels and the Appellate Body under the Dispute Settlement Understanding.

SEC. 127. ACCESS TO THE WTO DISPUTE SETTLEMENT PROCESS.

(a) IN GENERAL.—Whenever the United States is a party before a dispute settlement panel established pursuant to Article 6 of the Dispute Settlement Understanding, the Trade Representative shall, at each stage of the proceeding before the panel or the Appellate Body, consult with the appropriate congressional committees, the petitioner (if any) under section 302(a) of the Trade Act of 1974 (19 U.S.C. 2412) with respect to the matter that is the subject of the proceeding, and relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and shall consider the views of representatives of appropriate interested private sector and nongovernmental organizations concerning the matter.

(b) NOTICE AND PUBLIC COMMENT.—In any proceeding described in subsection (a), the Trade Representative shall—

(1) promptly after requesting the establishment of a panel, or receiving a request from another WTO member country for the establishment of a panel, publish a notice in the Federal Register—

(A) identifying the initial parties to the dispute,

(B) setting forth the major issues raised by the country requesting the establishment of a panel and the legal basis of the complaint,

(C) identifying the specific measures, including any State or Federal law cited in the request for establishment of the panel, and

(D) seeking written comments from the public concerning the issues raised in the dispute; and

(2) take into account any advice received from appropriate congressional committees and relevant private sector advisory committees referred to in subsection (a), and written comments received pursuant to paragraph (1)(D), in preparing United States submissions to the panel or the Appellate Body.

(c) ACCESS TO DOCUMENTS.—In each proceeding described in subsection (a), the Trade Representative shall—

(1) make written submissions by the United States referred to in subsection (b) available to the public promptly after they are submitted to the panel or Appellate Body, except that the Trade Representative is authorized to withhold from disclosure any information contained in such submissions identified by the provider of the information as proprietary information or information treated as confidential by a foreign government;

(2) request each other party to the dispute to permit the Trade Representative to make that party's written submissions to the panel or the Appellate Body available to the public; and

(3) make each report of the panel or the Appellate Body available to the public promptly after it is circulated to WTO members, and inform the public of such availability.

(d) REQUESTS FOR NONCONFIDENTIAL SUMMARIES.—In any dispute settlement proceeding conducted pursuant to the Dispute Settlement Understanding, the Trade Representative shall request each party to the dispute to provide nonconfidential summaries of its written submissions, if that party has not made its written submissions public, and shall make those summaries available to the public promptly after receiving them.

(e) PUBLIC FILE.—The Trade Representative shall maintain a file accessible to the public on each dispute settlement proceeding to which the United States is a party that is conducted pursuant to the Dispute Settlement Understanding. The file shall include all United States submissions in the proceeding and a listing of any submissions to the Trade Representative from the public with respect to the proceeding, as well as the report of the dispute settlement panel and the report of the Appellate Body.

(f) CONFORMING AMENDMENT.—Section 135(a)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2155(a)(1)(B)) is amended to read as follows:

"(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and".

SEC. 128. ADVISORY COMMITTEE PARTICIPATION.

Section 135(b)(1) of the Trade Act of 1974 (19 U.S.C. 2155(b)(1)) is amended by inserting "nongovernmental environmental and conservation organizations," after "retailers,".

SEC. 129. ADMINISTRATIVE ACTION FOLLOWING WTO PANEL REPORTS.

(a) ACTION BY UNITED STATES INTERNATIONAL TRADE COMMISSION.—

(1) ADVISORY REPORT.—If a dispute settlement panel finds in an interim report under Article 15 of the Dispute Settlement Understanding, or the Appellate Body finds in a report under Article 17 of that Understanding, that an action by the International Trade Commission in connection with a particular proceeding is not in conformity with the obligations of the United States under the Antidumping Agreement, the Safeguards Agreement, or the Agreement on Subsidies and Countervailing Measures, the Trade Representative may request the Commission to issue an advisory report on whether title VII of the Tariff Act of 1930 or title II of the Trade Act of 1974, as the case may be, permits the Commission to take steps in connection with the particular proceeding that would render its action not inconsistent with the findings of the panel or the Appellate Body concerning those obligations. The Trade Representative shall notify the congressional committees of such request.

(2) TIME LIMITS FOR REPORT.—The Commission shall transmit its report under paragraph (1) to the Trade Representative—

(A) in the case of an interim report described in paragraph (1), within 30 calendar days after the Trade Representative requests the report; and

(B) in the case of a report of the Appellate Body, within 21 calendar days after the Trade Representative requests the report.

(3) CONSULTATIONS ON REQUEST FOR COMMISSION DETERMINATION.—If a majority of the Commissioners issues an affirmative report under paragraph (1), the Trade Representative shall consult with the congressional committees concerning the matter.

(4) COMMISSION DETERMINATION.—Notwithstanding any provision of the Tariff Act of 1930 or title II of the Trade Act of 1974, if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon

the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel or Appellate Body. The Commission shall issue its determination not later than 120 days after the request from the Trade Representative is made.

(5) CONSULTATIONS ON IMPLEMENTATION OF COMMISSION DETERMINATION.—The Trade Representative shall consult with the congressional committees before the Commission's determination under paragraph (4) is implemented.

(6) REVOCATION OF ORDER.—If, by virtue of the Commission's determination under paragraph (4), an antidumping or countervailing duty order with respect to some or all of the imports that are subject to the action of the Commission described in paragraph (1) is no longer supported by an affirmative Commission determination under title VII of the Tariff Act of 1930 or this subsection, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the antidumping or countervailing duty order in whole or in part.

(7) MODIFICATION OF ACTION UNDER TITLE II OF TRADE ACT OF 1974.—Section 204(b) of the Trade Act of 1974 (19 U.S.C. 2254(b)) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), the President may, after receipt of a Commission determination under section 129(a)(4) of the Uruguay Round Agreements Act and consulting with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, reduce, modify, or terminate action taken under section 203.".

(b) ACTION BY ADMINISTERING AUTHORITY.—

(1) CONSULTATIONS WITH ADMINISTERING AUTHORITY AND CONGRESSIONAL COMMITTEES.—Promptly after a report by a dispute settlement panel or the Appellate Body is issued that contains findings that an action by the administering authority in a proceeding under title VII of the Tariff Act of 1930 is not in conformity with the obligations of the United States under the Antidumping Agreement or the Agreement on Subsidies and Countervailing Measures, the Trade Representative shall consult with the administering authority and the congressional committees on the matter.

(2) DETERMINATION BY ADMINISTERING AUTHORITY.—Notwithstanding any provision of the Tariff Act of 1930, the administering authority shall, within 180 days after receipt of a written request from the Trade Representative, issue a determination in connection with the particular proceeding that would render the administering authority's action described in paragraph (1) not inconsistent with the findings of the panel or the Appellate Body.

(3) CONSULTATIONS BEFORE IMPLEMENTATION.—Before the administering authority implements any determination under paragraph (2), the Trade Representative shall consult with the administering authority and the congressional committees with respect to such determination.

(4) IMPLEMENTATION OF DETERMINATION.—The Trade Representative may, after consulting with the administering

authority and the congressional committees under paragraph (3), direct the administering authority to implement, in whole or in part, the determination made under paragraph (2).

(c) EFFECTS OF DETERMINATIONS; NOTICE OF IMPLEMENTATION.—

(1) EFFECTS OF DETERMINATIONS.—Determinations concerning title VII of the Tariff Act of 1930 that are implemented under this section shall apply with respect to unliquidated entries of the subject merchandise (as defined in section 771 of that Act) that are entered, or withdrawn from warehouse, for consumption on or after—

(A) in the case of a determination by the Commission under subsection (a)(4), the date on which the Trade Representative directs the administering authority under subsection (a)(6) to revoke an order pursuant to that determination, and

(B) in the case of a determination by the administering authority under subsection (b)(2), the date on which the Trade Representative directs the administering authority under subsection (b)(4) to implement that determination.

(2) NOTICE OF IMPLEMENTATION.—

(A) The administering authority shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title VII of the Tariff Act of 1930.

(B) The Trade Representative shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title II of the Trade Act of 1974.

(d) OPPORTUNITY FOR COMMENT BY INTERESTED PARTIES.—Prior to issuing a determination under this section, the administering authority or the Commission, as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.

(e) JUDICIAL OR BINATIONAL PANEL REVIEW.—

(1) REVIEW OF DETERMINATIONS ON RECORD.—Section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) in subclause (I) by striking "(B), or" and inserting "(B)", and

(ii) by adding after subclause (II) the following:

"(III) notice of the implementation of any determination described in clause (vii) of subparagraph (B), or"; and

(B) in subparagraph (B), by adding at the end the following new clause:

"(vii) A determination by the administering authority or the Commission under section 129 of the Uruguay Round Agreements Act concerning a determination under title VII of the Tariff Act of 1930.".

(2) TIME LIMITS FOR CASES INVOLVING FREE TRADE AREA COUNTRIES.—Section 516A(a)(5) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(5)) is amended by adding at the end the following new subparagraph:

"(E) For a determination described in clause (vii) of paragraph (2)(B), the 31st day after the date on which notice of the implementation of the determination is published in the Federal Register.".

(3) REVIEW OF CASES INVOLVING FREE TRADE AREA COUNTRY MERCHANDISE.—Section 516A(g)(8)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1516a(g)(8)(A)(i)) is amended by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (E)".

SEC. 130. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle D—Related Provisions

SEC. 131. WORKING PARTY ON WORKER RIGHTS.

(a) IN GENERAL.—The President shall seek the establishment in the GATT 1947, and, upon entry into force of the WTO Agreement with respect to the United States, in the WTO, of a working party to examine the relationship of internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, to the articles, objectives, and related instruments of the GATT 1947 and of the WTO, respectively.

(b) OBJECTIVES OF WORKING PARTY.—The objectives of the United States for the working party described in subsection (a) are to—

(1) explore the linkage between international trade and internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, taking into account differences in the level of development among countries;

(2) examine the effects on international trade of the systematic denial of such rights;

(3) consider ways to address such effects; and

(4) develop methods to coordinate the work program of the working party with the International Labor Organization.

(c) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 1 year after the date of the enactment of this Act, on the progress made in establishing the working party under this section, and on United States objectives with respect to the working party's work program.

SEC. 132. IMPLEMENTATION OF RULES OF ORIGIN WORK PROGRAM.

If the President enters into an agreement developed under the work program described in Article 9 of the Agreement on Rules of Origin referred to in section 101(d)(10), the President may implement United States obligations under such an agreement under United States law only pursuant to authority granted to the President for that purpose by law enacted after the effective date of this title.

SEC. 133. MEMBERSHIP IN WTO OF BOYCOTTING COUNTRIES.

It is the sense of the Congress that the Trade Representative should vigorously oppose the admission into the World Trade Organization of any country which, through its laws, regulations, official policies, or governmental practices, fosters, imposes, com-

plies with, furthers, or supports any boycott described in section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) (as in effect on August 20, 1994), including requiring or encouraging entities within that country to refuse to do business with persons who do not comply with requests to take any action prohibited under that section.

SEC. 134. AFRICA TRADE AND DEVELOPMENT POLICY.

(a) DEVELOPMENT OF POLICY.—The President should develop and implement a comprehensive trade and development policy for the countries of Africa.

(b) REPORTS TO CONGRESS.—The President shall, not later than 12 months after the date of the enactment of this Act and annually thereafter for a period of 4 years, submit to the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives, the Committee on Finance and the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress, a report on the steps taken to carry out subsection (a).

SEC. 135. OBJECTIVES FOR EXTENDED NEGOTIATIONS.

(a) TRADE IN FINANCIAL SERVICES.—The principal negotiating objective of the United States in the extended negotiations on financial services to be conducted under the auspices of the WTO is to seek to secure commitments, from a wide range of commercially important developed and developing countries, to reduce or eliminate barriers to the supply of financial services, including barriers that deny national treatment or market access by restricting the establishment or operation of financial services providers, as the condition for the United States—

(1) offering commitments to provide national treatment and market access in each of the financial services subsectors, and

(2) making such commitments on a most-favored-nation basis.

(b) TRADE IN BASIC TELECOMMUNICATIONS SERVICES.—The principal negotiating objective of the United States in the extended negotiations on basic telecommunications services to be conducted under the auspices of the WTO is to obtain the opening on nondiscriminatory terms and conditions of foreign markets for basic telecommunications services through facilities-based competition or through the resale of services on existing networks.

(c) TRADE IN CIVIL AIRCRAFT.—

(1) NEGOTIATIONS.—The principal negotiating objectives of the United States in the extended negotiations on trade in civil aircraft to be conducted under the auspices of the WTO are—

(A) to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to those afforded to foreign products in the United States,

(B) to obtain the reduction or elimination of specific tariff and nontariff barriers, including through expanded membership in the Agreement on Trade in Civil Aircraft and in the US–EC bilateral agreement for large civil aircraft,

(C) to maintain vigorous and effective disciplines on subsidies practices with respect to civil aircraft products

under the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12),

(D) to maintain the scope and coverage on indirect support as specified in the US–EC bilateral agreement on large civil aircraft, and

(E) to obtain increased transparency with respect to foreign subsidy programs in the civil aircraft sector, both through greater government disclosure with respect to the use of taxpayer moneys and higher financial disclosure standards for companies receiving government supports (including disclosure comparable to that required under United States securities laws).

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term "civil aircraft" means those products to which the Agreement on Trade in Civil Aircraft applies,

(B) the term "large civil aircraft" has the meaning given that term in Annex II to the US–EC bilateral agreement,

(C) the term "indirect support" means indirect government support as defined in Annex II to the US–EC bilateral agreement,

(D) the term "Agreement on Trade in Civil Aircraft" means the Agreement on Trade in Civil Aircraft approved by the Congress under section 2 of the Trade Agreements Act of 1979, and

(E) the term "US–EC bilateral agreement" means the Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft Between the European Economic Community and the Government of the United States of America on trade in large civil aircraft, entered into on July 17, 1992.

SEC. 136. REPEAL OF TAX ON IMPORTED PERFUMES; DRAWBACK OF TAX ON DISTILLED SPIRITS USED IN PERFUME MANUFACTURE.

(a) REPEAL OF TAX ON IMPORTED PERFUMES.—Subsection (a) of section 5001 of the Internal Revenue Code of 1986 is amended by striking paragraph (3) and redesignating the following paragraphs accordingly.

(b) DRAWBACK OF TAX ON DISTILLED SPIRITS USED IN PERFUME MANUFACTURE.—Sections 5131(a), 5132, 5134(c)(1), and 7652(g) of such Code are each amended by striking "or flavoring extracts" and inserting "flavoring extracts, or perfume".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 5002 of such Code is amended by striking paragraph (1) and redesignating the following paragraphs accordingly.

(2) Subsection (f) of section 5005 of such Code is amended—

(A) by striking "section 5001(a)(6) and (7)" in paragraph (3) and inserting "section 5001(a)(5) and (6)", and

(B) by striking "section 5001(a)(5)" in paragraph (4) and inserting "section 5001(a)(4)".

(3) Subsection (b) of section 5007 of such Code is amended to read as follows:

"(b) COLLECTION OF TAX ON IMPORTED DISTILLED SPIRITS.—The internal revenue tax imposed by section 5001(a)(1) and (2) upon imported distilled spirits shall be collected by the Secretary

and deposited as internal revenue collections, under such regulations as the Secretary may prescribe. Section 5688 shall be applicable to the disposition of imported spirits.".

(4) Paragraph (3) of section 5007(c) of such Code is amended by striking "section 5001(a)(5), (6), and (7)" and inserting "section 5001(a)(4), (5), and (6)".

(5) Paragraph (1) of section 5061(b) of such Code is amended to read as follows:

"(1) section 5001(a)(4), (5), or (6),".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. 137. CERTAIN NONRUBBER FOOTWEAR.

In the case of nonrubber footwear imported from Brazil—

(1) which is subject to Treasury Decision 74-233, dated September 9, 1974,

(2) which was entered, or withdrawn from warehouse for consumption, on or before October 28, 1981, and

(3) with respect to which entries are unliquidated on the date of the enactment of this Act,

countervailing duties shall be assessed at rates equal to the amount of the cash deposit of the estimated countervailing duties required on such footwear at the time of entry or withdrawal from warehouse for consumption. Interest on underpayments of amounts required to be deposited as countervailing duties shall be paid in accordance with section 778 of the Tariff Act of 1930 (19 U.S.C. 1677g).

SEC. 138. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 136(d) and subsection (b) of this section, this subtitle and the amendments made by this subtitle take effect on the date of the enactment of this Act.

(b) SECTIONS 132 AND 135.—Sections 132 and 135 take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE II—ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

SEC. 201. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Tariff Act of 1930.

Subtitle A—General Provisions

SEC. 211. ACTION WITH RESPECT TO PETITIONS.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—Section 702(b) (19 U.S.C. 1671a(b)) is amended—

(1) in paragraph (3) by striking "subsection 702(b)(1)" and inserting "paragraph (1)", and

(2) by adding at the end the following:

"(4) ACTION WITH RESPECT TO PETITIONS.—

"(A) NOTIFICATION OF GOVERNMENTS.—Upon receipt of a petition filed under paragraph (1), the administering authority shall—

"(i) notify the government of any exporting country named in the petition by delivering a public version of the petition to an appropriate representative of such country; and

"(ii) provide the government of any exporting country named in the petition that is a Subsidies Agreement country an opportunity for consultations with respect to the petition.

"(B) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 771(9) (C), (D), (E), (F), or (G) before the administering authority makes its decision whether to initiate an investigation, except as provided in subparagraph (A)(ii) and subsection (c)(4)(D), and except for inquiries regarding the status of the administering authority's consideration of the petition.

"(C) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under paragraph (1).".

(b) ANTIDUMPING INVESTIGATIONS.—Section 732(b) (19 U.S.C. 1673a(b)) is amended by adding at the end the following:

"(3) ACTION WITH RESPECT TO PETITIONS.—

"(A) NOTIFICATION OF GOVERNMENTS.—Upon receipt of a petition filed under paragraph (1), the administering authority shall notify the government of any exporting country named in the petition by delivering a public version of the petition to an appropriate representative of such country.

"(B) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 771(9) (C), (D), (E), (F), or (G) before the administering authority makes its decision whether to initiate an investigation, except as provided in subsection (c)(4)(D), and except for inquiries regarding the status of the administering authority's consideration of the petition.

"(C) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under paragraph (1).".

SEC. 212. PETITION AND PRELIMINARY DETERMINATION.

(a) GENERAL REQUIREMENTS.—

(1) COUNTERVAILING DUTY PETITION.—Section 702(c) (19 U.S.C. 1671a(c)) is amended to read as follows:

"(c) PETITION DETERMINATION.—

"(1) IN GENERAL.—

"(A) TIME FOR INITIAL DETERMINATION.—Except as provided in subparagraph (B), within 20 days after the date

on which a petition is filed under subsection (b), the administering authority shall—

"(i) after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition alleges the elements necessary for the imposition of a duty under section 701(a) and contains information reasonably available to the petitioner supporting the allegations, and

"(ii) determine if the petition has been filed by or on behalf of the industry.

"(B) EXTENSION OF TIME.—In any case in which the administering authority is required to poll or otherwise determine support for the petition by the industry under paragraph (4)(D), the administering authority may, in exceptional circumstances, apply subparagraph (A) by substituting 'a maximum of 40 days' for '20 days'.

"(C) TIME LIMITS WHERE PETITION INVOLVES SAME MERCHANDISE AS AN ORDER THAT HAS BEEN REVOKED.—If a petition is filed under this section with respect to merchandise that was the subject merchandise of—

"(i) a countervailing duty order that was revoked under section 751(d) in the 24 months preceding the date the petition is filed, or

"(ii) a suspended investigation that was terminated under section 751(d) in the 24 months preceding the date the petition is filed,

the administering authority and the Commission shall, to the maximum extent practicable, expedite any investigation initiated under this section with respect to the petition.

"(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether a countervailable subsidy is being provided with respect to the subject merchandise.

"(3) NEGATIVE DETERMINATIONS.—If the determination under clause (i) or (ii) of paragraph (1)(A) is negative, the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

"(4) DETERMINATION OF INDUSTRY SUPPORT.—

"(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the industry, if—

"(i) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and

"(ii) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

"(B) CERTAIN POSITIONS DISREGARDED.—

"(i) PRODUCERS RELATED TO FOREIGN PRODUCERS.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition,

if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of a countervailing duty order.

"(ii) PRODUCERS WHO ARE IMPORTERS.—The administering authority may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.

"(C) SPECIAL RULE FOR REGIONAL INDUSTRIES.—If the petition alleges that the industry is a regional industry, the administering authority shall determine whether the petition has been filed by or on behalf of the industry by applying subparagraph (A) on the basis of production in the region.

"(D) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering authority shall—

"(i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

"(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

"(E) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 771(9) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

"(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means those interested parties who are eligible to file a petition under subsection (b)(1)(A).".

(2) ANTIDUMPING DUTY PETITION.—Section 732(c) (19 U.S.C. 1673a(c)) is amended to read as follows:

"(c) PETITION DETERMINATION.—

"(1) IN GENERAL.—

"(A) TIME FOR INITIAL DETERMINATION.—Except as provided in subparagraph (B), within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(i) after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition alleges the elements necessary for the imposition of a duty under section 731 and contains information reasonably available to the petitioner supporting the allegations, and

"(ii) determine if the petition has been filed by or on behalf of the industry.

"(B) EXTENSION OF TIME.—In any case in which the administering authority is required to poll or otherwise determine support for the petition by the industry under paragraph (4)(D), the administering authority may, in exceptional circumstances, apply subparagraph (A) by substituting 'a maximum of 40 days' for '20 days'.

"(C) TIME LIMITS WHERE PETITION INVOLVES SAME MERCHANDISE AS AN ORDER THAT HAS BEEN REVOKED.—If a petition is filed under this section with respect to merchandise that was the subject merchandise of—

"(i) an antidumping duty order or finding that was revoked under section 751(d) in the 24 months preceding the date the petition is filed, or

"(ii) a suspended investigation that was terminated under section 751(d) in the 24 months preceding the date the petition is filed,

the administering authority and the Commission shall, to the maximum extent practicable, expedite any investigation initiated under this section with respect to the petition.

"(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether the subject merchandise is being, or is likely to be, sold in the United States at less than its fair value.

"(3) NEGATIVE DETERMINATIONS.—If the determination under clause (i) or (ii) of paragraph (1)(A) is negative, the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

"(4) DETERMINATION OF INDUSTRY SUPPORT.—

"(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the industry, if—

"(i) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and

"(ii) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

"(B) CERTAIN POSITIONS DISREGARDED.—

"(i) PRODUCERS RELATED TO FOREIGN PRODUCERS.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition, if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order.

"(ii) PRODUCERS WHO ARE IMPORTERS.—The administering authority may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.

"(C) SPECIAL RULE FOR REGIONAL INDUSTRIES.—If the petition alleges the industry is a regional industry, the

administering authority shall determine whether the petition has been filed by or on behalf of the industry by applying subparagraph (A) on the basis of production in the region.

"(D) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering authority shall—

"(i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

"(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

"(E) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 771(9) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

"(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means those interested parties who are eligible to file a petition under subsection (b)(1)(A).".

(b) DETERMINATION BY THE COMMISSION OF REASONABLE INDICATION OF INJURY; PRELIMINARY DETERMINATION BY THE ADMINISTERING AUTHORITY.—

(1) COUNTERVAILING DUTY INVESTIGATIONS.—

(A) Section 703(a) (19 U.S.C. 1671b(a)) is amended to read as follows:

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

"(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 702(c)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

"(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 subject merchandise and that imports of the subject merchandise are not negligible. If the Commission finds that imports of the subject merchandise are negligible or otherwise makes a negative determination under this paragraph, the investigation shall be terminated.

"(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1)—

"(A) in the case of a petition filed under section 702(b)—

"(i) within 45 days after the date on which the petition is filed, or

"(ii) if the time has been extended pursuant to section 702(c)(1)(B), within 25 days after the date on which the Commission receives notice from the administering authority of initiation of the investigation, and

"(B) in the case of an investigation initiated under section 702(a), within 45 days after the date on which the Commission receives notice from the administering authority that an investigation has been initiated under such section.".

(B) Section 705(b)(1) (19 U.S.C. 1671d(b)(1)) is amended by adding at the end the following: "If the Commission determines that imports of the subject merchandise are negligible, the investigation shall be terminated.".

(C) Section 703(b) (19 U.S.C. 1671b(b)) is amended—

(i) in paragraph (1)—

(I) by striking "85 days after the date on which the petition is filed under section 702(b)" and inserting "65 days after the date on which the administering authority initiates an investigation under section 702(c)";

(II) by striking "best information" and inserting "information"; and

(III) by striking the last sentence; and

(ii) in paragraph (2), by striking "85 days after the date on which the petition is filed under section 702(b)" and inserting "65 days after the date on which the administering authority initiates an investigation under section 702(c)".

(D) Section 703(c)(1) (19 U.S.C. 1671b(c)) is amended by striking "150th day after the date on which a petition is filed under section 702(b)" and inserting "130th day after the date on which the administering authority initiates an investigation under section 702(c)".

(E) Section 702(b)(3) (19 U.S.C. 1671a(b)(3)) is amended by striking "twenty days" and inserting "5 days after the date on which the administering authority initiates an investigation under subsection (c),".

(F) Section 703(f) (19 U.S.C. 1671b(f)) is amended to read as follows:

"(f) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based.".

(2) ANTIDUMPING DUTY INVESTIGATIONS.—

(A) Section 733(a) (19 U.S.C. 1673b(a)) is amended to read as follows:

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

"(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 732(c)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

"(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 subject merchandise and that imports of the subject merchandise are not negligible. If the Commission finds that imports of the subject merchandise are negligible or otherwise makes a negative determination under this paragraph, the investigation shall be terminated.

"(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1)—

"(A) in the case of a petition filed under section 732(b)—

"(i) within 45 days after the date on which the petition is filed, or

"(ii) if the time has been extended pursuant to section 732(c)(1)(B), within 25 days after the date on which the Commission receives notice from the administering authority of initiation of the investigation, and

"(B) in the case of an investigation initiated under section 732(a), within 45 days after the date on which the Commission receives notice from the administering authority that an investigation has been initiated under such section.".

(B) Section 735(b)(1) (19 U.S.C. 1673d(b)(1)) is amended by adding at the end the following: "If the Commission determines that imports of the subject merchandise are negligible, the investigation shall be terminated.".

(C) Section 733(b)(1) (19 U.S.C. 1673b(b)(1)) is amended—

(i) in subparagraph (A)—

(I) by striking "160 days after the date on which a petition is filed under section 732(b)" and inserting "140 days after the date on which the administering authority initiates an investigation under section 732(c)"; and

(II) by striking "best information" and inserting "information"; and

(ii) in subparagraph (B)—

(I) by striking "120" and inserting "100";

(II) by striking "160" and inserting "140";

(III) by striking "100" and inserting "80"; and

(IV) by striking "160" and inserting "140".

(D) Section 733(c)(1) (19 U.S.C. 1673b(c)(1)) is amended by striking "210th day after the date on which a petition is filed under section 732(b)" and inserting "190th day after the date on which the administering authority initiates an investigation under section 732(c)".

(E) Section 733(f) (19 U.S.C. 1673b(f)) is amended to read as follows:

"(f) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based.".

SEC. 213. DE MINIMIS DUMPING MARGIN.

(a) PRELIMINARY DETERMINATIONS.—Section 733(b) (19 U.S.C. 1673b(b)) is amended by adding at the end the following new paragraph:

"(3) DE MINIMIS DUMPING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any weighted average dumping margin that is de minimis. For purposes of the preceding sentence, a weighted average dumping margin is de minimis if the administering authority determines that it is less than 2 percent ad valorem or the equivalent specific rate for the subject merchandise.".

(b) FINAL DETERMINATIONS.—Section 735(a) (19 U.S.C. 1673d(a)) is amended by adding at the end the following new paragraph:

"(4) DE MINIMIS DUMPING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any weighted average dumping margin that is de minimis as defined in section 733(b)(3).".

SEC. 214. CRITICAL CIRCUMSTANCES.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—

(1) PRELIMINARY DETERMINATIONS.—Section 703(e)(1) (19 U.S.C. 1671b(e)(1)) is amended—

(A) in the matter preceding subparagraph (A) by striking "best information" and inserting "information"; and

(B) by amending subparagraphs (A) and (B) to read as follows:

"(A) the alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and

"(B) there have been massive imports of the subject merchandise over a relatively short period.".

(2) FINAL DETERMINATIONS.—(A) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)) is amended—

(i) in subparagraph (A) by inserting "Subsidies" before "Agreement"; and

(ii) in subparagraph (B) by striking "class or kind of merchandise involved" and inserting "subject merchandise".

(B) Section 705(b)(4)(A) (19 U.S.C. 1671d(b)(4)) is amended to read as follows:

"(A) COMMISSION STANDARD FOR RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether the imports subject to the affirmative determination under subsection (a)(2) are likely to undermine seriously the remedial effect of the countervailing duty order to be issued under section 706.

"(ii) FACTORS TO CONSIDER.—In making the evaluation under clause (i), the Commission shall consider, among other factors it considers relevant—

"(I) the timing and the volume of the imports,

"(II) any rapid increase in inventories of the imports, and

"(III) any other circumstances indicating that the remedial effect of the countervailing duty order will be seriously undermined.".

(b) ANTIDUMPING INVESTIGATIONS.—

(1) PRELIMINARY DETERMINATIONS.—Section 733(e)(1) (19 U.S.C. 1673b(e)(1)) is amended—

(A) in the matter preceding subparagraph (A) by striking "best information" and inserting "information"; and

(B) by amending subparagraphs (A) and (B) to read as follows:

"(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

"(B) there have been massive imports of the subject merchandise over a relatively short period.".

(2) FINAL DETERMINATIONS.—(A) Section 735(a)(3) (19 U.S.C. 1673d(a)(3)) is amended—

(i) in clause (i) of subparagraph (A)—

(I) by inserting "and material injury by reason of dumped imports" after "history of dumping"; and

(II) by striking "class or kind of the merchandise which is the subject of the investigation" and inserting "subject merchandise";

(ii) in clause (ii) of subparagraph (A) by striking "merchandise which is the subject of the investigation at less than its fair value" and inserting "subject merchandise at less than its fair value and that there would be material injury by reason of such sales"; and

(iii) in subparagraph (B) by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(B) Section 735(b)(4)(A) (19 U.S.C. 1673d(b)(4)(A)) is amended to read as follows:

"(A) COMMISSION STANDARD FOR RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall

include a finding as to whether the imports subject to the affirmative determination under subsection (a)(3) are likely to undermine seriously the remedial effect of the antidumping duty order to be issued under section 736.

"(ii) FACTORS TO CONSIDER.—In making the evaluation under clause (i), the Commission shall consider, among other factors it considers relevant—

"(I) the timing and the volume of the imports,

"(II) a rapid increase in inventories of the imports, and

"(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.".

SEC. 215. PROVISIONAL MEASURES.

(a) COUNTERVAILING DUTIES.—

(1) SUSPENSION OF LIQUIDATION.—Section 703(d) (19 U.S.C. 1671b(d)) is amended—

(A) in paragraph (1), by striking "warehouse" and all that follows through "Register," and inserting "warehouse, for consumption on or after the later of—

"(A) the date on which notice of the determination is published in the Federal Register, or

"(B) the date that is 60 days after the date on which notice of the determination to initiate the investigation is published in the Federal Register,"; and

(B) by adding at the end the following:

"The instructions of the administering authority under paragraphs (1) and (2) may not remain in effect for more than 4 months.".

(2) CRITICAL CIRCUMSTANCES CASES.—Section 703(e)(2) (19 U.S.C. 1671b(e)(2)) is amended by striking "warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered." and inserting "warehouse, for consumption on or after the later of—

"(A) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or

"(B) the date on which notice of the determination to initiate the investigation is published in the Federal Register.".

(b) ANTIDUMPING DUTIES.—

(1) SUSPENSION OF LIQUIDATION.—Section 733(d) (19 U.S.C. 1673b(d)) is amended—

(A) in paragraph (1), by striking "warehouse" and all that follows through "Register," and inserting "warehouse, for consumption on or after the later of—

"(A) the date on which notice of the determination is published in the Federal Register, or

"(B) the date that is 60 days after the date on which notice of the determination to initiate the investigation is published in the Federal Register,"; and

(B) by adding at the end the following:

"The instructions of the administering authority under paragraphs (1) and (2) may not remain in effect for more than 4 months, except that the administering authority may, at the request of exporters representing a significant proportion of exports of the

subject merchandise, extend that 4-month period to not more than 6 months.".

(2) CRITICAL CIRCUMSTANCES CASES.—Section 733(e)(2) (19 U.S.C. 1673b(e)(2)) is amended by striking "warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered." and inserting "warehouse, for consumption on or after the later of—

"(A) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or

"(B) the date on which notice of the determination to initiate the investigation is published in the Federal Register.".

SEC. 216. CONDITIONS ON ACCEPTANCE OF SUSPENSION AGREEMENTS.

(a) COUNTERVAILING DUTIES.—Section 704(d)(1) (19 U.S.C. 1671c(d)(1)) is amended by striking "In applying" and inserting the following:

"Where practicable, the administering authority shall provide to the exporters who would have been subject to the agreement the reasons for not accepting the agreement and, to the extent possible, an opportunity to submit comments thereon. In applying".

(b) ANTIDUMPING DUTIES.—Section 734(d) (19 U.S.C. 1673c(d)) is amended by adding at the end the following flush sentence: "Where practicable, the administering authority shall provide to the exporters who would have been subject to the agreement the reasons for not accepting the agreement and, to the extent possible, an opportunity to submit comments thereon.".

SEC. 217. TERMINATION OF INVESTIGATION.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—Section 704(a)(1) (19 U.S.C. 1671c(a)(1)) is amended—

(1) by striking "Except" and inserting "(A) WITHDRAWAL OF PETITION.—Except";

(2) by indenting the text so as to align it with subparagraph (B) (as added by paragraph (3) of this subsection); and

(3) by adding at the end the following:

"(B) REFILING OF PETITION.—If, within 3 months after the withdrawal of a petition under subparagraph (A), a new petition is filed seeking the imposition of duties on both the subject merchandise of the withdrawn petition and the subject merchandise from another country, the administering authority and the Commission may use in the investigation initiated pursuant to the new petition any records compiled in an investigation conducted pursuant to the withdrawn petition. This subparagraph applies only with respect to the first withdrawal of a petition.".

(b) ANTIDUMPING DUTY INVESTIGATIONS.—Section 734(a)(1) (19 U.S.C. 1673c(a)(1)) is amended—

(1) by striking "Except" and inserting "(A) WITHDRAWAL OF PETITION.—Except";

(2) by indenting the text so as to align it with subparagraph (B) (as added by paragraph (3) of this subsection); and

(3) by adding at the end the following:

"(B) REFILING OF PETITION.—If, within 3 months after the withdrawal of a petition under subparagraph (A), a new petition is filed seeking the imposition of duties on

both the subject merchandise of the withdrawn petition and the subject merchandise from another country, the administering authority and the Commission may use in the investigation initiated pursuant to the new petition any records compiled in an investigation conducted pursuant to the withdrawn petition. This subparagraph applies only with respect to the first withdrawal of a petition.".

SEC. 218. SPECIAL RULES FOR REGIONAL INDUSTRIES.

(a) SUSPENSION AGREEMENTS.—

(1) COUNTERVAILING DUTY INVESTIGATIONS.—Section 704 (19 U.S.C. 1671c) is amended by adding at the end the following new subsection:

"(l) SPECIAL RULE FOR REGIONAL INDUSTRY INVESTIGATIONS.—

"(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b) or (c).

"(2) REQUIREMENTS FOR SUSPENSION AGREEMENTS.—Any agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b) or (c), except that if the Commission makes a regional industry determination described in paragraph (1) in the final affirmative determination under section 705(b) but not in the preliminary affirmative determination under section 703(a), any agreement described in paragraph (1) may be accepted within 60 days after the countervailing duty order is published under section 706.

"(3) EFFECT OF SUSPENSION AGREEMENT ON COUNTERVAILING DUTY ORDER.—If an agreement described in paragraph (1) is accepted after the countervailing duty order is published, the administering authority shall rescind the order, refund any cash deposit and release any bond or other security deposited under section 703(d)(1)(B), and instruct the Customs Service that entries of the subject merchandise that were made during the period that the order was in effect shall be liquidated without regard to countervailing duties.".

(2) ANTIDUMPING INVESTIGATIONS.—Section 734 (19 U.S.C. 1673c) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULE FOR REGIONAL INDUSTRY INVESTIGATIONS.—

"(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b), (c), or (l).

"(2) REQUIREMENTS FOR SUSPENSION AGREEMENTS.—Any agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b), (c), or (l), except that if the Commission makes a regional industry determination described in paragraph (1) in the final affirmative determination under section 735(b) but not in the preliminary affirmative determination

under section 733(a), any agreement described in paragraph (1) may be accepted within 60 days after the antidumping order is published under section 736.

"(3) EFFECT OF SUSPENSION AGREEMENT ON ANTIDUMPING DUTY ORDER.—If an agreement described in paragraph (1) is accepted after the antidumping duty order is published, the administering authority shall rescind the order, refund any cash deposit and release any bond or other security deposited under section 733(d)(1)(B), and instruct the Customs Service that entries of the subject merchandise that were made during the period that the order was in effect shall be liquidated without regard to antidumping duties.".

(b) APPLICABILITY OF ORDERS TO NEW SHIPPERS.—

(1) COUNTERVAILING DUTY CASES.—Section 706 (19 U.S.C. 1671e) is amended by adding at the end the following new subsection:

"(c) SPECIAL RULE FOR REGIONAL INDUSTRIES.—

"(1) IN GENERAL.—In an investigation under this subtitle in which the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

"(2) EXCEPTION FOR NEW EXPORTERS AND PRODUCERS.—After publication of the countervailing duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 751(a)(2)(B).".

(2) ANTIDUMPING DUTY CASES.—Section 736 (19 U.S.C. 1673e) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR REGIONAL INDUSTRIES.—

"(1) IN GENERAL.—In an investigation in which the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

"(2) EXCEPTION FOR NEW EXPORTERS AND PRODUCERS.—After publication of the antidumping duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 751(a)(2)(B).".

SEC. 219. DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

(a) PRELIMINARY DETERMINATION.—

(1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraph (1), as amended by section 215(b)(1)(A), as paragraph (2);

(C) by inserting "and" at the end of paragraph (2), as so redesignated; and

(D) by inserting before such paragraph (2) the following new paragraph:

"(1)(A) shall—

"(i) determine an estimated weighted average dumping margin for each exporter and producer individually investigated, and

"(ii) determine, in accordance with section 735(c)(5), an estimated all-others rate for all exporters and producers not individually investigated, and

"(B) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated weighted average dumping margin or the estimated all-others rate, whichever is applicable,".

(2) CONFORMING AMENDMENTS.—Section 733(b)(1)(A) (19 U.S.C. 1673b(b)(1)(A)) is amended by striking the last sentence.

(b) FINAL DETERMINATION.—

(1) IN GENERAL.—Section 735(c)(1) (19 U.S.C. 1673d(c)(1)) is amended—

(A) in subparagraph (B)—

(i) by redesignating such subparagraph as subparagraph (C); and

(ii) by striking "under paragraphs (1) and (2)" and all that follows through "security" and inserting "the suspension of liquidation under section 733(d)(2)";

(B) by striking "and" at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) the administering authority shall—

"(I) determine the estimated weighted average dumping margin for each exporter and producer individually investigated, and

"(II) determine, in accordance with paragraph (5), the estimated all-others rate for all exporters and producers not individually investigated, and

"(ii) the administering authority shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated weighted average dumping margin or the estimated all-others rate, whichever is applicable, and".

(2) METHOD FOR DETERMINING WEIGHTED AVERAGE DUMPING MARGIN.—Section 735(c) (19 U.S.C. 1673d(c)) is amended by adding at the end the following new paragraph:

"(5) METHOD FOR DETERMINING ESTIMATED ALL-OTHERS RATE.—

"(A) GENERAL RULE.—For purposes of this subsection and section 733(d), the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any

zero and de minimis margins, and any margins determined entirely under section 776.

"(B) EXCEPTION.—If the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 733(e)(2) is amended by striking "subsection (d)(1)" and inserting "subsection (d)(2)".

(2) Section 734(f)(2)(A) is amended—

(A) in clause (i), by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) in clause (iii), by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(3) Section 734(f)(2)(B) is amended—

(A) by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(4) Section 734(h)(3) is amended—

(A) in subparagraph (A), by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) in subparagraph (B), by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(5) Section 734(i)(1)(A) is amended by striking "section 733(d)(1)" and inserting "section 733(d)(2)".

(6) Section 735(c)(2)(A) is amended by striking "section 703(d)(1)" and inserting "section 733(d)(2)".

(7) Section 735(c)(2)(B) is amended by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(8) Section 735(c)(3)(B) is amended by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(9) Section 736(b)(1) is amended by striking "section 733(d)(1)" each place it appears and inserting "section 733(d)(2)".

(10) Section 737(a) is amended by striking "section 733(d)(2)" each place it appears in the heading and in the text and inserting "section 733(d)(1)(B)".

SEC. 220. REVIEW OF DETERMINATIONS.

(a) IN GENERAL.—Section 751 (19 U.S.C. 1675) is amended to read as follows:

"SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

"(a) PERIODIC REVIEW OF AMOUNT OF DUTY.—

"(1) IN GENERAL.—At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, if a request for such a review has been received and

after publication of notice of such review in the Federal Register, shall—

"(A) review and determine the amount of any net countervailable subsidy,

"(B) review, and determine (in accordance with paragraph (2)), the amount of any antidumping duty, and

"(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net countervailable subsidy or dumping margin involved in the agreement,

and shall publish in the Federal Register the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed.

"(2) DETERMINATION OF ANTIDUMPING DUTIES.—

"(A) IN GENERAL.—For the purpose of paragraph (1)(B), the administering authority shall determine—

"(i) the normal value and export price (or constructed export price) of each entry of the subject merchandise, and

"(ii) the dumping margin for each such entry.

"(B) DETERMINATION OF ANTIDUMPING OR COUNTERVAILING DUTIES FOR NEW EXPORTERS AND PRODUCERS.—

"(i) IN GENERAL.—If the administering authority receives a request from an exporter or producer of the subject merchandise establishing that—

"(I) such exporter or producer did not export the merchandise that was the subject of an antidumping duty or countervailing duty order to the United States (or, in the case of a regional industry, did not export the subject merchandise for sale in the region concerned) during the period of investigation, and

"(II) such exporter or producer is not affiliated (within the meaning of section 771(33)) with any exporter or producer who exported the subject merchandise to the United States (or in the case of a regional industry, who exported the subject merchandise for sale in the region concerned) during that period,

the administering authority shall conduct a review under this subsection to establish an individual weighted average dumping margin or an individual countervailing duty rate (as the case may be) for such exporter or producer.

"(ii) TIME FOR REVIEW UNDER CLAUSE (i).—The administering authority shall commence a review under clause (i) in the calendar month beginning after—

"(I) the end of the 6-month period beginning on the date of the countervailing duty or antidumping duty order under review, or

"(II) the end of any 6-month period occurring thereafter,

if the request for the review is made during that 6-month period.

"(iii) POSTING BOND OR SECURITY.—The administering authority shall, at the time a review under this subparagraph is initiated, direct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise.

"(iv) TIME LIMITS.—The administering authority shall make a preliminary determination in a review conducted under this subparagraph within 180 days after the date on which the review is initiated, and a final determination within 90 days after the date the preliminary determination is issued, except that if the administering authority concludes that the case is extraordinarily complicated, it may extend the 180-day period to 300 days and may extend the 90-day period to 150 days.

"(C) RESULTS OF DETERMINATIONS.—The determination under this paragraph shall be the basis for the assessment of countervailing or antidumping duties on entries of merchandise covered by the determination and for deposits of estimated duties.

"(3) TIME LIMITS.—

"(A) PRELIMINARY AND FINAL DETERMINATIONS.—The administering authority shall make a preliminary determination under subparagraph (A), (B), or (C) of paragraph (1) within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under paragraph (1) is requested, and a final determination under paragraph (1) within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 245-day period to 365 days and may extend that 120-day period to 180 days. The administering authority may extend the time for making a final determination without extending the time for making a preliminary determination, if such final determination is made not later than 300 days after the date on which the preliminary determination is published.

"(B) LIQUIDATION OF ENTRIES.—If the administering authority orders any liquidation of entries pursuant to a review under paragraph (1), such liquidation shall be made promptly and, to the greatest extent practicable, within 90 days after the instructions to Customs are issued. In any case in which liquidation has not occurred within that 90-day period, the Secretary of the Treasury shall, upon the request of the affected party, provide an explanation thereof.

"(C) EFFECT OF PENDING REVIEW UNDER SECTION 516A.—In a case in which a final determination under paragraph (1) is under review under section 516A and a liquidation of entries covered by the determination is enjoined under section 516A(c)(2) or suspended under section 516A(g)(5)(C), the administering authority shall, within 10 days after the final disposition of the review under section

516A, transmit to the Federal Register for publication the final disposition and issue instructions to the Customs Service with respect to the liquidation of entries pursuant to the review. In such a case, the 90-day period referred to in subparagraph (B) shall begin on the day on which the administering authority issues such instructions.

"(4) ABSORPTION OF ANTIDUMPING DUTIES.—During any review under this subsection initiated 2 years or 4 years after the publication of an antidumping duty order under section 736(a), the administering authority, if requested, shall determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. The administering authority shall notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting a review under subsection (c).

"(b) REVIEWS BASED ON CHANGED CIRCUMSTANCES.—

"(1) IN GENERAL.—Whenever the administering authority or the Commission receives information concerning, or a request from an interested party for a review of—

"(A) a final affirmative determination that resulted in an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or in a countervailing duty order under this title or section 303,

"(B) a suspension agreement accepted under section 704 or 734, or

"(C) a final affirmative determination resulting from an investigation continued pursuant to section 704(g) or 734(g),

which shows changed circumstances sufficient to warrant a review of such determination or agreement, the administering authority or the Commission (as the case may be) shall conduct a review of the determination or agreement after publishing notice of the review in the Federal Register.

"(2) COMMISSION REVIEW.—In conducting a review under this subsection, the Commission shall—

"(A) in the case of a countervailing duty order or antidumping duty order or finding, determine whether revocation of the order or finding is likely to lead to continuation or recurrence of material injury,

"(B) in the case of a determination made pursuant to section 704(h)(2) or 734(h)(2), determine whether the suspension agreement continues to eliminate completely the injurious effects of imports of the subject merchandise, and

"(C) in the case of an affirmative determination resulting from an investigation continued under section 704(g) or 734(g), determine whether termination of the suspended investigation is likely to lead to continuation or recurrence of material injury.

"(3) BURDEN OF PERSUASION.—During a review conducted by the Commission under this subsection—

"(A) the party seeking revocation of an order or finding described in paragraph (1)(A) shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such revocation, and

"(B) the party seeking termination of a suspended investigation or a suspension agreement shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such termination.

"(4) LIMITATION ON PERIOD FOR REVIEW.—In the absence of good cause shown—

"(A) the Commission may not review a determination made under section 705(b) or 735(b), or an investigation suspended under section 704 or 734, and

"(B) the administering authority may not review a determination made under section 705(a) or 735(a), or an investigation suspended under section 704 or 734,

less than 24 months after the date of publication of notice of that determination or suspension.

"(c) FIVE-YEAR REVIEW.—

"(1) IN GENERAL.—Notwithstanding subsection (b) and except in the case of a transition order defined in paragraph (6), 5 years after the date of publication of—

"(A) a countervailing duty order (other than a countervailing duty order to which subparagraph (B) applies or which was issued without an affirmative determination of injury by the Commission under section 303), an antidumping duty order, or a notice of suspension of an investigation, described in subsection (a)(1),

"(B) a notice of injury determination under section 753 with respect to a countervailing duty order, or

"(C) a determination under this section to continue an order or suspension agreement,

the administering authority and the Commission shall conduct a review to determine, in accordance with section 752, whether revocation of the countervailing or antidumping duty order or termination of the investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

"(2) NOTICE OF INITIATION OF REVIEW.—Not later than 30 days before the fifth anniversary of the date described in paragraph (1), the administering authority shall publish in the Federal Register a notice of initiation of a review under this subsection and request that interested parties submit—

"(A) a statement expressing their willingness to participate in the review by providing information requested by the administering authority and the Commission,

"(B) a statement regarding the likely effects of revocation of the order or termination of the suspended investigation, and

"(C) such other information or industry data as the administering authority or the Commission may specify.

"(3) RESPONSES TO NOTICE OF INITIATION.—

"(A) NO RESPONSE.—If no interested party responds to the notice of initiation under this subsection, the administering authority shall issue a final determination, within 90 days after the initiation of a review, revoking the order or terminating the suspended investigation to which such notice relates. For purposes of this paragraph, an interested

party means a party described in section 771(9) (C), (D), (E), (F), or (G).

"(B) INADEQUATE RESPONSE.—If interested parties provide inadequate responses to a notice of initiation, the administering authority, within 120 days after the initiation of the review, or the Commission, within 150 days after such initiation, may issue, without further investigation, a final determination based on the facts available, in accordance with section 776.

"(4) WAIVER OF PARTICIPATION BY CERTAIN INTERESTED PARTIES.—

"(A) IN GENERAL.—An interested party described in section 771(9) (A) or (B) may elect not to participate in a review conducted by the administering authority under this subsection and to participate only in the review conducted by the Commission under this subsection.

"(B) EFFECT OF WAIVER.—In a review in which an interested party waives its participation pursuant to this paragraph, the administering authority shall conclude that revocation of the order or termination of the investigation would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) with respect to that interested party.

"(5) CONDUCT OF REVIEW.—

"(A) TIME LIMITS FOR COMPLETION OF REVIEW.—Unless the review has been completed pursuant to paragraph (3) or paragraph (4) applies, the administering authority shall make its final determination pursuant to section 752 (b) or (c) within 240 days after the date on which a review is initiated under this subsection. If the administering authority makes a final affirmative determination, the Commission shall make its final determination pursuant to section 752(a) within 360 days after the date on which a review is initiated under this subsection.

"(B) EXTENSION OF TIME LIMIT.—The administering authority or the Commission (as the case may be) may extend the period of time for making their respective determinations under this subsection by not more than 90 days, if the administering authority or the Commission (as the case may be) determines that the review is extraordinarily complicated. In a review in which the administering authority extends the time for making a final determination, but the Commission does not extend the time for making a determination, the Commission's determination shall be made not later than 120 days after the date on which the final determination of the administering authority is published.

"(C) EXTRAORDINARILY COMPLICATED.—For purposes of this subsection, the administering authority or the Commission (as the case may be) may treat a review as extraordinarily complicated if—

"(i) there is a large number of issues,

"(ii) the issues to be considered are complex,

"(iii) there is a large number of firms involved,

"(iv) the orders or suspended investigations have been grouped as described in subparagraph (D), or

"(v) it is a review of a transition order.

"(D) GROUPED REVIEWS.—The Commission, in consultation with the administering authority, may group orders or suspended investigations for review if it considers that such grouping is appropriate and will promote administrative efficiency. Where orders or suspended investigations have been grouped, the Commission shall, subject to subparagraph (B), make its final determination under this subsection not later than 120 days after the date that the administering authority publishes notice of its final determination with respect to the last order or agreement in the group.

"(6) SPECIAL TRANSITION RULES.—

"(A) SCHEDULE FOR REVIEWS OF TRANSITION ORDERS.—

"(i) INITIATION.—The administering authority shall begin its review of transition orders in the 42d calendar month after the date such orders are issued. A review of all transition orders shall be initiated not later than the 5th anniversary after the date such orders are issued.

"(ii) COMPLETION.—A review of a transition order shall be completed not later than 18 months after the date such review is initiated. Reviews of all transition orders shall be completed not later than 18 months after the 5th anniversary of the date such orders are issued.

"(iii) SUBSEQUENT REVIEWS.—The time limits set forth in clauses (i) and (ii) shall be applied to all subsequent 5-year reviews of transition orders by substituting 'date of the determination to continue such orders' for 'date such orders are issued'.

"(iv) REVOCATION AND TERMINATION.—No transition order may be revoked under this subsection before the date that is 5 years after the date the WTO Agreement enters into force with respect to the United States.

"(B) SEQUENCE OF TRANSITION REVIEWS.—The administering authority, in consultation with the Commission, shall determine such sequence of review of transition orders as it deems appropriate to promote administrative efficiency. To the extent practicable, older orders shall be reviewed first.

"(C) DEFINITION OF TRANSITION ORDER.—For purposes of this section, the term 'transition order' means—

"(i) a countervailing duty order under this title or under section 303,

"(ii) an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or

"(iii) a suspension of an investigation under section 704 or 734,

which is in effect on the date the WTO Agreement enters into force with respect to the United States.

"(D) ISSUE DATE FOR TRANSITION ORDERS.—For purposes of this subsection, a transition order shall be treated as issued on the date the WTO Agreement enters into force with respect to the United States, if such order is based on an investigation conducted by both the administering authority and the Commission.

"(d) REVOCATION OF ORDER OR FINDING; TERMINATION OF SUSPENDED INVESTIGATION.—

"(1) IN GENERAL.—The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, after review under subsection (a) or (b). The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States which are specifically intended to offset the countervailable subsidy received.

"(2) FIVE-YEAR REVIEWS.—In the case of a review conducted under subsection (c), the administering authority shall revoke a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, unless—

"(A) the administering authority makes a determination that dumping or a countervailable subsidy, as the case may be, would be likely to continue or recur, and

"(B) the Commission makes a determination that material injury would be likely to continue or recur as described in section 752(a).

"(3) APPLICATION OF REVOCATION OR TERMINATION.—A determination under this section to revoke an order or finding or terminate a suspended investigation shall apply with respect to unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date determined by the administering authority.

"(e) HEARINGS.—Whenever the administering authority or the Commission conducts a review under this section, it shall, upon the request of an interested party, hold a hearing in accordance with section 774(b) in connection with that review.

"(f) DETERMINATION THAT BASIS FOR SUSPENSION NO LONGER EXISTS.—If the determination of the Commission under subsection (b)(2)(B) is negative, the suspension agreement shall be treated as not accepted, beginning on the date of publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the suspension agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

"(g) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

(b) REVIEW OF DETERMINATIONS.—

(1) IN GENERAL.—Section 516A(a)(1) (19 U.S.C. 1516A(a)(1)) is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by insert-

ing immediately after subparagraph (C) the following new subparagraph:

"(D) a final determination by the administering authority or the Commission under section 751(c)(3),".

(2) TECHNICAL AMENDMENTS.—Section 516A(b)(1) (19 U.S.C. 1516a(b)(1)) is amended—

(A) in subparagraph (A), by striking "under paragraph (1) of subsection (a)" and inserting "under subparagraph (A), (B), or (C) of subsection (a)(1)", and

(B) in subparagraph (B)—

(i) by striking "(B) in an action" and inserting "(B)(i) in an action",

(ii) by striking the end period and inserting ", or", and

(iii) by adding at the end the following:

"(ii) in an action brought under paragraph (1)(D) of subsection (a), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(c) CONFORMING AMENDMENT.—Section 504 (19 U.S.C. 1504) is amended—

(1) in subsection (a), by inserting "except as provided in section 751(a)(3)," before "an entry of merchandise not liquidated", and

(2) in subsection (d), by striking "When a suspension" and inserting "Except as provided in section 751(a)(3), when a suspension".

SEC. 221. REVIEW DETERMINATIONS.

(a) IN GENERAL.—Chapter 1 of subtitle C of title VII (19 U.S.C. 1675) is amended by adding at the end the following new section:

"SEC. 752. SPECIAL RULES FOR SECTION 751(b) AND 751(c) REVIEWS.

"(a) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY.—

"(1) IN GENERAL.—In a review conducted under section 751 (b) or (c), the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account—

"(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

"(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

"(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

"(D) in an antidumping proceeding under section 751(c), the findings of the administering authority regarding duty absorption under section 751(a)(4).

"(2) VOLUME.—In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the sus-

pended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including—

"(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

"(B) existing inventories of the subject merchandise, or likely increases in inventories,

"(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

"(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

"(3) PRICE.—In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether—

"(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

"(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

"(4) IMPACT ON THE INDUSTRY.—In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to—

"(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

"(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all relevant economic factors described in this paragraph within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

"(5) BASIS FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to consider under this subsection shall not necessarily give decisive guidance with respect to the Commission's determination of whether material injury is likely to continue or recur within a reasonably foreseeable time if the order is revoked or the suspended investigation is terminated. In making that determination, the

Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.

"(6) MAGNITUDE OF MARGIN OF DUMPING AND NET COUNTERVAILABLE SUBSIDY; NATURE OF COUNTERVAILABLE SUBSIDY.—In making a determination under section 751 (b) or (c), the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.

"(7) CUMULATION.—For purposes of this subsection, the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 751 (b) or (c) were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.

"(8) SPECIAL RULE FOR REGIONAL INDUSTRIES.—In a review under section 751 (b) or (c) involving a regional industry, the Commission may base its determination on the regional industry defined in the original investigation under this title, another region that satisfies the criteria established in section 771(4)(C), or the United States as a whole. In determining if a regional industry analysis is appropriate for the determination in the review, the Commission shall consider whether the criteria established in section 771(4)(C) are likely to be satisfied if the order is revoked or the suspended investigation is terminated.

"(b) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF A COUNTERVAILABLE SUBSIDY.—

"(1) IN GENERAL.—In a review conducted under section 751(c), the administering authority shall determine whether revocation of a countervailing duty order or termination of a suspended investigation under section 704 would be likely to lead to continuation or recurrence of a countervailable subsidy. The administering authority shall consider—

"(A) the net countervailable subsidy determined in the investigation and subsequent reviews, and

"(B) whether any change in the program which gave rise to the net countervailable subsidy described in subparagraph (A) has occurred that is likely to affect that net countervailable subsidy.

"(2) CONSIDERATION OF OTHER FACTORS.—If good cause is shown, the administering authority shall also consider—

"(A) programs determined to provide countervailable subsidies in other investigations or reviews under this title, but only to the extent that such programs—

"(i) can potentially be used by the exporters or producers subject to the review under section 751(c), and

"(ii) did not exist at the time that the countervailing duty order was issued or the suspension agreement was accepted, and

"(B) programs newly alleged to provide countervailable subsidies but only to the extent that the administering authority makes an affirmative countervailing duty determination with respect to such programs and with respect to the exporters or producers subject to the review.

"(3) NET COUNTERVAILABLE SUBSIDY.—The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a net countervailable subsidy that was determined under section 705 or subsection (a) or (b)(1) of section 751.

"(4) SPECIAL RULE.—

"(A) TREATMENT OF ZERO AND DE MINIMIS RATES.—A net countervailable subsidy described in paragraph (1)(A) that is zero or de minimis shall not by itself require the administering authority to determine that revocation of a countervailing duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of a countervailable subsidy.

"(B) APPLICATION OF DE MINIMIS STANDARDS.—For purposes of this paragraph, the administering authority shall apply the de minimis standards applicable to reviews conducted under subsections (a) and (b)(1) of section 751.

"(c) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING.—

"(1) IN GENERAL.—In a review conducted under section 751(c), the administering authority shall determine whether revocation of an antidumping duty order or termination of a suspended investigation under section 734 would be likely to lead to continuation or recurrence of sales of the subject merchandise at less than fair value. The administering authority shall consider—

"(A) the weighted average dumping margins determined in the investigation and subsequent reviews, and

"(B) the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order or acceptance of the suspension agreement.

"(2) CONSIDERATION OF OTHER FACTORS.—If good cause is shown, the administering authority shall also consider such other price, cost, market, or economic factors as it deems relevant.

"(3) MAGNITUDE OF THE MARGIN OF DUMPING.—The administering authority shall provide to the Commission the magnitude of the margin of dumping that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a margin that was determined under section 735 or under subsection (a) or (b)(1) of section 751.

"(4) SPECIAL RULE.—

"(A) TREATMENT OF ZERO OR DE MINIMIS MARGINS.—A dumping margin described in paragraph (1)(A) that is zero or de minimis shall not by itself require the admin-

istering authority to determine that revocation of an antidumping duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of sales at less than fair value.

"(B) APPLICATION OF DE MINIMIS STANDARDS.—For purposes of this paragraph, the administering authority shall apply the de minimis standards applicable to reviews conducted under subsections (a) and (b) of section 751.".

(b) AFFIRMATIVE DETERMINATIONS BY DIVIDED COMMISSION.—Section 771(11) (19 U.S.C. 1677(11)) is amended by inserting ", including a determination under section 751," after "determination by the Commission".

(c) CONFORMING AMENDMENT.—The table of contents for title VII is amended by inserting after the item relating to section 751 the following:

"Sec. 752. Special rules for section 751(b) and 751(c) reviews.".

SEC. 222. DEFINITIONS.

(a) INDUSTRY.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 771(4) (19 U.S.C. 1677(4) (A) and (B)) are amended to read as follows:

"(A) IN GENERAL.—The term 'industry' means the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.

"(B) RELATED PARTIES.—

"(i) If a producer of a domestic like product and an exporter or importer of the subject merchandise are related parties, or if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.

"(ii) For purposes of clause (i), a producer and an exporter or importer shall be considered to be related parties, if—

"(I) the producer directly or indirectly controls the exporter or importer,

"(II) the exporter or importer directly or indirectly controls the producer,

"(III) a third party directly or indirectly controls the producer and the exporter or importer, or

"(IV) the producer and the exporter or importer directly or indirectly control a third party and there is reason to believe that the relationship causes the producer to act differently than a nonrelated producer.

For purposes of this subparagraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.".

(2) REGIONAL INDUSTRY.—Section 771(4)(C) (19 U.S.C. 1677(4)(C)) is amended by adding at the end the following new sentence: "The term 'regional industry' means the domestic

producers within a region who are treated as a separate industry under this subparagraph.".

(b) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—

(1) IN GENERAL.—Section 771(7)(C)(iii) (19 U.S.C. 1677(7)(C)(iii)) is amended—

(A) by striking "and" at the end of subclause (III), and

(B) by striking the period at the end of subclause (IV) and inserting ", and

"(V) in a proceeding under subtitle B, the magnitude of the margin of dumping.".

(2) CAPTIVE PRODUCTION.—Section 771(7)(C) (19 U.S.C. 1677(7)(C)) is amended by striking clause (iv) and inserting the following:

"(iv) CAPTIVE PRODUCTION.—If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that—

"(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,

"(II) the domestic like product is the predominant material input in the production of that downstream article, and

"(III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,

then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product.".

(3) TECHNICAL CORRECTION.—Section 771(7)(C)(iii) is amended by striking "subparagraph (B)(iii)" and inserting "subparagraph (B)(i)(III)".

(c) DETERMINATION OF THREAT OF INJURY.—Clauses (i) and (ii) of section 771(7)(F) (19 U.S.C. 1677(7)(F) (i) and (ii)) are amended to read as follows:

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

"(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the

subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

"(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

"(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

"(V) inventories of the subject merchandise,

"(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

"(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

"(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

"(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

"(ii) BASIS FOR DETERMINATION.—The Commission shall consider the factors set forth in clause (i) as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider under clause (i) shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.".

(d) NEGLIGIBLE IMPORTS.—Section 771 (19 U.S.C. 1677) is amended—

(1) in paragraph (7) by striking clause (v) of subparagraph (C), and

(2) by adding at the end the following:

"(24) NEGLIGIBLE IMPORTS.—

"(A) IN GENERAL.—

"(i) LESS THAN 3 PERCENT.—Except as provided in clauses (ii) and (iv), imports from a country of merchandise corresponding to a domestic like product identified by the Commission are 'negligible' if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes—

"(I) the filing of the petition under section 702(b) or 732(b), or

"(II) the initiation of the investigation, if the investigation was initiated under section 702(a) or 732(a).

"(ii) EXCEPTION.—Imports that would otherwise be negligible under clause (i) shall not be negligible if the aggregate volume of imports of the merchandise from all countries described in clause (i) with respect to which investigations were initiated on the same day exceeds 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period.

"(iii) DETERMINATION OF AGGREGATE VOLUME.—In determining aggregate volume under clause (ii) or (iv), the Commission shall not consider imports from any country specified in paragraph (7)(G)(ii).

"(iv) NEGLIGIBILITY IN THREAT ANALYSIS.—Notwithstanding clauses (i) and (ii), the Commission shall not treat imports as negligible if it determines that there is a potential that imports from a country described in clause (i) will imminently account for more than 3 percent of the volume of all such merchandise imported into the United States, or that the aggregate volumes of imports from all countries described in clause (ii) will imminently exceed 7 percent of the volume of all such merchandise imported into the United States. The Commission shall consider such imports only for purposes of determining threat of material injury.

"(B) NEGLIGIBILITY FOR CERTAIN COUNTRIES IN COUNTERVAILING DUTY INVESTIGATIONS.—In the case of an investigation under section 701, subparagraph (A) shall be applied to imports of subject merchandise from developing countries by substituting '4 percent' for '3 percent' in subparagraph (A)(i) and by substituting '9 percent' for '7 percent' in subparagraph (A)(ii).

"(C) COMPUTATION OF IMPORT VOLUMES.—In computing import volumes for purposes of subparagraphs (A) and (B), the Commission may make reasonable estimates on the basis of available statistics.

"(D) REGIONAL INDUSTRIES.—In an investigation in which the Commission makes a regional industry determination under paragraph (4)(C), the Commission's examination under subparagraphs (A) and (B) shall be based upon the volume of subject merchandise exported for sale in the regional market in lieu of the volume of all subject merchandise imported into the United States.".

(e) CUMULATION.—Section 771(7) (19 U.S.C. 1677(7)) is amended—

(1) in subparagraph (F) by striking clause (iv), and

(2) by adding at the end the following:

"(G) CUMULATION FOR DETERMINING MATERIAL INJURY.—

"(i) IN GENERAL.—For purposes of clauses (i) and (ii) of subparagraph (C), and subject to clause (ii), the Commission shall cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which—

"(I) petitions were filed under section 702(b) or 732(b) on the same day,

"(II) investigations were initiated under section 702(a) or 732(a) on the same day, or

"(III) petitions were filed under section 702(b) or 732(b) and investigations were initiated under section 702(a) or 732(a) on the same day,

if such imports compete with each other and with domestic like products in the United States market.

"(ii) EXCEPTIONS.—The Commission shall not cumulatively assess the volume and effect of imports under clause (i)—

"(I) with respect to which the administering authority has made a preliminary negative determination, unless the administering authority subsequently made a final affirmative determination with respect to those imports before the Commission's final determination is made;

"(II) from any country with respect to which the investigation has been terminated;

"(III) from any country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) for purposes of making a determination with respect to that country, except that the volume and effect of imports of the subject merchandise from such country may be cumulatively assessed with imports of the subject merchandise from any other country designated as such a beneficiary country to the extent permitted by clause (i); or

"(IV) from any country that is a party to an agreement with the United States establishing a free trade area, which entered into force and effect before January 1, 1987, unless the Commission determines that a domestic industry is materially injured or threatened with material injury by reason of imports from that country.

"(iii) RECORDS IN FINAL INVESTIGATIONS.—In each final determination in which it cumulatively assesses the volume and effect of imports under clause (i), the Commission shall make its determinations based on the record compiled in the first investigation in which it makes a final determination, except that when the administering authority issues its final determination in a subsequently completed investigation, the Commission shall permit the parties in the subsequent

investigation to submit comments concerning the significance of the administering authority's final determination, and shall include such comments and the administering authority's final determination in the record for the subsequent investigation.

"(iv) REGIONAL INDUSTRY DETERMINATIONS.—In an investigation which involves a regional industry, and in which the Commission decides that the volume and effect of imports should be cumulatively assessed under this subparagraph, such assessment shall be based upon the volume and effect of imports into the region or regions determined by the Commission. The provisions of clause (iii) shall apply to such investigations.

"(H) CUMULATION FOR DETERMINING THREAT OF MATERIAL INJURY.—To the extent practicable and subject to subparagraph (G)(ii), for purposes of clause (i)(III) and (IV) of subparagraph (F), the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which—

"(i) petitions were filed under section 702(b) or 732(b) on the same day,

"(ii) investigations were initiated under section 702(a) or 732(a) on the same day, or

"(iii) petitions were filed under section 702(b) or 732(b) and investigations were initiated under section 702(a) or 732(a) on the same day,

if such imports compete with each other and with domestic like products in the United States market.".

(f) CONSIDERATION OF POST-PETITION INFORMATION.—Section 771(7) (19 U.S.C. 1677(7)), is amended by adding at the end the following:

"(I) CONSIDERATION OF POST-PETITION INFORMATION.—The Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation under subtitle A or B is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury, threat of material injury, or material retardation of the establishment of an industry in the United States.".

(g) INTERESTED PARTY.—Section 771(9) (19 U.S.C. 1677(9)) is amended—

(1) in subparagraph (A), by inserting "producers, exporters, or" before "importers", and

(2) in subparagraph (B), inserting "or from which such merchandise is exported" after "manufactured".

(h) ORDINARY COURSE OF TRADE.—Section 771(15) (19 U.S.C. 1677(15)) is amended—

(1) by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise"; and

(2) by adding at the end the following: "The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:

"(A) Sales disregarded under section 773(b)(1).

"(B) Transactions disregarded under section 773(f)(2).".

(i) OTHER DEFINITIONS.—

(1) IN GENERAL.—Section 771 (19 U.S.C. 1677), as amended by subsection (d), is amended by adding at the end the following:

"(25) SUBJECT MERCHANDISE.—The term 'subject merchandise' means the class or kind of merchandise that is within the scope of an investigation, a review, a suspension agreement, an order under this title or section 303, or a finding under the Antidumping Act, 1921.

"(26) SECTION 303.—The terms 'section 303' and '303' mean section 303 of this Act as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act.

"(27) SUSPENSION AGREEMENT.—The term 'suspension agreement' means an agreement described in section 704(b), 704(c), 734(b), 734(c), or 734(l).

"(28) EXPORTER OR PRODUCER.—The term 'exporter or producer' means the exporter of the subject merchandise, the producer of the subject merchandise, or both where appropriate. For purposes of section 773, the term 'exporter or producer' includes both the exporter of the subject merchandise and the producer of the same subject merchandise to the extent necessary to accurately calculate the total amount incurred and realized for costs, expenses, and profits in connection with production and sale of that merchandise.

"(29) WTO AGREEMENT.—The term 'WTO Agreement' means the Agreement defined in section 2(9) of the Uruguay Round Agreements Act.

"(30) WTO MEMBER AND WTO MEMBER COUNTRY.—The terms 'WTO member' and 'WTO member country' mean a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO agreement.

"(31) GATT 1994.—The term 'GATT 1994' means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

"(32) TRADE REPRESENTATIVE.—The term 'Trade Representative' means the United States Trade Representative.

"(33) AFFILIATED PERSONS.—The following persons shall be considered to be 'affiliated' or 'affiliated persons':

"(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"(B) Any officer or director of an organization and such organization.

"(C) Partners.

"(D) Employer and employee.

"(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

"(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

"(G) Any person who controls any other person and such other person.

For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

"(34) DUMPED; DUMPING.—The terms 'dumped' and 'dumping' refer to the sale or likely sale of goods at less than fair value.".

(2) EXPORTER.—Paragraph (13) of section 771 (19 U.S.C. 1677(13)) is repealed.

SEC. 223. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

Section 772 (19 U.S.C. 1677a) is amended to read as follows:

"SEC. 772. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

"(a) EXPORT PRICE.—The term 'export price' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

"(b) CONSTRUCTED EXPORT PRICE.—The term 'constructed export price' means the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

"(c) ADJUSTMENTS FOR EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.—The price used to establish export price and constructed export price shall be—

"(1) increased by—

"(A) when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States,

"(B) the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States, and

"(C) the amount of any countervailing duty imposed on the subject merchandise under subtitle A to offset an export subsidy, and

"(2) reduced by—

"(A) except as provided in paragraph (1)(C), the amount, if any, included in such price, attributable to any additional costs, charges, or expenses, and United States import duties, which are incident to bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States, and

"(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject merchandise to the United States, other than an export tax, duty, or other charge described in section 771(6)(C).

"(d) ADDITIONAL ADJUSTMENTS TO CONSTRUCTED EXPORT PRICE.—For purposes of this section, the price used to establish constructed export price shall also be reduced by—

"(1) the amount of any of the following expenses generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise (or subject merchandise to which value has been added)—

"(A) commissions for selling the subject merchandise in the United States;

"(B) expenses that result from, and bear a direct relationship to, the sale, such as credit expenses, guarantees and warranties;

"(C) any selling expenses that the seller pays on behalf of the purchaser; and

"(D) any selling expenses not deducted under subparagraph (A), (B), or (C);

"(2) the cost of any further manufacture or assembly (including additional material and labor), except in circumstances described in subsection (e); and

"(3) the profit allocated to the expenses described in paragraphs (1) and (2).

"(e) SPECIAL RULE FOR MERCHANDISE WITH VALUE ADDED AFTER IMPORTATION.—Where the subject merchandise is imported by a person affiliated with the exporter or producer, and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the administering authority shall determine the constructed export price for such merchandise by using one of the following prices if there is a sufficient quantity of sales to provide a reasonable basis for comparison and the administering authority determines that the use of such sales is appropriate:

"(1) The price of identical subject merchandise sold by the exporter or producer to an unaffiliated person.

"(2) The price of other subject merchandise sold by the exporter or producer to an unaffiliated person.

If there is not a sufficient quantity of sales to provide a reasonable basis for comparison under paragraph (1) or (2), or the administering authority determines that neither of the prices described in such paragraphs is appropriate, then the constructed export price may be determined on any other reasonable basis.

"(f) SPECIAL RULE FOR DETERMINING PROFIT.—

"(1) IN GENERAL.—For purposes of subsection (d)(3), profit shall be an amount determined by multiplying the total actual profit by the applicable percentage.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage determined by dividing the total United States expenses by the total expenses.

"(B) TOTAL UNITED STATES EXPENSES.—The term 'total United States expenses' means the total expenses described in subsection (d) (1) and (2).

"(C) TOTAL EXPENSES.—The term 'total expenses' means all expenses in the first of the following categories which applies and which are incurred by or on behalf of the foreign producer and foreign exporter of the subject merchandise and by or on behalf of the United States

seller affiliated with the producer or exporter with respect to the production and sale of such merchandise:

"(i) The expenses incurred with respect to the subject merchandise sold in the United States and the foreign like product sold in the exporting country if such expenses were requested by the administering authority for the purpose of establishing normal value and constructed export price.

"(ii) The expenses incurred with respect to the narrowest category of merchandise sold in the United States and the exporting country which includes the subject merchandise.

"(iii) The expenses incurred with respect to the narrowest category of merchandise sold in all countries which includes the subject merchandise.

"(D) TOTAL ACTUAL PROFIT.—The term 'total actual profit' means the total profit earned by the foreign producer, exporter, and affiliated parties described in subparagraph (C) with respect to the sale of the same merchandise for which total expenses are determined under such subparagraph.".

SEC. 224. NORMAL VALUE.

Section 773 (19 U.S.C. 1677b) is amended to read as follows:

"SEC. 773. NORMAL VALUE.

"(a) DETERMINATION.—In determining under this title whether subject merchandise is being, or is likely to be, sold at less than fair value, a fair comparison shall be made between the export price or constructed export price and normal value. In order to achieve a fair comparison with the export price or constructed export price, normal value shall be determined as follows:

"(1) DETERMINATION OF NORMAL VALUE.—

"(A) IN GENERAL.—The normal value of the subject merchandise shall be the price described in subparagraph (B), at a time reasonably corresponding to the time of the sale used to determine the export price or constructed export price under section 772(a) or (b).

"(B) PRICE.—The price referred to in subparagraph (A) is—

"(i) the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the export price or constructed export price, or

"(ii) in a case to which subparagraph (C) applies, the price at which the foreign like product is so sold (or offered for sale) for consumption in a country other than the exporting country or the United States, if—

"(I) such price is representative,

"(II) the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold by the exporter or producer in such other country is 5 percent or more of the aggregate quantity (or value) of the subject merchandise sold in

the United States or for export to the United States, and

"(III) the administering authority does not determine that the particular market situation in such other country prevents a proper comparison with the export price or constructed export price.

"(C) THIRD COUNTRY SALES.—This subparagraph applies when—

"(i) the foreign like product is not sold (or offered for sale) for consumption in the exporting country as described in subparagraph (B)(i),

"(ii) the administering authority determines that the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold in the exporting country is insufficient to permit a proper comparison with the sales of the subject merchandise to the United States, or

"(iii) the particular market situation in the exporting country does not permit a proper comparison with the export price or constructed export price.

For purposes of clause (ii), the aggregate quantity (or value) of the foreign like product sold in the exporting country shall normally be considered to be insufficient if such quantity (or value) is less than 5 percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

"(2) FICTITIOUS MARKETS.—No pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account in determining normal value. The occurrence of different movements in the prices at which different forms of the foreign like product are sold (or, in the absence of sales, offered for sale) in the exporting country after the issuance of an antidumping duty order may be considered by the administering authority as evidence of the establishment of a fictitious market for the foreign like product if the movement in such prices appears to reduce the amount by which the normal value exceeds the export price (or the constructed export price) of the subject merchandise.

"(3) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—Where the subject merchandise is exported to the United States from an intermediate country, normal value shall be determined in the intermediate country, except that normal value may be determined in the country of origin of the subject merchandise if—

"(A) the producer knew at the time of the sale that the subject merchandise was destined for exportation;

"(B) the subject merchandise is merely transshipped through the intermediate country;

"(C) sales of the foreign like product in the intermediate country do not satisfy the conditions of paragraph (1)(C); or

"(D) the foreign like product is not produced in the intermediate country.

"(4) USE OF CONSTRUCTED VALUE.—If the administering authority determines that the normal value of the subject merchandise cannot be determined under paragraph (1)(B)(i), then,

notwithstanding paragraph (1)(B)(ii), the normal value of the subject merchandise may be the constructed value of that merchandise, as determined under subsection (e).

"(5) INDIRECT SALES OR OFFERS FOR SALE.—If the foreign like product is sold or, in the absence of sales, offered for sale through an affiliated party, the prices at which the foreign like product is sold (or offered for sale) by such affiliated party may be used in determining normal value.

"(6) ADJUSTMENTS.—The price described in paragraph (1)(B) shall be—

"(A) increased by the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States;

"(B) reduced by—

"(i) when included in the price described in paragraph (1)(B), the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the foreign like product in condition packed ready for shipment to the place of delivery to the purchaser,

"(ii) the amount, if any, included in the price described in paragraph (1)(B), attributable to any additional costs, charges, and expenses incident to bringing the foreign like product from the original place of shipment to the place of delivery to the purchaser, and

"(iii) the amount of any taxes imposed directly upon the foreign like product or components thereof which have been rebated, or which have not been collected, on the subject merchandise, but only to the extent that such taxes are added to or included in the price of the foreign like product, and

"(C) increased or decreased by the amount of any difference (or lack thereof) between the export price or constructed export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise provided under this section) that is established to the satisfaction of the administering authority to be wholly or partly due to—

"(i) the fact that the quantities in which the subject merchandise is sold or agreed to be sold to the United States are greater than or less than the quantities in which the foreign like product is sold, agreed to be sold, or offered for sale,

"(ii) the fact that merchandise described in subparagraph (B) or (C) of section 771(16) is used in determining normal value, or

"(iii) other differences in the circumstances of sale.

"(7) ADDITIONAL ADJUSTMENTS.—

"(A) LEVEL OF TRADE.—The price described in paragraph (1)(B) shall also be increased or decreased to make due allowance for any difference (or lack thereof) between the export price or constructed export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise made under this section) that is shown to be wholly or partly due to a difference in level of trade between the export price or constructed

export price and normal value, if the difference in level of trade—

"(i) involves the performance of different selling activities; and

"(ii) is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.

In a case described in the preceding sentence, the amount of the adjustment shall be based on the price differences between the two levels of trade in the country in which normal value is determined.

"(B) CONSTRUCTED EXPORT PRICE OFFSET.—When normal value is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the constructed export price, but the data available do not provide an appropriate basis to determine under subparagraph (A)(ii) a level of trade adjustment, normal value shall be reduced by the amount of indirect selling expenses incurred in the country in which normal value is determined on sales of the foreign like product but not more than the amount of such expenses for which a deduction is made under section 772(d)(1)(D).

"(8) ADJUSTMENTS TO CONSTRUCTED VALUE.—Constructed value as determined under subsection (e), may be adjusted, as appropriate, pursuant to this subsection.

"(b) SALES AT LESS THAN COST OF PRODUCTION.—

"(1) DETERMINATION; SALES DISREGARDED.—Whenever the administering authority has reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value have been made at prices which represent less than the cost of production of that product, the administering authority shall determine whether, in fact, such sales were made at less than the cost of production. If the administering authority determines that sales made at less than the cost of production—

"(A) have been made within an extended period of time in substantial quantities, and

"(B) were not at prices which permit recovery of all costs within a reasonable period of time,

such sales may be disregarded in the determination of normal value. Whenever such sales are disregarded, normal value shall be based on the remaining sales of the foreign like product in the ordinary course of trade. If no sales made in the ordinary course of trade remain, the normal value shall be based on the constructed value of the merchandise.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) REASONABLE GROUNDS TO BELIEVE OR SUSPECT.—There are reasonable grounds to believe or suspect that sales of the foreign like product were made at prices that are less than the cost of production of the product, if—

"(i) in an investigation initiated under section 732 or a review conducted under section 751, an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) provides information, based upon observed prices or constructed prices or costs, that

sales of the foreign like product under consideration for the determination of normal value have been made at prices which represent less than the cost of production of the product; or

"(ii) in a review conducted under section 751 involving a specific exporter, the administering authority disregarded some or all of the exporter's sales pursuant to paragraph (1) in the investigation or if a review has been completed, in the most recently completed review.

"(B) EXTENDED PERIOD OF TIME.—The term 'extended period of time' means a period that is normally 1 year, but not less than 6 months.

"(C) SUBSTANTIAL QUANTITIES.—Sales made at prices below the cost of production have been made in substantial quantities if—

"(i) the volume of such sales represents 20 percent or more of the volume of sales under consideration for the determination of normal value, or

"(ii) the weighted average per unit price of the sales under consideration for the determination of normal value is less than the weighted average per unit cost of production for such sales.

"(D) RECOVERY OF COSTS.—If prices which are below the per unit cost of production at the time of sale are above the weighted average per unit cost of production for the period of investigation or review, such prices shall be considered to provide for recovery of costs within a reasonable period of time.

"(3) CALCULATION OF COST OF PRODUCTION.—For purposes of this subtitle, the cost of production shall be an amount equal to the sum of—

"(A) the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like product, during a period which would ordinarily permit the production of that foreign like product in the ordinary course of business;

"(B) an amount for selling, general, and administrative expenses based on actual data pertaining to production and sales of the foreign like product by the exporter in question; and

"(C) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the foreign like product in condition packed ready for shipment.

For purposes of subparagraph (A), if the normal value is based on the price of the foreign like product sold for consumption in a country other than the exporting country, the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation.

"(c) NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) the subject merchandise is exported from a nonmarket economy country, and

"(B) the administering authority finds that available information does not permit the normal value of the subject merchandise to be determined under subsection (a),

the administering authority shall determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses. Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

"(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the normal value of subject merchandise under paragraph (1), the administering authority shall determine the normal value on the basis of the price at which merchandise that is—

"(A) comparable to the subject merchandise, and

"(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

"(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

"(A) hours of labor required,

"(B) quantities of raw materials employed,

"(C) amounts of energy and other utilities consumed, and

"(D) representative capital cost, including depreciation.

"(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

"(A) at a level of economic development comparable to that of the nonmarket economy country, and

"(B) significant producers of comparable merchandise.

"(d) SPECIAL RULE FOR CERTAIN MULTINATIONAL CORPORATIONS.—Whenever, in the course of an investigation under this title, the administering authority determines that—

"(1) subject merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation which also owns or controls, directly or indirectly, other facilities for the production of the foreign like product which are located in another country or countries,

"(2) subsection (a)(1)(C) applies, and

"(3) the normal value of the foreign like product produced in one or more of the facilities outside the exporting country is higher than the normal value of the foreign like product produced in the facilities located in the exporting country,

it shall determine the normal value of the subject merchandise by reference to the normal value at which the foreign like product is sold in substantial quantities from one or more facilities outside

the exporting country. The administering authority, in making any determination under this paragraph, shall make adjustments for the difference between the cost of production (including taxes, labor, materials, and overhead) of the foreign like product produced in facilities outside the exporting country and costs of production of the foreign like product produced in facilities in the exporting country, if such differences are demonstrated to its satisfaction. For purposes of this subsection, in determining the normal value of the foreign like product produced in a country outside of the exporting country, the administering authority shall determine its price at the time of exportation from the exporting country and shall make any adjustments required by subsection (a) for the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States by reference to such costs in the exporting country.

"(e) CONSTRUCTED VALUE.—For purposes of this title, the constructed value of imported merchandise shall be an amount equal to the sum of—

"(1) the cost of materials and fabrication or other processing of any kind employed in producing the merchandise, during a period which would ordinarily permit the production of the merchandise in the ordinary course of business;

"(2)(A) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or

"(B) if actual data are not available with respect to the amounts described in subparagraph (A), then—

"(i) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise,

"(ii) the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i)) for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or

"(iii) the amounts incurred and realized for selling, general, and administrative expenses, and for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by exporters or producers (other than the exporter or producer described in clause (i)) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise; and

"(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the subject

merchandise in condition packed ready for shipment to the United States.

For purposes of paragraph (1), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation of the subject merchandise produced from such materials.

"(f) SPECIAL RULES FOR CALCULATION OF COST OF PRODUCTION AND FOR CALCULATION OF CONSTRUCTED VALUE.—For purposes of subsections (b) and (e).—

"(1) COSTS.—

"(A) IN GENERAL.—Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise. The administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer on a timely basis, if such allocations have been historically used by the exporter or producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs.

"(B) NONRECURRING COSTS.—Costs shall be adjusted appropriately for those nonrecurring costs that benefit current or future production, or both.

"(C) STARTUP COSTS.—

"(i) IN GENERAL.—Costs shall be adjusted appropriately for circumstances in which costs incurred during the time period covered by the investigation or review are affected by startup operations.

"(ii) STARTUP OPERATIONS.—Adjustments shall be made for startup operations only where—

"(I) a producer is using new production facilities or producing a new product that requires substantial additional investment, and

"(II) production levels are limited by technical factors associated with the initial phase of commercial production.

For purposes of subclause (II), the initial phase of commercial production ends at the end of the startup period. In determining whether commercial production levels have been achieved, the administering authority shall consider factors unrelated to startup operations that might affect the volume of production processed, such as demand, seasonality, or business cycles.

"(iii) ADJUSTMENT FOR STARTUP OPERATIONS.—The adjustment for startup operations shall be made by substituting the unit production costs incurred with respect to the merchandise at the end of the startup period for the unit production costs incurred during the startup period. If the startup period extends beyond the period of the investigation or review under this title, the administering authority shall use the most recent cost of production data that it reasonably can

obtain, analyze, and verify without delaying the timely completion of the investigation or review. For purposes of this subparagraph, the startup period ends at the point at which the level of commercial production that is characteristic of the merchandise, producer, or industry concerned is achieved.

"(2) TRANSACTIONS DISREGARDED.—A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

"(3) MAJOR INPUT RULE.—If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the merchandise, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2).".

SEC. 225. CURRENCY CONVERSION.

(a) IN GENERAL.—Subtitle D of title VII (19 U.S.C. 1677 et seq.) is amended by inserting after section 773 the following new section:

"SEC. 773A. CURRENCY CONVERSION.

"(a) IN GENERAL.—In an antidumping proceeding under this title, the administering authority shall convert foreign currencies into United States dollars using the exchange rate in effect on the date of sale of the subject merchandise, except that, if it is established that a currency transaction on forward markets is directly linked to an export sale under consideration, the exchange rate specified with respect to such currency in the forward sale agreement shall be used to convert the foreign currency. Fluctuations in exchange rates shall be ignored.

"(b) SUSTAINED MOVEMENT IN FOREIGN CURRENCY VALUE.—In an investigation under subtitle B, if there is a sustained movement in the value of the foreign currency relative to the United States dollar, the administering authority shall allow exporters at least 60 days to adjust their export prices to reflect such sustained movement.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII is amended by inserting after the item relating to section 773 the following new item:

"Sec. 773A. Currency conversion.".

SEC. 226. PROPRIETARY AND NONPROPRIETARY INFORMATION.

(a) PROPRIETARY STATUS MAINTAINED.—

(1) IN GENERAL.—Section 777(b)(1) (19 U.S.C. 1677f(b)(1)) is amended to read as follows:

"(1) PROPRIETARY STATUS MAINTAINED.—

"(A) IN GENERAL.—Except as provided in subsection (a)(4)(A) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting the information shall not be disclosed to any person without the consent of the person submitting the information, other than—

"(i) to an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted or any review under this title covering the same subject merchandise, or

"(ii) to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title.

"(B) ADDITIONAL REQUIREMENTS.—The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

"(i) either—

"(I) a non-proprietary summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(II) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(ii) either—

"(I) a statement which permits the administering authority or the Commission to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(II) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.".

(2) SECTION 751 REVIEWS.—Section 777(b) (19 U.S.C. 1677f(b)) is amended by adding at the end the following:

"(3) SECTION 751 REVIEWS.—Notwithstanding the provisions of paragraph (1), information submitted to the administering authority or the Commission in connection with a review under section 751(b) or 751(c) which is designated as proprietary by the person submitting the information may, if the review results in the revocation of an order or finding (or termination of a suspended investigation) under section 751(d), be used by the agency to which the information was originally submitted in any investigation initiated within 2 years after the date of the revocation or termination pursuant to a petition covering the same subject merchandise.".

(b) UNWARRANTED PROPRIETARY DESIGNATION.—Section 777(b)(2) (19 U.S.C. 1677f(b)(2)) is amended by adding at the end the following new sentence: "In a case in which the administering

authority or the Commission returns the information to the person submitting it, the person may thereafter submit other material concerning the subject matter of the returned information if the submission is made within the time otherwise provided for submitting such material.".

SEC. 227. OPPORTUNITY FOR COMMENT BY CONSUMERS AND INDUSTRIAL USERS.

Section 777 (19 U.S.C. 1677f) is amended by adding at the end the following new subsection:

"(h) OPPORTUNITY FOR COMMENT BY CONSUMERS AND INDUSTRIAL USERS.—The administering authority and the Commission shall provide an opportunity for industrial users of the subject merchandise and, if the merchandise is sold at the retail level, for representative consumer organizations, to submit relevant information to the administering authority concerning dumping or a countervailable subsidy, and to the Commission concerning material injury by reason of dumped or subsidized imports.".

SEC. 228. PUBLIC NOTICE AND EXPLANATION OF DETERMINATIONS.

Section 777 (19 U.S.C. 1677f), as amended by section 227, is amended by adding at the end the following:

"(i) PUBLICATION OF DETERMINATIONS; REQUIREMENTS FOR FINAL DETERMINATIONS.—

"(1) IN GENERAL.—Whenever the administering authority makes a determination under section 702 or 732 whether to initiate an investigation, or the administering authority or the Commission makes a preliminary determination under section 703 or 733, a final determination under section 705 or section 735, a preliminary or final determination in a review under section 751, a determination to suspend an investigation under this title, or a determination under section 753, the administering authority or the Commission, as the case may be, shall publish the facts and conclusions supporting that determination, and shall publish notice of that determination in the Federal Register.

"(2) CONTENTS OF NOTICE OR DETERMINATION.—The notice or determination published under paragraph (1) shall include, to the extent applicable—

"(A) in the case of a determination of the administering authority—

"(i) the names of the exporters or producers of the subject merchandise or, when providing such names is impracticable, the countries exporting the subject merchandise to the United States,

"(ii) a description of the subject merchandise that is sufficient to identify the subject merchandise for customs purposes,

"(iii)(I) with respect to a determination in an investigation under subtitle A or section 753 or in a review of a countervailing duty order, the amount of the countervailable subsidy established and a full explanation of the methodology used in establishing the amount, and

"(II) with respect to a determination in an investigation under subtitle B or in a review of an antidumping duty order, the weighted average dumping margins

established and a full explanation of the methodology used in establishing such margins, and

"(iv) the primary reasons for the determination; and

"(B) in the case of a determination of the Commission—

"(i) considerations relevant to the determination of injury, and

"(ii) the primary reasons for the determination.

"(3) ADDITIONAL REQUIREMENTS FOR FINAL DETERMINATIONS.—In addition to the requirements set forth in paragraph (2)—

"(A) the administering authority shall include in a final determination described in paragraph (1) an explanation of the basis for its determination that addresses relevant arguments, made by interested parties who are parties to the investigation or review (as the case may be), concerning the establishment of dumping or a countervailable subsidy, or the suspension of the investigation, with respect to which the determination is made; and

"(B) the Commission shall include in a final determination of injury an explanation of the basis for its determination that addresses relevant arguments that are made by interested parties who are parties to the investigation or review (as the case may be) concerning volume, price effects, and impact on the industry of imports of the subject merchandise.".

SEC. 229. SAMPLING AND AVERAGING; DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

(a) IN GENERAL.—Section 777A (19 U.S.C. 1677f–1) is amended to read as follows:

"SEC. 777A. SAMPLING AND AVERAGING; DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

"(a) IN GENERAL.—For purposes of determining the export price (or constructed export price) under section 772 or the normal value under section 773, and in carrying out reviews under section 751, the administering authority may—

"(1) use averaging and statistically valid samples, if there is a significant volume of sales of the subject merchandise or a significant number or types of products, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF AVERAGES AND SAMPLES.—The authority to select averages and statistically valid samples shall rest exclusively with the administering authority. The administering authority shall, to the greatest extent possible, consult with the exporters and producers regarding the method to be used to select exporters, producers, or types of products under this section.

"(c) DETERMINATION OF DUMPING MARGIN.—

"(1) GENERAL RULE.—In determining weighted average dumping margins under section 733(d), 735(c), or 751(a), the administering authority shall determine the individual weighted average dumping margin for each known exporter and producer of the subject merchandise.

"(2) EXCEPTION.—If it is not practicable to make individual weighted average dumping margin determinations under para-

graph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may determine the weighted average dumping margins for a reasonable number of exporters or producers by limiting its examination to—

"(A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the administering authority at the time of selection, or

"(B) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined.

"(d) DETERMINATION OF LESS THAN FAIR VALUE.—

"(1) INVESTIGATIONS.—

"(A) IN GENERAL.—In an investigation under subtitle B, the administering authority shall determine whether the subject merchandise is being sold in the United States at less than fair value—

"(i) by comparing the weighted average of the normal values to the weighted average of the export prices (and constructed export prices) for comparable merchandise, or

"(ii) by comparing the normal values of individual transactions to the export prices (or constructed export prices) of individual transactions for comparable merchandise.

"(B) EXCEPTION.—The administering authority may determine whether the subject merchandise is being sold in the United States at less than fair value by comparing the weighted average of the normal values to the export prices (or constructed export prices) of individual transactions for comparable merchandise, if—

"(i) there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and

"(ii) the administering authority explains why such differences cannot be taken into account using a method described in paragraph (1)(A)(i) or (ii).

"(2) REVIEWS.—In a review under section 751, when comparing export prices (or constructed export prices) of individual transactions to the weighted average price of sales of the foreign like product, the administering authority shall limit its averaging of prices to a period not exceeding the calendar month that corresponds most closely to the calendar month of the individual export sale.".

(b) DUMPING MARGIN; WEIGHTED AVERAGE DUMPING MARGIN.—Section 771 (19 U.S.C. 1677), as amended by section 222(i), is amended by adding at the end the following new paragraph:

"(35) DUMPING MARGIN; WEIGHTED AVERAGE DUMPING MARGIN.—

"(A) DUMPING MARGIN.—The term 'dumping margin' means the amount by which the normal value exceeds the export price or constructed export price of the subject merchandise.

"(B) WEIGHTED AVERAGE DUMPING MARGIN.—The term 'weighted average dumping margin' is the percentage deter-

mined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer.

"(C) MAGNITUDE OF THE MARGIN OF DUMPING.—The magnitude of the margin of dumping used by the Commission shall be—

"(i) in making a preliminary determination under section 733(a) in an investigation (including any investigation in which the Commission cumulatively assesses the volume and effect of imports under paragraph (7)(G)(i)), the dumping margin or margins published by the administering authority in its notice of initiation of the investigation;

"(ii) in making a final determination under section 735(b), the dumping margin or margins most recently published by the administering authority prior to the closing of the Commission's administrative record;

"(iii) in a review under section 751(b)(2), the most recent dumping margin or margins determined by the administering authority under section 752(c)(3), if any, or under section 733(b) or 735(a); and

"(iv) in a review under section 751(c), the dumping margin or margins determined by the administering authority under section 752(c)(3).".

SEC. 230. ANTICIRCUMVENTION.

(a) IN GENERAL.—Subsections (a) and (b) of section 781 (19 U.S.C. 1677j (a) and (b)) are amended to read as follows:

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies,

"(C) the process of assembly or completion in the United States is minor or insignificant, and

"(D) the value of the parts or components referred to in subparagraph (B) is a significant portion of the total value of the merchandise,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

"(2) DETERMINATION OF WHETHER PROCESS IS MINOR OR INSIGNIFICANT.—In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account—

"(A) the level of investment in the United States,

"(B) the level of research and development in the United States,

"(C) the nature of the production process in the United States,

"(D) the extent of production facilities in the United States, and

"(E) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States.

"(3) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade, including sourcing patterns,

"(B) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

"(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

"(i) is subject to such order or finding, or

"(ii) is produced in the foreign country with respect to which such order or finding applies,

"(C) the process of assembly or completion in the foreign country referred to in subparagraph (B) is minor or insignificant,

"(D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States, and

"(E) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

"(2) DETERMINATION OF WHETHER PROCESS IS MINOR OR INSIGNIFICANT.—In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account—

"(A) the level of investment in the foreign country,

"(B) the level of research and development in the foreign country,

"(C) the nature of the production process in the foreign country,

"(D) the extent of production facilities in the foreign country, and

"(E) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

"(3) FACTORS TO CONSIDER.—In determining whether to include merchandise assembled or completed in a foreign country in a countervailing duty order or an antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade, including sourcing patterns,

"(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is affiliated with the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the initiation of the investigation which resulted in the issuance of such order or finding.".

(b) TIME LIMITS FOR ADMINISTERING AUTHORITY DETERMINATIONS.—Section 781 (19 U.S.C. 1677j) is amended by adding at the end the following:

"(f) TIME LIMITS FOR ADMINISTERING AUTHORITY DETERMINATIONS.—The administering authority shall, to the maximum extent practicable, make the determinations under this section within 300 days from the date of the initiation of a countervailing duty or antidumping circumvention inquiry under this section.".

SEC. 231. EVIDENCE.

(a) CONDUCT OF INVESTIGATIONS AND ADMINISTRATIVE REVIEWS.—Subtitle D of title VII (19 U.S.C. 1671) is amended by adding at the end the following new section:

"SEC. 782. CONDUCT OF INVESTIGATIONS AND ADMINISTRATIVE REVIEWS.

"(a) TREATMENT OF VOLUNTARY RESPONSES IN COUNTERVAILING OR ANTIDUMPING DUTY INVESTIGATIONS AND REVIEWS.—In any investigation under subtitle A or B or a review under section 751(a) in which the administering authority has, under section 777A(c)(2) or section 777A(e)(2)(A) (whichever is applicable), limited the number of exporters or producers examined, or determined a single country-wide rate, the administering authority shall estab-

lish an individual countervailable subsidy rate or an individual weighted average dumping margin for any exporter or producer not initially selected for individual examination under such sections who submits to the administering authority the information requested from exporters or producers selected for examination, if—

"(1) such information is so submitted by the date specified—

"(A) for exporters and producers that were initially selected for examination, or

"(B) for the foreign government, in a countervailing duty case where the administering authority has determined a single country-wide rate; and

"(2) the number of exporters or producers who have submitted such information is not so large that individual examination of such exporters or producers would be unduly burdensome and inhibit the timely completion of the investigation.

"(b) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

"(c) DIFFICULTIES IN MEETING REQUIREMENTS.—

"(1) NOTIFICATION BY INTERESTED PARTY.—If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

"(2) ASSISTANCE TO INTERESTED PARTIES.—The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations and reviews under this title, and shall provide to such interested parties any assistance that is practicable in supplying such information.

"(d) DEFICIENT SUBMISSIONS.—If the administering authority or the Commission determines that a response to a request for information under this title does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this title. If that person submits further information in response to such deficiency and either—

"(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

"(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (e), disregard all or part of the original and subsequent responses.

"(e) USE OF CERTAIN INFORMATION.—In reaching a determination under section 703, 705, 733, 735, 751, or 753 the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission, if—

"(1) the information is submitted by the deadline established for its submission,

"(2) the information can be verified,

"(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

"(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

"(5) the information can be used without undue difficulties.

"(f) NONACCEPTANCE OF SUBMISSIONS.—If the administering authority or the Commission declines to accept into the record any information submitted in an investigation or review under this title, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

"(g) PUBLIC COMMENT ON INFORMATION.—Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this title shall be subject to comment by other parties to the proceeding within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 705, 735, 751, or 753 shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

"(h) TERMINATION OF INVESTIGATION OR REVOCATION OF ORDER FOR LACK OF INTEREST.—The administering authority may—

"(1) terminate an investigation under subtitle A or B with respect to a domestic like product if, prior to publication of an order under section 706 or 736, the administering authority determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in issuance of an order; and

"(2) revoke an order issued under section 706 or 736 with respect to a domestic like product, or terminate an investigation suspended under section 704 or 734 with respect to a domestic

like product, if the administering authority determines that producers accounting for substantially all of the production of that domestic like product, have expressed a lack of interest in the order or suspended investigation.

"(i) VERIFICATION.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(d), and

"(3) a final determination in a review under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9)(C), (D), (E), (F), or (G), and

"(B) no verification was made under this subparagraph during the 2 immediately preceding reviews and determinations under section 751(a) of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.".

(b) AVAILABILITY OF NONPROPRIETARY INFORMATION.—Section 777(a)(4) (19 U.S.C. 1677f(a)(4)) is amended by striking "may disclose" and inserting "shall disclose".

(c) DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.—Section 776 (19 U.S.C. 1677e) is amended to read as follows:

"SEC. 776. DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.

"(a) IN GENERAL.—If—

"(1) necessary information is not available on the record, or

"(2) an interested party or any other person—

"(A) withholds information that has been requested by the administering authority or the Commission under this title,

"(B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782,

"(C) significantly impedes a proceeding under this title, or

"(D) provides such information but the information cannot be verified as provided in section 782(i),

the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

"(b) ADVERSE INFERENCES.—If the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from—

"(1) the petition,

"(2) a final determination in the investigation under this title,

"(3) any previous review under section 751 or determination under section 753, or

"(4) any other information placed on the record.

"(c) CORROBORATION OF SECONDARY INFORMATION.—When the administering authority or the Commission relies on secondary information rather than on information obtained in the course of an investigation or review, the administering authority or the Commission, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal.".

(d) CONFORMING AMENDMENTS.—

(1) Section 777(e) (19 U.S.C. 1677f(e)) is repealed.

(2) The table of contents for title VII is amended—

(A) by amending the item relating to section 776 to read as follows:

"Sec. 776. Determinations on the basis of the facts available.";

and

(B) by inserting after the item relating to section 781 the following new item:

"Sec. 782. Conduct of investigations and administrative reviews.".

SEC. 232. ANTIDUMPING PETITIONS BY THIRD COUNTRIES.

(a) IN GENERAL.—Subtitle D of title VII (19 U.S.C. 1677 et seq.), as amended by section 231(a), is amended by adding at the end the following new section:

"SEC. 783. ANTIDUMPING PETITIONS BY THIRD COUNTRIES.

"(a) FILING OF PETITION.—The government of a WTO member may file with the Trade Representative a petition requesting that an investigation be conducted to determine if—

"(1) imports from another country are being sold in the United States at less than fair value, and

"(2) an industry in the petitioning country is materially injured by reason of those imports.

"(b) INITIATION.—The Trade Representative, after consultation with the administering authority and the Commission and obtaining the approval of the WTO Council for Trade in Goods, shall determine whether to initiate an investigation described in subsection (a).

"(c) DETERMINATIONS.—Upon initiation of an investigation under this section, the Trade Representative shall request the following determinations be made according to substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:

"(1) The administering authority shall determine whether imports into the United States of the subject merchandise are being sold at less than fair value.

"(2) The Commission shall determine whether an industry in the petitioning country is materially injured by reason of imports of the subject merchandise into the United States.

"(d) PUBLIC COMMENT.—An opportunity for public comment shall be provided, as appropriate—

"(1) by the Trade Representative, in making the determination required by subsection (b), and

"(2) by the administering authority and the Commission, in making the determination required by subsection (c).

"(e) ISSUANCE OF ORDER.—If the administering authority makes an affirmative determination under paragraph (1) of subsection (c), and the Commission makes an affirmative determination under paragraph (2) of subsection (c), the administering authority shall issue an antidumping duty order in accordance with section 736 and take such other actions as are required by section 736.

"(f) REVIEWS OF DETERMINATIONS.—For purposes of review under section 516A or review under section 751, if an order is issued under subsection (d), the final determinations of the administering authority and the Commission under this section shall be treated as final determinations made under section 735.

"(g) ACCESS TO INFORMATION.—Section 777 shall apply to investigations under this section, to the extent specified by the Trade Representative, after consultation with the administering authority and the Commission.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII, as amended by section 231(d)(2), is amended by adding after the item relating to section 782 the following new item:

"Sec. 783. Antidumping petitions by third countries.".

SEC. 233. CONFORMING AMENDMENTS.

(a) TERMINOLOGY.—

(1) NORMAL VALUE.—Each of the following sections is amended by striking "foreign market value" each place it appears in the text and in the heading and inserting "normal value":

(A) Section 731 (19 U.S.C. 1673).
(B) Section 734 (19 U.S.C. 1673c).
(C) Section 736 (19 U.S.C. 1673e).
(D) Section 739 (19 U.S.C. 1673h).
(E) Section 780 (19 U.S.C. 1677i).

(2) EXPORT PRICE.—

(A) IN GENERAL.—Each of the following sections is amended by striking "United States price" each place it appears in the text and in the heading and inserting "export price (or the constructed export price)":

(i) Section 731 (19 U.S.C. 1673).
(ii) Section 734 (19 U.S.C. 1673c).
(iii) Section 736 (19 U.S.C. 1673e).
(iv) Section 738 (19 U.S.C. 1673g).
(v) Section 739 (19 U.S.C. 1673h).
(vi) Section 780 (19 U.S.C. 1677i).

(B) EXPORTER'S SALES PRICE.—Section 738(b)(3) (19 U.S.C. 1673g(b)(3)) is amended by striking "exporter's sales price" and inserting "constructed export price".

(3) DOMESTIC LIKE PRODUCT.—

(A) Each of the following sections is amended by striking "like product" each place it appears in the text and in the heading and inserting "domestic like product":

(i) Section 771(4)(C) and (D) (19 U.S.C. 1677(4)(C) and (D)).
(ii) Section 771(7)(C)(iii)(IV) (19 U.S.C. 1677(7)(C)(iii)(IV)).
(iii) Section 771(9) (19 U.S.C. 1677(9)).
(iv) Section 771(10) (19 U.S.C. 1677(10)).

(B) Sections 771(7)(B)(i)(II) and (III) and section 771(7)(C)(ii)(I) (19 U.S.C. 1677(7)(B)(i)(II) and (III) and

(C)(ii)(I)) are amended by striking "like products" and inserting "domestic like products".

(4) FOREIGN LIKE PRODUCT.—Section 771(16) (19 U.S.C. 1677(16)) is amended—

(A) by striking "such or similar merchandise" in the text and inserting "foreign like product", and

(B) by amending the heading to read as follows: "FOREIGN LIKE PRODUCT.".

(5) SUBJECT MERCHANDISE.—

(A) Section 701(d) (19 U.S.C. 1671(d)) is amended by striking "a class or kind of merchandise subject to a countervailing duty investigation" and inserting "subject merchandise".

(B) Section 702(e) (19 U.S.C. 1671a(e)) is amended by striking "class or kind of merchandise that is the subject of the investigation" each place it appears and inserting "subject merchandise".

(C) Section 703(b)(1) (19 U.S.C. 1671b(b)(1)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(D) Section 704(a)(2)(A) (19 U.S.C. 1671c(a)(2)(A)) is amended by striking "merchandise that is subject to the investigation" and inserting "subject merchandise".

(E) Section 704(b) (19 U.S.C. 1671c(b)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(F) Section 704(c)(1) (19 U.S.C. 1671c(c)(1)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(G) Section 704(c)(2) (19 U.S.C. 1671c(c)(2)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(H) Section 704(c)(3) (19 U.S.C. 1671c(c)(3)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(I) Section 704(d)(3) (19 U.S.C. 1671c(d)(3)) is amended by striking "merchandise covered by such agreement" and inserting "subject merchandise".

(J) Section 704(f)(1)(A) (19 U.S.C. 1671c(f)(1)(A)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(K) Subparagraphs (A)(i) and (B) of section 704(f)(2) (19 U.S.C. 1671c(f)(2)(A)(i) and (B)) are amended by striking "merchandise which is the subject of the investigation" each place it appears and inserting "subject merchandise".

(L) Paragraphs (2) and (3) of section 704(h) (19 U.S.C. 1671c(h) (2) and (3)) are amended by striking "merchandise which is the subject of the investigation" each place it appears and inserting "subject merchandise".

(M) Section 704(j) (19 U.S.C. 1671c(j)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(N) Section 705(a)(1) (19 U.S.C. 1671d(a)(1)) is amended by striking "the merchandise" and inserting "the subject merchandise".

(O) Section 706(a)(2) (19 U.S.C. 1671e(a)(2)), as redesignated by section 265, is amended by striking "class or

kind of merchandise to which it applies" and inserting "subject merchandise".

(P) Section 732(e)(1) (19 U.S.C. 1673a(e)(1)) is amended by striking "class or kind of the merchandise which is the subject of the investigation" and inserting "the subject merchandise".

(Q) Section 732(e)(2) (19 U.S.C. 1673a(e)(2)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(R) Section 732(e) (19 U.S.C. 1673a(e)) is amended by striking "class or kind of merchandise that is the subject of the investigation" each place it appears and inserting "subject merchandise".

(S) Section 734(a)(2)(A) (19 U.S.C 1673c(a)(2)(A)) is amended by striking "merchandise that is subject to the investigation" and inserting "subject merchandise".

(T) Subsections (b), (c)(1), (f)(1)(A), (f)(2)(A)(i), (g)(1), (h)(2), (h)(3), and (j) of section 734 (19 U.S.C 1673c(b), (c)(1), (f)(1)(A), (f)(2)(A)(i), (g)(1), (h)(2), (h)(3), and (j)) are amended by striking "merchandise which is the subject of the investigation" each place it appears and inserting "subject merchandise".

(U) Section 734(f)(2)(B) (19 U.S.C. 1673c(f)(2)(B)) is amended by striking "merchandise subject to the investigation" and inserting "subject merchandise".

(V) Section 735(a)(1) (19 U.S.C. 1673d(a)(1)) is amended by striking "merchandise which was the subject of the investigation" and inserting "subject merchandise".

(W) Section 736(a)(2) (19 U.S.C. 1673e(a)(2)) is amended by striking "class or kind of merchandise to which it applies" and inserting "subject merchandise".

(X) Section 736(b)(1) (19 U.S.C. 1673e(b)(1)) is amended by striking "merchandise subject to the antidumping duty order" and inserting "subject merchandise".

(Y) Section 736(b)(2) (19 U.S.C. 1673e(b)(2)) is amended by striking "merchandise subject to an antidumping duty order" and inserting "subject merchandise".

(Z) Section 762(a)(1) (19 U.S.C. 1676a(a)(1)) is amended by striking "merchandise subject to the agreement" and inserting "subject merchandise".

(AA) Section 762(b)(2) (19 U.S.C. 1676a(b)(2)) is amended by striking "merchandise subject to the order" and inserting "subject merchandise".

(BB) Section 771(7)(B)(i)(I) (19 U.S.C. 1677(7)(B)(i)(I)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(CC) Section 771(9)(A) (19 U.S.C. 1677(9)(A)) is amended by striking "merchandise which is the subject of an investigation under this title" and inserting "subject merchandise".

(DD) Section 771(16)(A) (19 U.S.C. 1677(16)(A)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(EE) Section 771(16)(B)(i) (19 U.S.C. 1677(16)(B)(i)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(FF) Section 771(17) (19 U.S.C. 1677(17)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(GG) Section 771A(c) (19 U.S.C. 1677–1(c)) is amended by striking "merchandise under investigation" and inserting "subject merchandise".

(6) INITIATE.—(A) Each of the following sections is amended by striking "commenced" and inserting "initiated":

(i) Section 702(a).
(ii) Section 702(b)(1).
(iii) Section 703(b)(1).
(iv) Section 703(c)(1).
(v) Section 732(a)(1).
(vi) Section 732(a)(2)(D).
(vii) Section 732(b)(1).
(viii) Section 733(b)(1)(A) and (B).
(ix) Section 733(b)(2).
(x) Section 733(c)(1).

(B) Sections 703(g)(1) and 733(b)(2) are each amended by striking "commencement" and inserting "initiation".

(C) Section 732(a)(2)(B) is amended by striking "commence" and inserting "initiate".

(7) TECHNICAL AMENDMENTS.—The table of contents for title VII is amended—

(A) by amending the item relating to section 772 to read as follows:

"Sec. 772. Export price and constructed export price.";

(B) by striking "Foreign market value" in the item relating to section 773 and inserting "Normal value", and

(C) by inserting after the item relating to section 708 the following new item:

"Sec. 709. Conditional payment of countervailing duty.".

(b) OTHER CONFORMING AMENDMENTS.—

(1) WTO MEMBER.—Section 771(7)(F)(iii) (19 U.S.C. 1677(7)(F)(iii)) is amended—

(A) in subclause (I), by striking "GATT member" and inserting "WTO member"; and

(B) in subclause (II)—

(i) in the subclause heading, by striking "GATT MEMBER" and inserting "WTO MEMBER";

(ii) by striking "GATT member" and inserting "WTO member"; and

(iii) by striking "signatory" and all that follows through "measures)" and inserting "WTO member".

(2) ADMINISTERING AUTHORITY.—Section 771(1) (19 U.S.C. 1677(1)) is amended by striking "the Treasury" and inserting "Commerce".

SEC. 234. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act, the amendments made by this title shall apply with respect to goods from Canada and Mexico.

Subtitle B—Subsidies Provisions

PART 1—COUNTERVAILABLE SUBSIDIES

SEC. 251. COUNTERVAILABLE SUBSIDY.

(a) IN GENERAL.—Section 771 (19 U.S.C. 1677) is amended by striking paragraph (5) and inserting the following:

"(5) COUNTERVAILABLE SUBSIDY.—

"(A) IN GENERAL.—Except as provided in paragraph (5B), a countervailable subsidy is a subsidy described in this paragraph which is specific as described in paragraph (5A).

"(B) SUBSIDY DESCRIBED.—A subsidy is described in this paragraph in the case in which an authority—

"(i) provides a financial contribution,

"(ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994, or

"(iii) makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments,

to a person and a benefit is thereby conferred. For purposes of this paragraph and paragraphs (5A) and (5B), the term 'authority' means a government of a country or any public entity within the territory of the country.

"(C) OTHER FACTORS.—The determination of whether a subsidy exists shall be made without regard to whether the recipient of the subsidy is publicly or privately owned and without regard to whether the subsidy is provided directly or indirectly on the manufacture, production, or export of merchandise. The administering authority is not required to consider the effect of the subsidy in determining whether a subsidy exists under this paragraph.

"(D) FINANCIAL CONTRIBUTION.—The term 'financial contribution' means—

"(i) the direct transfer of funds, such as grants, loans, and equity infusions, or the potential direct transfer of funds or liabilities, such as loan guarantees,

"(ii) foregoing or not collecting revenue that is otherwise due, such as granting tax credits or deductions from taxable income,

"(iii) providing goods or services, other than general infrastructure, or

"(iv) purchasing goods.

"(E) BENEFIT CONFERRED.—A benefit shall normally be treated as conferred where there is a benefit to the recipient, including—

"(i) in the case of an equity infusion, if the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the country in which the equity infusion is made,

"(ii) in the case of a loan, if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,

"(iii) in the case of a loan guarantee, if there is a difference, after adjusting for any difference in guarantee fees, between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no guarantee by the authority, and

"(iv) in the case where goods or services are provided, if such goods or services are provided for less than adequate remuneration, and in the case where goods are purchased, if such goods are purchased for more than adequate remuneration.

For purposes of clause (iv), the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of purchase or sale.

"(F) CHANGE IN OWNERSHIP.—A change in ownership of all or part of a foreign enterprise or the productive assets of a foreign enterprise does not by itself require a determination by the administering authority that a past countervailable subsidy received by the enterprise no longer continues to be countervailable, even if the change in ownership is accomplished through an arm's length transaction.

"(5A) SPECIFICITY.—

"(A) IN GENERAL.—A subsidy is specific if it is an export subsidy described in subparagraph (B) or an import substitution subsidy described in subparagraph (C), or if it is determined to be specific pursuant to subparagraph (D).

"(B) EXPORT SUBSIDY.—An export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as 1 of 2 or more conditions.

"(C) IMPORT SUBSTITUTION SUBSIDY.—An import substitution subsidy is a subsidy that is contingent upon the use of domestic goods over imported goods, alone or as 1 of 2 or more conditions.

"(D) DOMESTIC SUBSIDY.—In determining whether a subsidy (other than a subsidy described in subparagraph (B) or (C)) is a specific subsidy, in law or in fact, to an enterprise or industry within the jurisdiction of the authority providing the subsidy, the following guidelines shall apply:

"(i) Where the authority providing the subsidy, or the legislation pursuant to which the authority operates, expressly limits access to the subsidy to an enterprise or industry, the subsidy is specific as a matter of law.

"(ii) Where the authority providing the subsidy, or the legislation pursuant to which the authority operates, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, the subsidy is not specific as a matter of law, if—

"(I) eligibility is automatic,

"(II) the criteria or conditions for eligibility are strictly followed, and

"(III) the criteria or conditions are clearly set forth in the relevant statute, regulation, or other official document so as to be capable of verification.

For purposes of this clause, the term 'objective criteria or conditions' means criteria or conditions that are neutral and that do not favor one enterprise or industry over another.

"(iii) Where there are reasons to believe that a subsidy may be specific as a matter of fact, the subsidy is specific if one or more of the following factors exist:

"(I) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number.

"(II) An enterprise or industry is a predominant user of the subsidy.

"(III) An enterprise or industry receives a disproportionately large amount of the subsidy.

"(IV) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

In evaluating the factors set forth in subclauses (I), (II), (III), and (IV), the administering authority shall take into account the extent of diversification of economic activities within the jurisdiction of the authority providing the subsidy, and the length of time during which the subsidy program has been in operation.

"(iv) Where a subsidy is limited to an enterprise or industry located within a designated geographical region within the jurisdiction of the authority providing the subsidy, the subsidy is specific.

For purposes of this paragraph and paragraph (5B), any reference to an enterprise or industry is a reference to a foreign enterprise or foreign industry and includes a group of such enterprises or industries.

"(5B) CATEGORIES OF NONCOUNTERVAILABLE SUBSIDIES.—

"(A) IN GENERAL.—Notwithstanding the provisions of paragraphs (5) and (5A), in the case of merchandise imported from a Subsidies Agreement country, a subsidy shall be treated as noncountervailable if the administering authority determines in an investigation under subtitle A or a review under subtitle C that the subsidy meets all of the criteria described in subparagraph (B), (C), or (D), as the case may be, or the provisions of subparagraph (E)(i) apply.

"(B) RESEARCH SUBSIDY.—

"(i) IN GENERAL.—Except for a subsidy provided on the manufacture, production, or export of civil aircraft, a subsidy for research activities conducted by

a person, or by a higher education or research establishment on a contract basis with a person, shall be treated as noncountervailable, if the subsidy covers not more than 75 percent of the costs of industrial research or not more than 50 percent of the costs of precompetitive development activity, and such subsidy is limited exclusively to—

"(I) the costs of researchers, technicians, and other supporting staff employed exclusively in the research activity,

"(II) the costs of instruments, equipment, land, or buildings that are used exclusively and permanently (except when disposed of on a commercial basis) for the research activity,

"(III) the costs of consultancy and equivalent services used exclusively for the research activity, including costs for bought-in research, technical knowledge, and patents,

"(IV) additional overhead costs incurred directly as a result of the research activity, and

"(V) other operating costs (such as materials and supplies) incurred directly as a result of the research activity.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) INDUSTRIAL RESEARCH.—The term 'industrial research' means planned search or critical investigation aimed at the discovery of new knowledge, with the objective that such knowledge may be useful in developing new products, processes, or services, or in bringing about a significant improvement to existing products, processes, or services.

"(II) PRECOMPETITIVE DEVELOPMENT ACTIVITY.—The term 'precompetitive development activity' means the translation of industrial research findings into a plan, blueprint, or design for new, modified, or improved products, processes, or services, whether intended for sale or use, including the creation of a first prototype that would not be capable of commercial use. The term also may include the conceptual formulation and design of products, processes, or services alternatives and initial demonstration or pilot projects, if these same projects cannot be converted or used for industrial application or commercial exploitation. The term does not include routine or periodic alterations to existing products, production lines, manufacturing processes, services, or other ongoing operations even if those alterations may represent improvements.

"(iii) CALCULATION RULES.—

"(I) IN GENERAL.—In the case of a research activity that spans both industrial research and precompetitive development activity, the allowable level of the noncountervailable subsidy shall not exceed 62.5 percent of the costs set forth in

subclauses (I), (II), (III), (IV), and (V) of clause (i).

"(II) TOTAL ELIGIBLE COSTS.—The allowable level of a noncountervailable subsidy described in clause (i) shall be based on the total eligible costs incurred over the duration of a particular project.

"(C) SUBSIDY TO DISADVANTAGED REGIONS.—

"(i) IN GENERAL.—A subsidy provided, pursuant to a general framework of regional development, to a person located in a disadvantaged region within a country shall be treated as noncountervailable, if it is not specific (within the meaning of paragraph (5A)) within eligible regions and if the following conditions are met:

"(I) Each region identified as disadvantaged within the territory of a country is a clearly designated, contiguous geographical area with a definable economic and administrative identity.

"(II) Each region is considered a disadvantaged region on the basis of neutral and objective criteria indicating that the region is disadvantaged because of more than temporary circumstances, and such criteria are clearly stated in the relevant statute, regulation, or other official document so as to be capable of verification.

"(III) The criteria described in subclause (II) include a measurement of economic development.

"(IV) Programs provided within a general framework of regional development include ceilings on the amount of assistance that can be granted to a subsidized project. Such ceilings are differentiated according to the different levels of development of assisted regions, and are expressed in terms of investment costs or costs of job creation. Within such ceilings, the distribution of assistance is sufficiently broad and even to avoid the predominant use of a subsidy by, or the provision of disproportionately large amounts of a subsidy to, an enterprise or industry as described in paragraph (5A)(D).

"(ii) MEASUREMENT OF ECONOMIC DEVELOPMENT.—For purposes of clause (i), the measurement of economic development shall be based on one or more of the following factors:

"(I) Per capita income, household per capita income, or per capita gross domestic product that does not exceed 85 percent of the average for the country subject to investigation or review.

"(II) An unemployment rate that is at least 110 percent of the average unemployment rate for the country subject to investigation or review.

The measurement of economic development shall cover a 3-year period, but may be a composite measurement and may include factors other than those set forth in this clause.

"(iii) DEFINITIONS.—For purposes of this subparagraph—

"(I) GENERAL FRAMEWORK OF REGIONAL DEVELOPMENT.—The term 'general framework of regional development' means that the regional subsidy programs are part of an internally consistent and generally applicable regional development policy, and that regional development subsidies are not granted in isolated geographical points having no, or virtually no, influence on the development of a region.

"(II) NEUTRAL AND OBJECTIVE CRITERIA.—The term 'neutral and objective criteria' means criteria that do not favor certain regions beyond what is appropriate for the elimination or reduction of regional disparities within the framework of the regional development policy.

"(D) SUBSIDY FOR ADAPTATION OF EXISTING FACILITIES TO NEW ENVIRONMENTAL REQUIREMENTS.—

"(i) IN GENERAL.—A subsidy that is provided to promote the adaptation of existing facilities to new environmental requirements that are imposed by statute or by regulation, and that result in greater constraints and financial burdens on the recipient of the subsidy, shall be treated as noncountervailable, if the subsidy—

"(I) is a one-time nonrecurring measure,

"(II) is limited to 20 percent of the cost of adaptation,

"(III) does not cover the cost of replacing and operating the subsidized investment, a cost that must be fully borne by the recipient,

"(IV) is directly linked and proportionate to the recipient's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings that may be achieved, and

"(V) is available to all persons that can adopt the new equipment or production processes.

"(ii) EXISTING FACILITIES.—For purposes of this subparagraph, the term 'existing facilities' means facilities that have been in operation for at least 2 years before the date on which the new environmental requirements are imposed.

"(E) NOTIFIED SUBSIDY PROGRAM.—

"(i) GENERAL RULE.—If a subsidy is provided pursuant to a program that has been notified in accordance with Article 8.3 of the Subsidies Agreement, the subsidy shall be treated as noncountervailable and shall not be subject to investigation or review under this title.

"(ii) EXCEPTION.—Notwithstanding clause (i), a subsidy shall be treated as countervailable if—

"(I) the Trade Representative notifies the administering authority that a determination has been made pursuant to Article 8.4 or 8.5 of the Subsidies Agreement that the subsidy, or the program pursuant to which the subsidy was provided, does not satisfy the conditions and criteria of Article 8.2 of the Subsidies Agreement; and

"(II) the subsidy is specific within the meaning of paragraph (5A).

"(F) CERTAIN SUBSIDIES ON AGRICULTURAL PRODUCTS.—Domestic support measures that are provided with respect to products listed in Annex 1 to the Agreement on Agriculture, and that the administering authority determines conform fully to the provisions of Annex 2 to that Agreement, shall be treated as noncountervailable. Upon request by the administering authority, the Trade Representative shall provide advice regarding the interpretation and application of Annex 2.

"(G) PROVISIONAL APPLICATION.—

"(i) Subparagraphs (B), (C), (D), and (E) shall not apply on or after the first day of the month that is 66 months after the WTO Agreement enters into force, unless the provisions of such subparagraphs are extended pursuant to section 282(c) of the Uruguay Round Agreements Act.

"(ii) Subparagraph (F) shall not apply to imports from a WTO member country at the end of the 9-year period beginning on January 1, 1995. The Trade Representative shall determine the precise termination date for each WTO member country in accordance with paragraph (i) of Article 1 of the Agreement on Agriculture and such date shall be notified to the administering authority.".

(b) NET COUNTERVAILABLE SUBSIDY.—Section 771(6) (19 U.S.C. 1677(6)) is amended by inserting "countervailable" before "subsidy" each place it appears in the text and in the heading.

PART 2—REPEAL OF SECTION 303 AND CONFORMING AMENDMENTS

SEC. 261. REPEAL OF SECTION 303.

(a) IN GENERAL.—Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is repealed effective on the effective date of this title.

(b) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, and other administrative actions—

(A) which have been issued pursuant to an investigation conducted under section 303 of the Tariff Act of 1930, and

(B) which are in effect on the effective date of this title, or were final before such date and are to become effective on or after such date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, the International Trade Commission, or a court of competent jurisdiction, or by operation of law. Except as provided in paragraph (3), such orders or determinations shall be subject to review under section 751 of the Tariff Act of 1930 and, to the extent applicable, investigation under section 753 of such Act (as added by this title).

(2) PROCEEDINGS NOT AFFECTED.—The provisions of subsection (a) shall not affect any proceedings, including notices

of proposed rulemaking, pending before the administering authority or the International Trade Commission on the effective date of this title with respect to such section 303. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, in accordance with such section 303 as in effect on the day before the effective date of this title and, except as provided in paragraph (3), shall be subject to review under section 751 of the Tariff Act of 1930 and, to the extent applicable, investigation under section 753 of such Act. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of subsection (a) shall not affect the review pursuant to section 516A of the Tariff Act of 1930 of a countervailing duty order issued pursuant to an investigation conducted under section 303 of such Act or a review of a countervailing duty order issued under section 751 of such Act, if such review is pending or the time for filing such review has not expired on the effective date of this title.

(c) DEFINITION OF ADMINISTERING AUTHORITY.—For purposes of this section, the term "administering authority" has the meaning given such term by section 771(1) of the Tariff Act of 1930.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) AMENDMENTS TO TRADE ACT OF 1974.—

(i) Section 331(d)(3) of the Trade Act of 1974 (19 U.S.C. 1303 note) is repealed.

(ii) Section 152(a)(2) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended by striking "(A) in the case of" and all that follows through "(B)".

(iii) Section 154(a) of the Trade Act of 1974 (19 U.S.C. 2194(a)) is amended by striking "or section 303(e) of the Tariff Act of 1930,".

(B) AMENDMENTS TO TARIFF ACT OF 1930.—The following sections of the Tariff Act of 1930 are amended:

(i) Section 315(d) (19 U.S.C. 1315(d)) is amended by inserting "(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 701" after "section 303".

(ii) Section 337(b)(3) (19 U.S.C. 1337(b)(3)) is amended—

(I) by striking "of section 303 or subtitle B of title VII of the Tariff Act of 1930" and inserting "of subtitle B of title VII of this Act",

(II) by striking "section 303, 671, or 673" and inserting "section 701 or 731",

(III) by striking "section 303, 701," and inserting "section 701",

(IV) by striking "of the Secretary under section 303 of this Act or", and

(V) by striking "matter within such section 303, 701, or" and inserting "matter within such section 701 or".

(iii) Section 701 (19 U.S.C. 1671) is amended by striking subsection (f).

(iv) Section 780(c)(1) (19 U.S.C. 1677i(c)(1)) is amended by striking ", 732(a), or 303" and inserting "or 732(a)".

(C) OTHER REFERENCES.—Any reference to section 303 in any other Federal law, Executive order, rule, or regulation shall be treated as a reference to section 303 of the Tariff Act of 1930 as in effect on the day before the effective date of title II of this Act.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the effective date of this title.

SEC. 262. IMPOSITION OF COUNTERVAILING DUTIES.

Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows:

"(a) GENERAL RULE.—If—

"(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States, and

"(2) in the case of merchandise imported from a Subsidies Agreement country, the Commission determines that—

"(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 that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation, then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net countervailable subsidy. For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

"(b) SUBSIDIES AGREEMENT COUNTRY.—For purposes of this title, the term 'Subsidies Agreement country' means—

"(1) a WTO member country,

"(2) a country which the President has determined has assumed obligations with respect to the United States which are substantially equivalent to the obligations under the Subsidies Agreement, or

"(3) a country with respect to which the President determines that—

"(A) there is an agreement in effect between the United States and that country which—

"(i) was in force on the date of the enactment of the Uruguay Round Agreements Act, and

"(ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States, and

"(B) the agreement described in subparagraph (A) does not expressly permit—

"(i) actions required or permitted by the GATT 1947 or GATT 1994, as defined in section 2(1) of the Uruguay Round Agreements Act, or required by the Congress, or

"(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

"(c) COUNTERVAILING DUTY INVESTIGATIONS INVOLVING IMPORTS NOT ENTITLED TO A MATERIAL INJURY DETERMINATION.—In the case of any article or merchandise imported from a country which is not a Subsidies Agreement country—

"(1) no determination by the Commission under section 703(a), 704, or 705(b) shall be required,

"(2) an investigation may not be suspended under section 704(c) or 704(l),

"(3) no determination as to the presence of critical circumstances shall be made under section 703(e) or 705(a)(2),

"(4) section 706(c) shall not apply,

"(5) any reference to a determination described in paragraph (1) or (3), or to the suspension of an investigation under section 704(c) or 704(l), shall be disregarded, and

"(6) section 751(c) shall not apply.".

SEC. 263. DE MINIMIS COUNTERVAILABLE SUBSIDY.

(a) PRELIMINARY DETERMINATIONS.—Section 703(b) (19 U.S.C. 1671b(b)) is amended by adding at the end the following new paragraph:

"(4) DE MINIMIS COUNTERVAILABLE SUBSIDY.—

"(A) GENERAL RULE.—In making a determination under this subsection, the administering authority shall disregard any de minimis countervailable subsidy. For purposes of the preceding sentence, a countervailable subsidy is de minimis if the administering authority determines that the aggregate of the net countervailable subsidies is less than 1 percent ad valorem or the equivalent specific rate for the subject merchandise.

"(B) EXCEPTION FOR DEVELOPING COUNTRIES.—In the case of subject merchandise imported from a Subsidies Agreement country (other than a country to which subparagraph (C) applies) designated by the Trade Representative as a developing country in accordance with section 771(36), a countervailable subsidy is de minimis if the administering authority determines that the aggregate of the net countervailable subsidies does not exceed 2 percent ad valorem or the equivalent specific rate for the subject merchandise.

"(C) CERTAIN OTHER DEVELOPING COUNTRIES.—In the case of subject merchandise imported from a Subsidies Agreement country that is—

"(i) a least developed country, as determined by the Trade Representative in accordance with section 771(36), or

"(ii) a developing country with respect to which the Trade Representative has notified the administering authority that the country has eliminated its export subsidies on an expedited basis within the meaning of Article 27.11 of the Subsidies Agreement,

subparagraph (B) shall be applied by substituting '3 percent' for '2 percent'.

"(D) LIMITATIONS ON APPLICATION OF SUBPARAGRAPH (C).—

"(i) IN GENERAL.—In the case of a country described in subparagraph (C)(i), the provisions of subparagraph (C) shall not apply after the date that is 8 years after the date the WTO Agreement enters into force.

"(ii) SPECIAL RULE FOR SUBPARAGRAPH (C)(ii) COUNTRIES.—In the case of a country described in subparagraph (C)(ii), the provisions of subparagraph (C) shall not apply after the earlier of—

"(I) the date that is 8 years after the date the WTO Agreement enters into force, or

"(II) the date on which the Trade Representative notifies the administering authority that such country is providing an export subsidy.".

(b) FINAL DETERMINATIONS.—Section 705(a) (19 U.S.C. 1671d(a)) is amended by adding at the end the following new paragraph:

"(3) DE MINIMIS COUNTERVAILABLE SUBSIDY.—In making a determination under this subsection, the administering authority shall disregard any countervailable subsidy that is de minimis as defined in section 703(b)(4).".

SEC. 264. DETERMINATION OF COUNTERVAILABLE SUBSIDY RATE.

(a) PRELIMINARY DETERMINATION.—Section 703(d) (19 U.S.C. 1673b(d)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (1), as amended by section 215(a)(1), as paragraph (2);

(3) by inserting "and" at the end of paragraph (2), as so redesignated; and

(4) by inserting before such paragraph (2) the following new paragraph:

"(1)(A) shall—

"(i) determine an estimated individual countervailable subsidy rate for each exporter and producer individually investigated, and, in accordance with section 705(c)(5), an estimated all-others rate for all exporters and producers not individually investigated and for new exporters and producers within the meaning of section 751(a)(2)(B), or

"(ii) if section 777A(e)(2)(B) applies, determine a single estimated country-wide subsidy rate, applicable to all exporters and producers, and

"(B) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated individual countervailable subsidy rate, the estimated all-others rate, or the estimated country-wide subsidy rate, whichever is applicable,".

(b) FINAL DETERMINATION.—

(1) IN GENERAL.—Section 705(c)(1) (19 U.S.C. 1671d(c)(1)) is amended—

(A) in subparagraph (B)—

(i) by redesignating such subparagraph as subparagraph (C); and

(ii) by striking "under paragraphs (1) and (2)" and all that follows through "security" and inserting "the suspension of liquidation under paragraph (2) of section 703(d)";

(B) by striking "and" at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) the administering authority shall—

"(I) determine an estimated individual countervailable subsidy rate for each exporter and producer individually investigated, and, in accordance with paragraph (5), an estimated all-others rate for all exporters and producers not individually investigated and for new exporters and producers within the meaning of section 751(a)(2)(B), or

"(II) if 777A(e)(2)(B) applies, determine a single estimated country-wide subsidy rate, applicable to all exporters and producers,

"(ii) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated individual countervailable subsidy rate, the estimated all-others rate, or the estimated country-wide subsidy rate, whichever is applicable, and".

(2) METHOD FOR DETERMINING COUNTERVAILABLE SUBSIDY RATE.—Section 705(c) (19 U.S.C. 1671d(c)) is amended by adding at the end the following new paragraph:

"(5) METHOD FOR DETERMINING THE ALL-OTHERS RATE AND THE COUNTRY-WIDE SUBSIDY RATE.—

"(A) ALL-OTHERS RATE.—

"(i) GENERAL RULE.—For purposes of this subsection and section 703(d), the all-others rate shall be an amount equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates determined entirely under section 776.

"(ii) EXCEPTION.—If the countervailable subsidy rates established for all exporters and producers individually investigated are zero or de minimis rates, or are determined entirely under section 776, the administering authority may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated.

"(B) COUNTRY-WIDE SUBSIDY RATE.—The administering authority may calculate a single country-wide subsidy rate,

applicable to all exporters and producers, if the administering authority limits its examination pursuant to section 777A(e)(2)(B). The estimated country-wide rate determined under section 703(d)(1)(A)(ii) or paragraph (1)(B)(i)(II) of this subsection shall be based on industry-wide data regarding the use of subsidies determined to be countervailable.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 703(b)(2) is amended—

(A) by striking "subsection (b)(1)" and inserting "paragraph (1)",

(B) by striking "subsection 702(b)(3)" and inserting "section 702(b)(3)",

(C) by striking "subsection 703(b)(1)" and inserting "paragraph (1)", and

(D) by striking "section 703(c)" and inserting "subsection (c) of this section".

(2) Section 703(e)(2) is amended by striking "subsection (d)(1)" and inserting "subsection (d)(2)".

(3) Section 704(f)(2)(A) is amended—

(A) in clause (i), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in clause (iii), by striking "section 703(d)(1)" and inserting "section 703(d)(1)(B)".

(4) Section 704(f)(2)(B) is amended—

(A) by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(5) Section 704(h)(3) is amended—

(A) in subparagraph (A), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in subparagraph (B), by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(6) Section 704(i)(1)(A) is amended by striking "section 703(d)(1)" and inserting "section 703(d)(2)".

(7) Section 705(c)(2) is amended—

(A) in subparagraph (A), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in subparagraph (B), by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(8) Section 705(c)(3)(B) is amended by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(9) Section 706(b)(1) is amended by striking "section 703(d)(1)" each place it appears and inserting "section 703(d)(2)".

(10) Section 707(a) is amended—

(A) by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)", and

(B) by striking "Section 703(d)(2)" in the heading and inserting "Section 703(d)(1)(B)".

(11) Section 708 is amended by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

SEC. 265. ASSESSMENT OF COUNTERVAILING DUTY.

Section 706(a) (19 U.S.C. 1671e(a)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 266. NATURE OF COUNTERVAILABLE SUBSIDY.

Section 771(7)(E)(i) (19 U.S.C. 1677(7)(E)(i)) is amended to read as follows:

"(i) NATURE OF COUNTERVAILABLE SUBSIDY.—In determining whether there is a threat of material injury, the Commission shall consider information provided to it by the administering authority regarding the nature of the countervailable subsidy granted by a foreign country (particularly whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and the effects likely to be caused by the countervailable subsidy.".

SEC. 267. DEFINITION OF DEVELOPING AND LEAST-DEVELOPED COUNTRY.

Section 771 (19 U.S.C. 1677), as amended, is amended by adding at the end the following new paragraph:

"(36) DEVELOPING AND LEAST DEVELOPED COUNTRY.—

"(A) DEVELOPING COUNTRY.—The term 'developing country' means a country designated as a developing country by the Trade Representative.

"(B) LEAST DEVELOPED COUNTRY.—The term 'least developed country' means a country which the Trade Representative determines is—

"(i) a country referred to as a least developed country within the meaning of paragraph (a) of Annex VII to the Subsidies Agreement, or

"(ii) any other country listed in Annex VII to the Subsidies Agreement, but only if the country has a per capita gross national product of less than $1,000 per annum as measured by the most recent data available from the World Bank.

"(C) PUBLICATION OF LIST.—The Trade Representative shall publish in the Federal Register, and update as necessary, a list of—

"(i) developing countries that have eliminated their export subsidies on an expedited basis within the meaning of Article 27.11 of the Subsidies Agreement, and

"(ii) countries determined by the Trade Representative to be least developed or developing countries.

"(D) FACTORS TO CONSIDER.—In determining whether a country is a developing country under subparagraph (A), the Trade Representative shall consider such economic, trade, and other factors which the Trade Representative considers appropriate, including the level of economic development of such country (the assessment of which shall include a review of the country's per capita gross national product) and the country's share of world trade.

"(E) LIMITATION ON DESIGNATION.—A determination that a country is a developing or least developed country pursuant to this paragraph shall be for purposes of this title only and shall not affect the determination of a country's status as a developing or least developed country with respect to any other law.".

SEC. 268. UPSTREAM SUBSIDIES.

Section 771A(a) (19 U.S.C. 1677–1(a)) is amended—

(1) by striking the matter preceding paragraph (1) and paragraph (1) and inserting the following:

"(a) DEFINITION.—The term 'upstream subsidy' means any countervailable subsidy, other than an export subsidy, that—

"(1) is paid or bestowed by an authority (as defined in section 771(5)) with respect to a product (hereafter in this section referred to as an 'input product') that is used in the same country as the authority in the manufacture or production of merchandise which is the subject of a countervailing duty proceeding;", and

(2) in the flush sentence at the end thereof, by inserting "countervailable" before "subsidy".

SEC. 269. SAMPLING AND AVERAGING; DETERMINATION OF COUNTERVAILABLE SUBSIDY RATE.

(a) IN GENERAL.—Section 777A (19 U.S.C. 1677f–1), as amended by section 229, is amended by adding at the end the following new subsection:

"(e) DETERMINATION OF COUNTERVAILABLE SUBSIDY RATE.—

"(1) GENERAL RULE.—In determining countervailable subsidy rates under section 703(d), 705(c), or 751(a), the administering authority shall determine an individual countervailable subsidy rate for each known exporter or producer of the subject merchandise.

"(2) EXCEPTION.—If the administering authority determines that it is not practicable to determine individual countervailable subsidy rates under paragraph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may—

"(A) determine individual countervailable subsidy rates for a reasonable number of exporters or producers by limiting its examination to—

"(i) a sample of exporters or producers that the administering authority determines is statistically valid based on the information available to the administering authority at the time of selection, or

"(ii) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that the administering authority determines can be reasonably examined; or

"(B) determine a single country-wide subsidy rate to be applied to all exporters and producers.

The individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5).".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 777A, as amended by section 229, is amended by inserting "**AND COUNTERVAILABLE SUBSIDY RATE**" after "**MARGIN**".

(2) The table of contents for title VII is amended by inserting "; determination of weighted average dumping margin and countervailable subsidy rate" after "averaging" in the item relating to section 777A.

SEC. 270. CONFORMING AMENDMENTS.

(a) COUNTERVAILABLE SUBSIDY.—

(1) Except as provided in paragraph (2), each of the following sections is amended by striking "subsidy" each place it appears in the text and in the heading and inserting "countervailable subsidy":

(A) Section 702(e) (19 U.S.C. 1671a(e)).

(B) Section 703(b)(1) (19 U.S.C. 1671b(b)(1)).

(C) Section 703(b)(2) (19 U.S.C. 1671b(b)(2)).

(D) Section 703(c)(1)(B)(i)(I) (19 U.S.C. 1671b(c)(1)(B)(i)(I)).

(E) Section 704 (19 U.S.C. 1671c).

(F) Section 705(a)(1) (19 U.S.C. 1671d(a)(1)).

(G) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)).

(H) Section 706(a)(1) (19 U.S.C. 1671e(a)(1)).

(I) Section 761 (19 U.S.C. 1676).

(J) Section 762 (19 U.S.C. 1676a).

(K) Section 771A(b) (19 U.S.C. 1677–1(b)).

(L) Section 771A(c) (19 U.S.C. 1677–1(c)).

(M) Section 780(d)(1)(A)(ii) (19 U.S.C. 1677i(d)(1)(A)(ii)).

(N) Section 516A(a)(2)(B)(iv) (19 U.S.C. 1516a(a)(2)(B)(iv)).

(2)(A) The heading for section 704(b) (19 U.S.C. 1671c(b)) is amended by striking "Subsidy" and inserting "Countervailable Subsidy".

(B) The heading for section 771(A)(c) (19 U.S.C. 1677–1(c)) is amended by striking "Subsidy" and inserting "Countervailable Subsidy".

(b) COUNTERVAILABLE SUBSIDIES.—

(1) Except as provided in paragraph (2), each of the following sections is amended by striking "subsidies" each place it appears in the text and in the heading and inserting "countervailable subsidies":

(A) Section 701(d) (19 U.S.C. 1671(d)).

(B) Section 703(c)(1)(B)(i)(III) (19 U.S.C. 1671b(c)(1)(B)(i)(III)).

(C) Section 761 (19 U.S.C. 1676).

(D) Section 771B (19 U.S.C. 1677–2).

(2) The heading for section 761(a) and section 771B (19 U.S.C. 1676(a) and 1677–2) are each amended by striking "Subsidies" and inserting "Countervailable Subsidies".

(c) OTHER CONFORMING AMENDMENTS.—

(1) The heading for section 704(b) (19 U.S.C. 1671c(b)) is amended by striking "Subsidized Merchandise" and inserting "Subject Merchandise".

(2) Subparagraphs (C) and (D) of section 771(4) (19 U.S.C. 1677(4) (C) and (D)) are amended by striking "subsidized or" each place it appears and inserting "or imports of merchandise benefiting from a countervailable subsidy" after "imports".

(3) Section 771A (19 U.S.C. 1677–1), as amended, is amended in subsection (c), by striking "subsidization" and inserting "the countervailable subsidy".

(4) The table of contents for title VII is amended—

(A) in the item relating to section 771B, by inserting "countervailable" before "subsidies", and

(B) in the item relating to section 775, by striking "Subsidy" and inserting "Countervailable subsidy".

(d) SUBSIDIES AGREEMENT.—Section 702(e) (19 U.S.C. 1671a(e)) is amended by striking "Agreement" and inserting "Subsidies Agreement".

(e) SUBSIDIES AGREEMENT AND AGREEMENT ON AGRICULTURE.—Section 771(8) (19 U.S.C. 1677(8)) is amended to read as follows:

"(8) SUBSIDIES AGREEMENT; AGREEMENT ON AGRICULTURE.—

"(A) SUBSIDIES AGREEMENT.—The term 'Subsidies Agreement' means the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act.

"(B) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act.".

PART 3—SECTION 303 INJURY INVESTIGATIONS

SEC. 271. SPECIAL RULES FOR INJURY INVESTIGATIONS FOR CERTAIN SECTION 303 COUNTERVAILING DUTY ORDERS AND INVESTIGATIONS.

(a) IN GENERAL.—Chapter 1 of subtitle C of title VII, as amended, is amended by inserting after section 752 the following new section:

"SEC. 753. SPECIAL RULES FOR INJURY INVESTIGATIONS FOR CERTAIN SECTION 303 COUNTERVAILING DUTY ORDERS AND INVESTIGATIONS.

"(a) IN GENERAL.—

"(1) INVESTIGATION BY THE COMMISSION UPON REQUEST.—In the case of a countervailing duty order described in paragraph (2), which—

"(A) applies to merchandise that is the product of a Subsidies Agreement country, and

"(B)(i) is in effect on the date on which such country becomes a Subsidies Agreement country, or

"(ii) is issued on a date that is after the date described in clause (i) pursuant to a court order in an action brought under section 516A,

the Commission, upon receipt of a request from an interested party described in section 771(9) (C), (D), (E), (F), or (G) for an injury investigation with respect to such order, shall initiate an investigation and shall determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked.

"(2) DESCRIPTION OF COUNTERVAILING DUTY ORDERS.—A countervailing duty order described in this paragraph is an order issued under section 303 with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time such order was issued.

"(3) REQUIREMENTS OF REQUEST FOR INVESTIGATION.—A request for an investigation under this subsection shall be submitted—

"(A) in the case of an order described in paragraph (1)(B)(i), within 6 months after the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

"(B) in the case of an order described in paragraph (1)(B)(ii), within 6 months after the date the order is issued.

"(4) SUSPENSION OF LIQUIDATION.—With respect to entries of subject merchandise made on or after—

"(A) in the case of an order described in paragraph (1)(B)(i), the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

"(B) in the case of an order described in paragraph (1)(B)(ii), the date on which the order is issued,

liquidation shall be suspended at the cash deposit rate in effect on the date described in subparagraph (A) or (B) (whichever is applicable).

"(b) INVESTIGATION PROCEDURE AND SCHEDULE.—

"(1) COMMISSION PROCEDURE.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the provisions of this title regarding evidence in and procedures for investigations conducted under subtitle A shall apply to investigations conducted by the Commission under this section.

"(B) TIME FOR COMMISSION DETERMINATION.—Except as otherwise provided in subparagraph (C), the Commission shall issue its determination under subsection (a)(1), to the extent possible, not later than 1 year after the date on which the investigation is initiated under this section.

"(C) SPECIAL RULE TO PERMIT ADMINISTRATIVE FLEXIBILITY.—In the case of requests for investigations received under this section within 1 year after the date on which the WTO Agreement enters into force with respect to the United States, the Commission may, after consulting with the administering authority, initiate its investigations in a manner that results in determinations being made in all such investigations during the 4-year period beginning on such date.

"(2) NET COUNTERVAILABLE SUBSIDY; NATURE OF SUBSIDY.—

"(A) NET COUNTERVAILABLE SUBSIDY.—The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order which is the subject of the investigation is revoked. The administering authority normally shall choose a net countervailable subsidy that was determined under section 705 or subsection (a) or (b)(1) of section 751. If the Commission considers the magnitude of the net countervailable subsidy in making its determination under this section, the Commission shall use the net countervailable subsidy provided by the administering authority.

"(B) NATURE OF SUBSIDY.—The administering authority shall inform the Commission of, and the Commission, in making its determination under this section, shall consider, the nature of the countervailable subsidy and whether the countervailable subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement.

"(3) EFFECT OF COMMISSION DETERMINATION.—

"(A) AFFIRMATIVE DETERMINATION.—Upon being notified by the Commission that it has made an affirmative determination under subsection (a)(1)—

"(i) the administering authority shall order the termination of the suspension of liquidation required pursuant to subsection (a)(4), and

"(ii) the countervailing duty order shall remain in effect until revoked, in whole or in part, under section 751(d).

For purposes of section 751(c), a countervailing duty order described in this section shall be treated as issued on the date of publication of the Commission's determination under this subsection.

"(B) NEGATIVE DETERMINATION.—

"(i) IN GENERAL.—Upon being notified by the Commission that it has made a negative determination under subsection (a)(1), the administering authority shall revoke the countervailing duty order, and shall refund, with interest, any estimated countervailing duties collected during the period liquidation was suspended pursuant to subsection (a)(4).

"(ii) LIMITATION ON NEGATIVE DETERMINATION.—A determination by the Commission that revocation of the order is not likely to result in material injury to an industry by reason of imports of the subject merchandise shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States that were specifically intended to offset the countervailable subsidy received.

"(4) COUNTERVAILING DUTY ORDERS WITH RESPECT TO WHICH NO REQUEST FOR INJURY INVESTIGATION IS MADE.—If, with respect to a countervailing duty order described in subsection (a), a request for an investigation is not made within the time required by subsection (a)(3), the Commission shall notify the administering authority that a negative determination has been made under subsection (a) and the provisions of paragraph (3)(B) shall apply with respect to the order.

"(c) PENDING AND SUSPENDED COUNTERVAILING DUTY INVESTIGATIONS.—If, on the date on which a country becomes a Subsidies Agreement country, there is a countervailing duty investigation in progress or suspended under section 303 that applies to merchandise which is a product of that country and with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time the investigation was initiated, the Commission shall—

"(1) in the case of an investigation in progress, make a final determination under section 705(b) within 75 days after the date of an affirmative final determination, if any, by the administering authority,

"(2) in the case of a suspended investigation to which section 704(i)(1)(B) applies, make a final determination under section 705(b) within 120 days after receiving notice from the administering authority of the resumption of the investigation pursuant to section 704(i), or within 45 days after the date of an affirmative final determination, if any, by the administering authority, whichever is later, or

"(3) in the case of a suspended investigation to which section 704(i)(1)(C) applies, treat the countervailing duty order issued pursuant to such section as if it were—

"(A) an order issued under subsection (a)(1)(B)(ii) for purposes of subsection (a)(3); and

"(B) an order issued under subsection (a)(1)(B)(i) for purposes of subsection (a)(4).

"(d) PUBLICATION IN FEDERAL REGISTER.—The administering authority or the Commission, as the case may be, shall publish in the Federal Register a notice of the initiation of any investigation, and a notice of any determination or revocation, made pursuant to this section.

"(e) REQUEST FOR SIMULTANEOUS EXPEDITED REVIEW UNDER SECTION 751(c).—

"(1) GENERAL RULE.—

"(A) REQUESTS FOR REVIEWS.—Notwithstanding section 751(c)(6)(A) and except as provided in subparagraph (B), an interested party may request a review of an order under section 751(c) at the same time the party requests an investigation under subsection (a), if the order involves the same or comparable subject merchandise. Upon receipt of such request, the administering authority, after consulting with the Commission, shall initiate a review of the order under section 751(c). The Commission shall combine such review with the investigation under this section.

"(B) EXCEPTION.—If the administering authority determines that the interested party who requested an investigation under this section is a related party or an importer within the meaning of section 771(4)(B), the administering authority may decline a request by such party to initiate a review of an order under section 751(c) which involves the same or comparable subject merchandise.

"(2) CUMULATION.—If a review under section 751(c) is initiated under paragraph (1), such review shall be treated as having been initiated on the same day as the investigation under this section, and the Commission may, in accordance with section 771(7)(G), cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which such investigations are treated as initiated on the same day.

"(3) TIME AND PROCEDURE FOR COMMISSION DETERMINATION.—The Commission shall render its determination in the investigation conducted under this section at the same time as the Commission's determination is made in the review under section 751(c) that is initiated pursuant to this subsection. The Commission shall in all other respects apply the procedures and standards set forth in section 751(c) to such section 751(c) reviews.".

(b) REVIEW OF DETERMINATIONS.—Section 516A(a)(2) (19 U.S.C. 1516a(a)(2)) is amended—

(1) in subparagraph (A)(i)(I), by striking "or (v)" and inserting "(v), or (viii)", and

(2) in subparagraph (B), by adding at the end the following:

"(viii) A determination by the Commission under section 753(a)(1).".

(c) CONFORMING AMENDMENT.—The table of contents for title VII, as amended, is amended by inserting after the item relating to section 752 the following new item:

"Sec. 753. Special rules for injury investigations for certain section 303 countervailing duty orders and investigations.".

PART 4—ENFORCEMENT OF UNITED STATES RIGHTS UNDER THE SUBSIDIES AGREEMENT

SEC. 281. SUBSIDIES ENFORCEMENT.

(a) ASSISTANCE REGARDING MULTILATERAL SUBSIDY REMEDIES.—The administering authority shall provide information to the public upon request, and, to the extent feasible, assistance and advice to interested parties concerning—

(1) remedies and benefits available under relevant provisions of the Subsidies Agreement, and

(2) the procedures relating to such remedies and benefits.

(b) PROHIBITED SUBSIDIES.—

(1) NOTIFICATION OF TRADE REPRESENTATIVE.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, the administering authority shall notify the Trade Representative and shall provide the Trade Representative with the information upon which the administering authority based its determination.

(2) REQUEST BY INTERESTED PARTY REGARDING PROHIBITED SUBSIDY.—An interested party may request that the administering authority determine if there is reason to believe that merchandise produced in a WTO member country is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement. The request shall contain such information as the administering authority may require to support the allegations contained in the request. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that there is reason to believe that such merchandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(c) SUBSIDIES ACTIONABLE UNDER THE AGREEMENT.—

(1) IN GENERAL.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy described in Article 6.1 of the Subsidies Agreement, the administering authority shall notify the Trade Representative, and shall provide the Trade Representative with the information upon which the administering authority based its determination.

(2) REQUEST BY INTERESTED PARTY REGARDING ADVERSE EFFECTS.—An interested party may request the administering authority to determine if there is reason to believe that a subsidy which is actionable under the Subsidies Agreement is causing adverse effects. The request shall contain such information as the administering authority may require to support the allegations contained in the request. At the request of the administering authority, the Commission shall assist

the administering authority in analyzing the information pertaining to the existence of such adverse effects. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that there is reason to believe that a subsidy which is actionable under the Subsidies Agreement is causing adverse effects, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(d) INITIATION OF SECTION 301 INVESTIGATION.—On the basis of the notification and information provided by the administering authority pursuant to subsection (b) or (c), such other information as the Trade Representative may have or obtain, and where applicable, after consultation with an interested party referred to in subsection (b)(2) or (c)(2), the Trade Representative shall, unless such interested party objects, determine as expeditiously as possible, in accordance with the procedures in section 302(b)(1) of the Trade Act of 1974 (19 U.S.C. 2412(b)(1)), whether to initiate an investigation pursuant to title III of that Act (19 U.S.C. 2411 et seq.). At the request of the Trade Representative, the administering authority and the Commission shall assist the Trade Representative in an investigation initiated pursuant to this subsection.

(e) NONACTIONABLE SUBSIDIES.—

(1) COMPLIANCE WITH ARTICLE 8 OF THE SUBSIDIES AGREEMENT.—

(A) MONITORING.—In order to monitor whether a subsidy meets the conditions and criteria described in Article 8.2 of the Subsidies Agreement and is nonactionable, the Trade Representative shall provide the administering authority on a timely basis with any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program. The administering authority shall review such information and reports, and where appropriate, shall recommend to the Trade Representative that the Trade Representative seek pursuant to Article 8.3 or 8.4 of the Subsidies Agreement additional information regarding the notified subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority has reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(B) REQUEST BY INTERESTED PARTY REGARDING VIOLATION OF ARTICLE 8.—An interested party may request the administering authority to determine if there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists. The request shall contain such information as the administering authority may require to support the allegations contained in the request. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that additional information is needed, the administering authority shall recommend to the Trade Representative that the Trade Representative seek, pursuant to Article 8.3 or 8.4 of the Subsidies Agreement, additional information regarding the particular noti-

fied subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(C) ACTION BY TRADE REPRESENTATIVE.—

(i) If the Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (A) or (B), and such other information as the Trade Representative may have or obtain, and after consulting with the interested party referred to in subparagraph (B) and appropriate domestic industries, determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the Trade Representative shall invoke the procedures of Article 8.4 or 8.5 of the Subsidies Agreement.

(ii) For purposes of clause (i), the Trade Representative shall determine that there is reason to believe that a violation of Article 8 exists in any case in which the Trade Representative determines that a notified subsidy program or a subsidy granted pursuant to a notified subsidy program does not satisfy the conditions and criteria required for a nonactionable subsidy program under this Act, the Subsidies Agreement, and the statement of administrative action approved under section 101(a).

(D) NOTIFICATION OF ADMINISTERING AUTHORITY.—The Trade Representative shall notify the administering authority whenever a violation of Article 8 of the Subsidies Agreement has been found to exist pursuant to Article 8.4 or 8.5 of that Agreement.

(2) SERIOUS ADVERSE EFFECTS.—

(A) REQUEST BY INTERESTED PARTY.—An interested party may request the administering authority to determine if there is reason to believe that serious adverse effects resulting from a program referred to in Article 8.2 of the Subsidies Agreement exist. The request shall contain such information as the administering authority may require to support the allegations contained in the request.

(B) ACTION BY ADMINISTERING AUTHORITY.—Within 90 days after receipt of the request described in subparagraph (A), the administering authority, after analyzing the request and other information reasonably available to the administering authority, shall determine if there is reason to believe that serious adverse effects resulting from a program referred to in Article 8.2 of the Subsidies Agreement exist. If the determination of the administering authority is affirmative, it shall so notify the Trade Representative and shall include supporting information with the notification. The Commission shall assist the administering authority in analyzing the information pertaining to the existence of such serious adverse effects if the administering authority requests the Commission's assistance. If the subsidy program that is alleged to result in serious

adverse effects has been the subject of a countervailing duty investigation or review under subtitle A or C of title VII of the Tariff Act of 1930, the administering authority shall take into account the determinations made by the administering authority and the Commission in such investigation or review and the administering authority shall complete its analysis as expeditiously as possible.

(C) ACTION BY TRADE REPRESENTATIVE.—The Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (B), and such other information as the Trade Representative may have or obtain, shall determine as expeditiously as possible, but not later than 30 days after receipt of the notification provided by the administering authority, if there is reason to believe that serious adverse effects exist resulting from the subsidy program which is the subject of the administering authority's notification. The Trade Representative shall make an affirmative determination regarding the existence of such serious adverse effects unless the Trade Representative finds that the notification of the administering authority is not supported by the facts.

(D) CONSULTATIONS.—If the Trade Representative determines that there is reason to believe that serious adverse effects resulting from the subsidy program exist, the Trade Representative, unless the interested party referred to in subparagraph (A) objects, shall invoke the procedures of Article 9 of the Subsidies Agreement, and shall request consultations pursuant to Article 9.2 of the Subsidies Agreement with respect to such serious adverse effects. If such consultations have not resulted in a mutually acceptable solution within 60 days after the request is made for such consultations, the Trade Representative shall refer the matter to the Subsidies Committee pursuant to Article 9.3 of the Subsidies Agreement.

(E) DETERMINATION BY SUBSIDIES COMMITTEE.—If the Trade Representative determines that—

(i) the Subsidies Committee has been prevented from making an affirmative determination regarding the existence of serious adverse effects under Article 9 of the Subsidies Agreement by reason of the refusal of the WTO member country with respect to which the consultations have been invoked to join in an affirmative consensus—

(I) that such serious adverse effects exist, or

(II) regarding a recommendation to such WTO member country to modify the subsidy program in such a way as to remove the serious adverse effects, or

(ii) the Subsidies Committee has not presented its conclusions regarding the existence of such serious adverse effects within 120 days after the date the matter was referred to it, as required by Article 9.4 of the Subsidies Agreement,

the Trade Representative shall, within 30 days after such determination, make a determination under section 304(a)(1) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1))

regarding what action to take under section 301(a)(1)(A) of that Act.

(F) NONCOMPLIANCE WITH COMMITTEE RECOMMENDATION.—In the event that the Subsidies Committee makes a recommendation under Article 9.4 of the Subsidies Agreement and the WTO member country with respect to which such recommendation is made does not comply with such recommendation within 6 months after the date of the recommendation, the Trade Representative shall make a determination under section 304(a)(1) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)) regarding what action to take under section 301(a) of that Act.

(f) NOTIFICATION, CONSULTATION, AND PUBLICATION.—

(1) NOTIFICATION OF CONGRESS.—The Trade Representative shall submit promptly to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and other appropriate committees of the Congress any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program.

(2) PUBLICATION IN THE FEDERAL REGISTER.—The administering authority shall publish regularly in the Federal Register a summary notice of any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding notified subsidy programs.

(3) CONSULTATIONS WITH CONGRESS AND PRIVATE SECTOR.—The Trade Representative and the administering authority promptly shall consult with the committees referred to in paragraph (1), and with interested representatives of the private sector, regarding all information submitted or reports made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program.

(4) ANNUAL REPORT.—Not later than February 1 of each year beginning in 1996, the Trade Representative and the administering authority shall issue a joint report to the Congress detailing—

(A) the subsidies practices of major trading partners of the United States, including subsidies that are prohibited, are causing serious prejudice, or are nonactionable, under the Subsidies Agreement, and

(B) the monitoring and enforcement activities of the Trade Representative and the administering authority during the preceding calendar year which relate to subsidies practices.

(g) COOPERATION OF OTHER AGENCIES.—All agencies, departments, and independent agencies of the Federal Government shall cooperate fully with one another in carrying out the provisions of this section, and, upon the request of the administering authority, shall furnish to the administering authority all records, papers, and information in their possession which relate to the requirements of this section.

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

(1) ADVERSE EFFECTS.—The term "adverse effects" has the meaning given that term in Articles 5(a) and 5(c) of the Subsidies Agreement.

(2) ADMINISTERING AUTHORITY.—The term "administering authority" has the meaning given that term in section 771(1) of the Tariff Act of 1930 (19 U.S.C. 1677(1)).

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

(4) INTERESTED PARTY.—The term "interested party" means a party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A), (C), (D), (E), (F), or (G)).

(5) NONACTIONABLE SUBSIDY.—The term "nonactionable subsidy" means a subsidy described in Article 8.1(b) of the Subsidies Agreement.

(6) NOTIFIED SUBSIDY PROGRAM.—The term "notified subsidy program" means a subsidy program which has been notified pursuant to Article 8.3 of the Subsidies Agreement.

(7) SERIOUS ADVERSE EFFECTS.—The term "serious adverse effects" has the meaning given that term in Article 9.1 of the Subsidies Agreement.

(8) SUBSIDIES AGREEMENT.—The term "Subsidies Agreement" means the Agreement on Subsidies and Countervailing Measures described in section 771(8) of the Tariff Act of 1930 (19 U.S.C. 1677(8)).

(9) SUBSIDIES COMMITTEE.—The term "Subsidies Committee" means the committee established pursuant to Article 24 of the Subsidies Agreement.

(10) SUBSIDY.—The term "subsidy" has the meaning given that term in Article 1 of the Subsidies Agreement.

(11) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(12) VIOLATION OF ARTICLE 8.—The term "violation of Article 8" means the failure of a notified subsidy program or an individual subsidy granted pursuant to a notified subsidy program to meet the applicable conditions and criteria described in Article 8.2 of the Subsidies Agreement.

(i) TREATMENT OF PROPRIETARY INFORMATION.—Notwithstanding any other provision of law, the administering authority may provide the Trade Representative with a copy of proprietary information submitted to, or obtained by, the administering authority that the Trade Representative considers relevant in carrying out its responsibilities under this part. The Trade Representative shall protect from public disclosure proprietary information obtained from the administering authority under this part.

SEC. 282. REVIEW OF SUBSIDIES AGREEMENT.

(a) GENERAL OBJECTIVES.—The general objectives of the United States under this part are—

(1) to ensure that parts II and III of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) (hereafter in this section referred to as the "Subsidies Agreement") are effective in disciplining the use of subsidies and in remedying the adverse effects of subsidies, and

(2) to ensure that part IV of the Subsidies Agreement does not undermine the benefits derived from any other part of that Agreement.

(b) SPECIFIC OBJECTIVE.—The specific objective of the United States under this part shall be to create a mechanism which will

provide for an ongoing review of the operation of part IV of the Subsidies Agreement.

(c) SUNSET OF NONCOUNTERVAILABLE SUBSIDIES PROVISIONS.—

(1) IN GENERAL.—Subparagraphs (B), (C), (D), and (E) of section 771(5B) of the Tariff Act of 1930 shall cease to apply as provided in subparagraph (G)(i) of such section, unless, before the date referred to in such subparagraph (G)(i)—

(A) the Subsidies Committee determines to extend Articles 6.1, 8, and 9 of the Subsidies Agreement as in effect on the date on which the Subsidies Agreement enters into force or in a modified form, in accordance with Article 31 of such Agreement,

(B) the President consults with the Congress in accordance with paragraph (2), and

(C) an implementing bill is submitted and enacted into law in accordance with paragraphs (3) and (4).

(2) CONSULTATION WITH CONGRESS BEFORE SUBSIDIES COMMITTEE AGREES TO EXTEND.—Before a determination is made by the Subsidies Committee to extend Articles 6.1, 8, and 9 of the Subsidies Agreement, the President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding such extension.

(3) IMPLEMENTATION OF EXTENSION.—

(A) NOTIFICATION AND SUBMISSION.—Any extension of subparagraphs (B), (C), (D), and (E) of section 771(5B) of the Tariff Act of 1930 shall take effect if (and only if)—

(i) after the Subsidies Committee determines to extend Articles 6.1, 8, and 9 of the Subsidies Agreement, the President submits to the committees referred to in paragraph (2) a copy of the document describing the terms of such extension, together with—

(I) a draft of an implementing bill,

(II) a statement of any administrative action proposed to implement the extension, and

(III) the supporting information described in subparagraph (C); and

(ii) the implementing bill is enacted into law.

(B) IMPLEMENTING BILL.—The implementing bill referred to in subparagraph (A) shall contain only those provisions that are necessary or appropriate to implement an extension of the provisions of section 771(5B) (B), (C), (D), and (E) of the Tariff Act of 1930 as in effect on the day before the date of the enactment of the implementing bill or as modified to reflect the determination of the Subsidies Committee to extend Articles 6.1, 8, and 9 of the Subsidies Agreement.

(C) SUPPORTING INFORMATION.—The supporting information required under subparagraph (A)(i)(III) consists of—

(i) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(ii) a statement regarding—

(I) how the extension serves the interests of United States commerce, and

(II) why the implementing bill and proposed administrative action is required or appropriate to carry out the extension.

(4) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILL.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(A) in subsection (b)(1)—

(i) by inserting ", or with respect to an extension described in section 282(c)(3) of the Uruguay Round Agreements Act," after "trade agreements",

(ii) by striking "or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988" and inserting ", section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act", and

(iii) by inserting "or such extension" in subparagraphs (A) and (C) after "agreements" each place it appears, and

(B) in subsection (c)(1)—

(i) by inserting "or section 282 of the Uruguay Round Agreements Act" after "section 102", and

(ii) by inserting "or extension" after "agreement" each place it appears.

(5) REPORT BY THE TRADE REPRESENTATIVE.—Not later than the date referred to in section 771(5B)(G)(i) of the Tariff Act of 1930, the Trade Representative shall submit to the Congress a report setting forth the provisions of law which were enacted to implement Articles 6.1, 8, and 9 of the Subsidies Agreement and should be repealed or modified if such provisions are not extended.

(d) REVIEW OF THE OPERATION OF THE SUBSIDIES AGREEMENT.—The Secretary of Commerce, in consultation with other appropriate departments and agencies of the Federal Government, shall undertake an ongoing review of the operation of the Subsidies Agreement. The review shall address—

(1) the effectiveness of part II of the Subsidies Agreement in disciplining the use of subsidies which are prohibited under Article 3 of the Agreement,

(2) the effectiveness of part III and, in particular, Article 6.1 of the Subsidies Agreement, in remedying the adverse effects of subsidies which are actionable under the Agreement, and

(3) the extent to which the provisions of part IV of the Subsidies Agreement may have undermined the benefits derived from other parts of the Agreement, and, in particular—

(A) the extent to which WTO member countries have cooperated in reviewing and improving the operation of part IV of the Subsidies Agreement,

(B) the extent to which the provisions of Articles 8.4 and 8.5 of the Subsidies Agreement have been effective in identifying and remedying violations of the conditions and criteria described in Article 8.2 of the Agreement, and

(C) the extent to which the provisions of Article 9 of the Subsidies Agreement have been effective in remedying the serious adverse effects of subsidy programs described in Article 8.2 of the Agreement.

Not later than 4 years and 6 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report on the review required under this subsection.

SEC. 283. AMENDMENTS TO TITLE VII OF THE TARIFF ACT OF 1930.

(a) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Section 703(b) of the Tariff Act of 1930 (19 U.S.C. 1671b(b)), as amended, is amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF ARTICLE 8 VIOLATION.—If the only subsidy under investigation is a subsidy with respect to which the administering authority received notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement, paragraph (1) shall be applied by substituting '60 days' for '65 days'.".

(b) SUBSIDY PRACTICE DISCOVERED DURING A PROCEEDING.—Section 775 of the Tariff Act of 1930 (19 U.S.C. 1677d) is amended to read as follows:

"SEC. 775. COUNTERVAILABLE SUBSIDY PRACTICES DISCOVERED DURING A PROCEEDING.

"If, in the course of a proceeding under this title, the administering authority discovers a practice which appears to be a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition, or if the administering authority receives notice from the Trade Representative that a subsidy or subsidy program is in violation of Article 8 of the Subsidies Agreement, then the administering authority—

"(1) shall include the practice, subsidy, or subsidy program in the proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding, or

"(2) shall transfer the information (other than confidential information) concerning the practice, subsidy, or subsidy program to the library maintained under section 777(a)(1), if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to any other merchandise.".

(c) ADMINISTRATIVE REVIEWS.—Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675), as amended, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) REVIEWS TO IMPLEMENT RESULTS OF SUBSIDIES ENFORCEMENT PROCEEDING.—

"(1) VIOLATIONS OF ARTICLE 8 OF THE SUBSIDIES AGREEMENT.—If—

"(A) the administering authority receives notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement,

"(B) the administering authority has reason to believe that merchandise subject to an existing countervailing duty order or suspended investigation is benefiting from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement, and

"(C) no review pursuant to subsection (a)(1) is in progress,

the administering authority shall conduct a review of the order or suspended investigation to determine whether the subject merchandise benefits from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement. If the administering authority determines that the subject merchandise is benefiting from the subsidy or subsidy program, it shall make appropriate adjustments in the estimated duty to be deposited or appropriate revisions to the terms of the suspension agreement.

"(2) WITHDRAWAL OF SUBSIDY OR IMPOSITION OF COUNTERMEASURES.—If the Trade Representative notifies the administering authority that, pursuant to Article 4 or Article 7 of the Subsidies Agreement—

"(A)(i) the United States has imposed countermeasures, and

"(ii) such countermeasures are based on the effects in the United States of imports of merchandise that is the subject of a countervailing duty order, or

"(B) a WTO member country has withdrawn a countervailable subsidy provided with respect to merchandise subject to a countervailing duty order,

the administering authority shall conduct a review to determine if the amount of the estimated duty to be deposited should be adjusted or the order should be revoked.

"(3) EXPEDITED REVIEW.—The administering authority shall conduct reviews under this subsection on an expedited basis, and shall publish the results of such reviews in the Federal Register.".

Subtitle C—Effective Date

SEC. 291. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 261, the amendments made by this title shall take effect on the date described in subsection (b) and apply with respect to—

(1) investigations initiated—

(A) on the basis of petitions filed under section 702(b), 732(b), or 783(b) of the Tariff Act of 1930 after the date described in subsection (b), or

(B) by the administering authority under section 702(a) or 732(a) of such Act after such date,

(2) reviews initiated under section 751 of such Act—

(A) by the administering authority or the Commission on their own initiative after such date, or

(B) pursuant to a request filed after such date,

(3) investigations initiated under section 753 of such Act after such date,

(4) petitions filed under section 780 of such Act after such date, and

(5) inquiries initiated under section 781 of such Act—

(A) by the administering authority on its own initiative after such date, or

(B) pursuant to a request filed after such date.

(b) DATE DESCRIBED.—The date described in this subsection is the date on which the WTO Agreement (as defined in section 2(9)) enters into force with respect to the United States.

TITLE III—ADDITIONAL IMPLEMENTATION OF AGREEMENTS

Subtitle A—Safeguards

SEC. 301. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY INTERNATIONAL TRADE COMMISSION.

(a) TREATMENT OF CONFIDENTIAL INFORMATION.—Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended by adding at the end the following: "The Commission may request that parties providing confidential business information furnish nonconfidential summaries thereof or, if such parties indicate that the information in the submission cannot be summarized, the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.".

(b) ADMINISTRATIVE PROTECTIVE ORDERS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by adding at the end the following:

"(i) LIMITED DISCLOSURE OF CONFIDENTIAL BUSINESS INFORMATION UNDER PROTECTIVE ORDER.—The Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who are parties to an investigation under this section.".

(c) NOTICE OF PROCEEDINGS.—Section 202(b) of the Trade Act of 1974 (19 U.S.C. 2252(b)) is amended by striking paragraphs (3) and (4) and inserting the following:

"(3) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), to respond to the presentations of other parties and consumers, and otherwise to be heard.".

(d) CRITICAL CIRCUMSTANCES.—

(1) IN GENERAL.—Section 202(d)(2) of the Trade Act of 1974 (19 U.S.C. 2252(d)(2)) is amended to read as follows:

"(2)(A) When a petition filed under subsection (a) alleges that critical circumstances exist and requests that provisional relief be provided under this subsection with respect to imports of the article identified in the petition, the Commission shall, not later than 60 days after the petition containing the request was filed, determine, on the basis of available information, whether—

"(i) there is clear evidence that increased imports (either actual or relative to domestic production) of the article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article; and

"(ii) delay in taking action under this chapter would cause damage to that industry that would be difficult to repair.

"(B) If the determinations under subparagraph (A)(i) and (ii) are affirmative, the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury.

"(C) The Commission shall immediately report to the President its determinations under subparagraph (A)(i) and (ii) and, if the determinations are affirmative, the finding under subparagraph (B).

"(D) Within 30 days after receiving a report from the Commission under subparagraph (C) containing an affirmative determination under subparagraph (A)(i) and (ii), the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (B), shall proclaim, for a period not to exceed 200 days, such provisional relief that the President considers necessary to prevent or remedy the serious injury. Such relief shall take the form of an increase in, or the imposition of, a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury.".

(2) TIME LIMITS FOR DETERMINATIONS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended—

(A) in subsection (b)(2)—

(i) in subparagraph (A) by inserting "(180 days if the petition alleges that critical circumstances exist)" after "120 days"; and

(ii) in subparagraph (B) by inserting "(210 days if the petition alleges that critical circumstances exist)" after "150 days"; and

(B) in subsection (f)(1) by inserting "(240 days if the petition alleges that critical circumstances exist)" after "180 days".

(3) ACTION BY THE PRESIDENT.—Section 203(a)(4) of the Trade Act of 1974 (19 U.S.C. 2253(a)(4)) is amended—

(A) by striking "The" and inserting "(A) Subject to subparagraph (B), the";

(B) by inserting after "60 days" the following: "(50 days if the President has proclaimed provisional relief under section 202(d)(2)(D) with respect to the article concerned)"; and

(C) by striking "; except that" and all that follows through "received." and inserting a period and the following:

"(B) If a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received, except that, in a case in which the President has proclaimed provisional relief under section 202(d)(2)(D) with respect to the article concerned, action by the President under paragraph (1) may not be taken later than the 200th day after the provisional relief was proclaimed.".

(4) CONFORMING AMENDMENTS.—Section 202(d) of the Trade Act of 1974 (19 U.S.C. 2252(d)) is amended—

(A) in paragraph (3)—

(i) by striking "(2)(B)" and inserting "(2)(D)"; and

(ii) by striking "subsection (b)(1)" and inserting "paragraph (2)(A)"; and

(B) in paragraph (4)(A)(i) by inserting "or (2)(D)" after "(1)(G)".

(e) FACTORS IN MAKING DETERMINATIONS.—Section 202(c) of the Trade Act of 1974 (19 U.S.C. 2252(c)) is amended—

(1) in paragraph (1)(B)(i) by inserting "productivity," after "wages,"; and

(2) in paragraph (6)—

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

"(A)(i) The term 'domestic industry' means, with respect to an article, the producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article.

"(ii) The term 'domestic industry' includes producers located in the United States insular possessions."; and

(B) by adding at the end the following:

"(C) The term 'serious injury' means a significant overall impairment in the position of a domestic industry.

"(D) The term 'threat of serious injury' means serious injury that is clearly imminent.

(f) LIMITATIONS ON INVESTIGATIONS.—Section 202(h) of the Trade Act of 1974 (19 U.S.C. 2252(h)) is amended by adding at the end the following:

"(3)(A) Not later than the date on which the Textiles Agreement enters into force with respect to the United States, the Secretary of Commerce shall publish in the Federal Register a list of all articles that are subject to the Textiles Agreement. An investigation may be conducted under this section concerning imports of any article that is subject to the Textiles Agreement only if the United States has integrated that article into GATT 1994 pursuant to the Textiles Agreement, as set forth in notices published in the Federal Register by the Secretary of Commerce, including the notice published under section 331 of the Uruguay Round Agreements Act.

"(B) For purposes of this paragraph:

"(i) The term 'Textiles Agreement' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act.

"(ii) The term 'GATT 1994' has the meaning given that term in section 2(1)(B) of the Uruguay Round Agreements Act.".

SEC. 302. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

(a) AUTHORITY TO ENTER INTO INTERNATIONAL AGREEMENTS.—Section 203 of the Trade Act of 1974 (19 U.S.C. 2253) is amended—

(1) in subsection (a)(3)(E) by striking "orderly marketing";

(2) in subsection (d)(1) by striking "orderly marketing agreements" and inserting "agreements described in subsection (a)(3)(E)";

(3) in subsection (f)—

(A) in the subsection heading by striking "ORDERLY MARKETING AND OTHER" and inserting "CERTAIN";

(B) in paragraph (1)—

(i) by striking "orderly marketing agreements" the first place it appears and inserting "agreements of the type described in subsection (a)(3)(E)"; and

(ii) by striking "orderly marketing agreements with foreign countries" and inserting "agreements of the type described in subsection (a)(3)(E)"; and

(C) in paragraph (2) by striking "orderly marketing agreement implemented under subsection (a)" and inserting "agreement implemented under subsection (a)(3)(E)"; and

(4) in subsection (g)(2)—

(A) in the first sentence by striking "orderly marketing or other"; and

(B) in the second sentence—

(i) by striking "orderly marketing agreement" and inserting "agreement of the type described in subsection (a)(3)(E) that is"; and

(ii) by striking "agreements" and inserting "agreement".

(b) LIMITATIONS ON ACTIONS.—

(1) DURATION OF ACTIONS.—Section 203(e)(1) of the Trade Act of 1974 (19 U.S.C. 2253(e)(1)) is amended to read as follows:

"(1)(A) Subject to subparagraph (B), the duration of the period in which an action taken under this section may be in effect shall not exceed 4 years. Such period shall include the period, if any, in which provisional relief under section 202(d) was in effect.

"(B)(i) Subject to clause (ii), the President, after receiving an affirmative determination from the Commission under section 204(c) (or, if the Commission is equally divided in its determination, a determination which the President considers to be an affirmative determination of the Commission), may extend the effective period of any action under this section if the President determines that—

"(I) the action continues to be necessary to prevent or remedy the serious injury; and

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

"(ii) The effective period of any action under this section, including any extensions thereof, may not, in the aggregate, exceed 8 years.".

(2) LIMITATION ON QUANTITATIVE RESTRICTIONS.—Section 203(e)(4) of the Trade Act of 1974 (19 U.S.C. 2253(e)(4)) is amended to read as follows:

"(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the average quantity or value of such article entered into the United States in the most recent 3 years that are representative of imports of such article and for which data are available, unless the President finds that the importation of a different quantity or value is clearly justified in order to prevent or remedy the serious injury.".

(3) PHASING-DOWN OF ACTIONS.—Section 203(e)(5) of the Trade Act of 1974 (19 U.S.C. 2253(e)(5)) is amended to read as follows:

"(5) An action described in subsection (a)(3)(A), (B), or (C) that has an effective period of more than 1 year shall be phased down at regular intervals during the period in which the action is in effect.".

(4) LIMITATIONS ON NEW ACTIONS AND INVESTIGATIONS OF SAME ARTICLE.—(A) Section 203(e) of the Trade Act of 1974 (19 U.S.C. 2253(e)) is amended by adding at the end the following:

"(7)(A) If an article was the subject of an action under subparagraph (A), (B), (C), or (E) of subsection (a)(3), no new action may be taken under any of those subparagraphs with respect to such article for—

"(i) a period beginning on the date on which the previous action terminates that is equal to the period in which the previous action was in effect, or

"(ii) a period of 2 years beginning on the date on which the previous action terminates,

whichever is greater.

"(B) Notwithstanding subparagraph (A), if the previous action under subparagraph (A), (B), (C), or (E) of subsection (a)(3) with respect to an article was in effect for a period of 180 days or less, the President may take a new action under any of those subparagraphs with respect to such article if—

"(i) at least 1 year has elapsed since the previous action went into effect; and

"(ii) an action described in any of those subparagraphs has not been taken with respect to such article more than twice in the 5-year period immediately preceding the date on which the new action with respect to such article first becomes effective.".

(B) Section 202(h)(2) of the Trade Act of 1974 (19 U.S.C. 2252(h)(2)) is amended to read as follows:

"(2) No new investigation shall be conducted with respect to an article that is or has been the subject of an action under section 203(a)(3)(A), (B), (C), or (E) if the last day on which the President could take action under section 203 in the new investigation is a date earlier than that permitted under section 203(e)(7).".

(c) REPORTS ON MONITORING.—Section 204(a) of the Trade Act of 1974 (19 U.S.C. 2354(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) If the initial period during which the action taken under section 203 is in effect exceeds 3 years, or if an extension of such action exceeds 3 years, the Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than the date that is the mid-point of the initial period, and of each such extension, during which the action is in effect."; and

(2) in paragraph (4) by striking "extension,".

(d) INVESTIGATION OF EXTENSION OF ACTION.—Section 204 of the Trade Act of 1974 (19 U.S.C. 2254) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) EXTENSION OF ACTION.—

"(1) Upon request of the President, or upon petition on behalf of the industry concerned filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under section 203 is to terminate, the Commission shall investigate to determine whether action under section 203 continues to be necessary to prevent or remedy serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

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

"(3) The Commission shall transmit to the President a report on its investigation and determination under this subsection not later than 60 days before the action under section 203 is to terminate, unless the President specifies a different date.".

SEC. 303. MISCELLANEOUS AMENDMENTS.

Title II of the Trade Act of 1974 is amended as follows:

(1) Section 202(a)(2)(B)(ii) (19 U.S.C. 2252(a)(2)(B)(ii)) is amended by striking ", or at any time before the 150th day after the date of filing be amended to request,".

(2) Section 202(b)(1)(A) (19 U.S.C. 2252(b)(1)(A)) is amended by striking "(b)" and inserting "(a)".

(3) Section 202(d)(1) (19 U.S.C. 2252(d)(1)) is amended—

(A) in subparagraph (C)(i) by striking "paragraph (2)" and inserting "subparagraph (B)"; and

(B) by striking "or threat thereof" each place it appears in subparagraphs (E) and (G).

(4) Section 202(d)(4)(A)(i) (19 U.S.C. 2252(d)(4)(A)(i)) is amended by striking "203(a)" and inserting "202(b)".

(5) Section 202(c)(6) (19 U.S.C. 2252(c)(6)) is amended by striking "subsection" and inserting "section".

(6) Section 202(f)(2)(G)(ii) (19 U.S.C. 2252(f)(2)(G)(ii)) is amended by striking "is" and inserting "are".

(7) Section 203(a)(2)(C) (19 U.S.C. 2253(a)(2)(C)) is amended by striking "201(b)" and inserting "202(a)".

(8) Section 203(c) (19 U.S.C. 2253(c)) is amended by striking "(c)(2)" and inserting "(d)(2)".

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

(A) by striking "may be taken under subsection (a)(1)(A), (B), or (C) or under section 202(d)(2)(B)" and inserting "of a type described in subsection (a)(3)(A), (B), or (C) may be taken under subsection (a)(1), under section 202(d)(1)(G), or under section 202(d)(2)(D)"; and

(B) by striking "or threat thereof".

(10) Section 203(e)(6)(B) (19 U.S.C. 2253(e)(6)(B)) is amended—

(A) by striking "203(c)" and inserting "202(e)"; and

(B) by striking "203(a)" and inserting "202(b)".

SEC. 304. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 301(b).—The amendment made by section 301(b) takes effect on the date of the enactment of this Act.

Subtitle B—Foreign Trade Barriers and Unfair Trade Practices

SEC. 311. IDENTIFICATION OF FOREIGN ANTICOMPETITIVE PRACTICES.

(a) REPORT TO CONGRESS.—

(1) CONTENTS OF REPORT.—Section 181(b)(2) of the Trade Act of 1974 (19 U.S.C. 2241(b)(2)) is amended—

(A) in subparagraph (A) by striking "or" after the comma;

(B) in subparagraph (B) by striking the period and inserting ", or"; and

(C) by adding after subparagraph (B) the following:

"(C) a section on foreign anticompetitive practices, the toleration of which by foreign governments is adversely affecting exports of United States goods or services.".

(2) ASSISTANCE OF OTHER AGENCIES.—Section 181(c) of the Trade Act of 1974 (19 U.S.C. 2241(c)) is amended by adding at the end of paragraph (1) the following: "In preparing the section of the report required by subsection (b)(2)(C), the Trade Representative shall consult in particular with the Attorney General.".

SEC. 312. CONSULTATION WITH COMMITTEES.

Section 181(b)(3) of the Trade Act of 1974 (19 U.S.C. 2241(b)(3)) is amended by adding at the end the following: "After the submission of the report required by paragraph (1), the Trade Representative shall also consult periodically with, and take into account the views of, the committees described in that paragraph regarding means to address the foreign trade barriers identified in the report, including the possible initiation of investigations under section 302 or other trade actions.".

SEC. 313. IDENTIFICATION OF COUNTRIES THAT DENY PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—

(1) in subsection (b) by adding at the end the following:

"(4) In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

"(A) the history of intellectual property laws and practices of the foreign country, including any previous identification under subsection (a)(2), and

"(B) the history of efforts of the United States, and the response of the foreign country, to achieve adequate and effective protection and enforcement of intellectual property rights."; and

(2) in subsection (d)—

(A) in paragraph (3) by amending the matter preceding subparagraph (A) to read as follows:

"(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright or related right, patent, trademark, mask work, trade secret, or plant breeder's right, through the use of laws, procedures, practices, or regulations which—"; and

(B) by adding at the end the following:

"(4) A foreign country may be determined to deny adequate and effective protection of intellectual property rights, notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act."; and

(3) by adding at the end the following:

"(g) ANNUAL REPORT.—The Trade Representative shall, by not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving improved intellectual property protection and market access for persons relying on intellectual property rights.".

SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) SCOPE OF AUTHORITY.—

(1) IN GENERAL.—Subsections (a)(1) and (b)(2) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411(a)(1) and (b)(2)) are each amended by adding the following sentence at the end:

"Actions may be taken that are within the power of the President with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country.".

(2) IMPORT RESTRICTIONS.—Section 301(c)(5) of the Trade Act of 1974 (19 U.S.C. 2411(c)(5)) is amended by striking the matter preceding subparagraph (B) and inserting the following:

"(5) If the Trade Representative determines that actions to be taken under subsection (a) or (b) are to be in the form of import restrictions, the Trade Representative shall—

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

(b) RELATIONSHIP WITH OTHER AUTHORITIES.—Section 301(c) of the Trade Act of 1974 (19 U.S.C. 2411(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" after the semicolon at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) in a case in which the act, policy, or practice also fails to meet the eligibility criteria for receiving duty-free treatment under subsections (b) and (c) of section 502 of this Act, subsections (b) and (c) of section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C.

2702(b) and (c)), or subsections (c) and (d) of section 203 of the Andean Trade Preference Act (19 U.S.C. 3202(c) and (d)), withdraw, limit, or suspend such treatment under such provisions, notwithstanding the provisions of subsection (a)(3) of this section; or".

(c) DEFINITION OF AN UNREASONABLE ACT, POLICY, OR PRACTICE.—Section 301(d)(3) of the Trade Act of 1974 (19 U.S.C. 2411(d)(3)) is amended—

(1) in subparagraph (B)(i) by striking subclauses (II) and (III) and inserting the following:

"(II) provision of adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act,

"(III) nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection, or

"(IV) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by enterprises or among enterprises in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods or services to a foreign market,"; and

(2) by adding at the end the following:

"(F)(i) For the purposes of subparagraph (B)(i)(II), adequate and effective protection of intellectual property rights includes adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such country to secure, exercise, and enforce rights and enjoy commercial benefits relating to patents, trademarks, copyrights and related rights, mask works, trade secrets, and plant breeder's rights.

"(ii) For purposes of subparagraph (B)(i)(IV), the denial of fair and equitable nondiscriminatory market access opportunities includes restrictions on market access related to the use, exploitation, or enjoyment of commercial benefits derived from exercising intellectual property rights in protected works or fixations or products embodying protected works.".

(d) TIME LIMITS FOR DETERMINATIONS OF UNFAIR TRADE PRACTICES.—Section 304(a) of the Trade Act of 1974 (19 U.S.C. 2414(a)) is amended—

(1) in subparagraph (A) of paragraph (2), by striking "(other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979)",

(2)(A) in subparagraph (A) of paragraph (3), by inserting "does not consider that a trade agreement, including the Agreement on Trade-Related Aspects of Intellectual Property (referred to in section 101(d)(15) of the Uruguay Round Agreements Act), is involved or" after "the Trade Representative" the first place it appears, and

(B) in subparagraph (B) of paragraph (3), in the matter preceding clause (i), by striking "any investigation initiated

by reason of section 302(b)(2)" and inserting "an investigation initiated by reason of section 302(b)(2) (other than an investigation involving a trade agreement)", and

(3) in paragraph (4), by striking "(other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979)".

(e) MONITORING OF FOREIGN COMPLIANCE.—Subsections (a) and (b) of section 306 of the Trade Act of 1974 (19 U.S.C. 2416) are amended to read as follows:

"(a) IN GENERAL.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement that is entered into, by a foreign country to provide a satisfactory resolution of a matter subject to investigation under this chapter or subject to dispute settlement proceedings to enforce the rights of the United States under a trade agreement providing for such proceedings.

"(b) FURTHER ACTION.—

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

"(2) WTO DISPUTE SETTLEMENT RECOMMENDATIONS.—If the measure or agreement referred to in subsection (a) concerns the implementation of a recommendation made pursuant to dispute settlement proceedings under the World Trade Organization, and the Trade Representative considers that the foreign country has failed to implement it, the Trade Representative shall make the determination in paragraph (1) no later than 30 days after the expiration of the reasonable period of time provided for such implementation under paragraph 21 of the Understanding on Rules and Procedures Governing the Settlement of Disputes that is referred to in section 101(d)(16) of the Uruguay Round Agreements Act.".

(f) EXTENSION OF SECTION 310 OF THE TRADE ACT OF 1974.—Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended to read as follows:

"SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

"(a) IDENTIFICATION.—

"(1) Within 180 days after the submission in calendar year 1995 of the report required by section 181(b), the Trade Representative shall—

"(A) review United States trade expansion priorities,

"(B) identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent, and

"(C) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priority foreign country practices identified.

"(2) In identifying priority foreign country practices under paragraph (1) of this section, the Trade Representative shall take into account all relevant factors, including—

"(A) the major barriers and trade distorting practices described in the National Trade Estimate Report required under section 181(b);

"(B) the trade agreements to which a foreign country is a party and its compliance with those agreements;

"(C) the medium- and long-term implications of foreign government procurement plans; and

"(D) the international competitive position and export potential of United States products and services.

"(3) The Trade Representative may include in the report, if appropriate—

"(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and

"(B) a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries and progress is being made toward the elimination of such practices.

"(b) INITIATION OF INVESTIGATIONS.—By no later than the date which is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of the priority foreign country practices identified.

"(c) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—In the consultations with a foreign country that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly as possible or, if elimination of the practices is not feasible, an agreement that provides for compensatory trade benefits.

"(d) REPORTS.—The Trade Representative shall include in the semiannual report required by section 309 a report on the status of any investigations initiated pursuant to subsection (b) and, where appropriate, the extent to which such investigations have led to increased opportunities for the export of products and services of the United States.".

SEC. 315. OBJECTIVES IN INTELLECTUAL PROPERTY.

It is the objective of the United States—

(1) to accelerate the implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15),

(2) to seek enactment and effective implementation by foreign countries of laws to protect and enforce intellectual property rights that supplement and strengthen the standards of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) and the North American Free Trade Agreement and, in particular—

(A) to conclude bilateral and multilateral agreements that create obligations to protect and enforce intellectual property rights that cover new and emerging technologies and new methods of transmission and distribution, and

(B) to prevent or eliminate discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights,

(3) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection,

(4) to take an active role in the development of the intellectual property regime under the World Trade Organization to ensure that it is consistent with other United States objectives, and

(5) to take an active role in the World Intellectual Property Organization (WIPO) to develop a cooperative and mutually supportive relationship between the World Trade Organization and WIPO.

SEC. 316. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 314(f).—The amendment made by section 314(f) takes effect on the date of the enactment of this Act.

Subtitle C—Unfair Practices in Import Trade

SEC. 321. UNFAIR PRACTICES IN IMPORT TRADE.

(a) AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) INVESTIGATION.—Subsection (b) is amended—

(A) by striking "; TIME LIMITS" in the heading;

(B) in paragraph (1) by striking all that follows the second sentence and inserting the following: "The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall, within 45 days after an investigation is initiated, establish a target date for its final determination."; and

(C) in paragraph (3)—

(i) in the first sentence—

(I) by striking "the Tariff Act of 1930" and inserting "this Act"; and

(II) by striking "such Act" and inserting "such subtitle"; and

(ii) by striking the fifth sentence.

(2) DETERMINATION; REVIEW.—Subsection (c) is amended—

(A) in the first sentence by striking "a settlement agreement" and inserting "an agreement between the private

parties to the investigation, including an agreement to present the matter for arbitration";

(B) by inserting the following after the third sentence: "A respondent may raise any counterclaim in a manner prescribed by the Commission. Immediately after a counterclaim is received by the Commission, the respondent raising such counterclaim shall file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the party would exist under section 1391 of title 28, United States Code. Any counterclaim raised pursuant to this section shall relate back to the date of the original complaint in the proceeding before the Commission. Action on such counterclaim shall not delay or affect the proceeding under this section, including the legal and equitable defenses that may be raised under this subsection."; and

(C) by adding at the end the following: "Determinations by the Commission under subsections (e), (f), and (j) with respect to forfeiture of bonds and under subsection (h) with respect to the imposition of sanctions for abuse of discovery or abuse of process shall also be reviewable in accordance with section 706 of title 5, United States Code.".

(3) ENTRY UNDER BOND.—Subsection (e) is amended—

(A) in the last sentence of paragraph (1) by striking "determined by the Commission" and all that follows through the end of the sentence and inserting "prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.";

(B) by adding at the end of paragraph (2) the following: "If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent."; and

(C) by adding at the end the following new paragraph: "(4) The Commission shall prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2).".

(4) CEASE AND DESIST ORDERS.—Subsection (f)(1) is amended by adding at the end the following: "If a temporary cease and desist order is issued in addition to, or in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond, in an amount determined by the Commission to be sufficient to protect the respondent from any injury, as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission shall prescribe the terms and conditions under which the bonds may be forfeited under this paragraph.".

(5) CONDITIONS APPLICABLE FOR GENERAL EXCLUSION ORDERS.—(A) Subsection (d) is amended—

(i) by inserting "(1)" before "If";

(ii) in the first sentence by striking "there is violation" and inserting "there is a violation"; and

(iii) by adding at the end the following new paragraph:

"(2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that—

"(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

"(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.".

(B) Subsection (g)(2) is amended—

(i) by striking "and" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(iii) by adding after subparagraph (B) the following: "(C) the requirements of subsection (d)(2) are met.".

(6) ENTRY UNDER BOND AFTER REFERRAL TO THE PRESIDENT.—Subsection (j)(3) is amended by striking "shall be entitled to entry under bond" and all that follows through the end of the sentence and inserting "shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission shall prescribe the terms and conditions under which bonds may be forfeited under this paragraph.".

(7) ACCESS TO CONFIDENTIAL INFORMATION.—Subsection (n)(2) is amended—

(A) by amending subparagraph (A) to read as follows: "(A) an officer or employee of the Commission who is directly concerned with—

"(i) carrying out the investigation or related proceeding in connection with which the information is submitted,

"(ii) the administration of a bond posted pursuant to subsection (e), (f), or (j),

"(iii) the administration or enforcement of an exclusion order issued pursuant to subsection (d), (e), or (g), a cease and desist order issued pursuant to subsection (f), or a consent order issued pursuant to subsection (c),

"(iv) proceedings for the modification or rescission of a temporary or permanent order issued under subsection (d), (e), (f), (g), or (i), or a consent order issued under this section, or

"(v) maintaining the administrative record of the investigation or related proceeding,"; and

(B) by amending subparagraph (C) to read as follows: "(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under subsection (d), (e), or (g) resulting from the investigation or related proceeding in connection with which the information is submitted.".

(8) TECHNICAL AMENDMENT.—Subsection (l) is amended by striking "Claims Court" and inserting "Court of Federal Claims".

(b) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) STAY OF ACTIONS.—

(A) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission

"(a) STAY.—In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—

"(1) 30 days after the party is named as a respondent in the proceeding before the Commission, or

"(2) 30 days after the district court action is filed,

whichever is later.

"(b) USE OF COMMISSION RECORD.—Notwithstanding section 337(n)(1) of the Tariff Act of 1930, after dissolution of a stay under subsection (a), the record of the proceeding before the United States International Trade Commission shall be transmitted to the district court and shall be admissible in the civil action, subject to such protective order as the district court determines necessary, to the extent permitted under the Federal Rules of Evidence and the Federal Rules of Civil Procedure.".

(B) CLERICAL AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission.".

(2) COUNTERCLAIMS.—Section 1446 of title 28, United States Code, is amended by adding at the end the following:

"(f) With respect to any counterclaim removed to a district court pursuant to section 337(c) of the Tariff Act of 1930, the district court shall resolve such counterclaim in the same manner as an original complaint under the Federal Rules of Civil Procedure, except that the payment of a filing fee shall not be required in such cases and the counterclaim shall relate back to the date of the original complaint in the proceeding before the International Trade Commission under section 337 of that Act.".

(3) JURISDICTION.—

(A) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"§ 1368. Counterclaims in unfair practices in international trade.

"The district courts shall have original jurisdiction of any civil action based on a counterclaim raised pursuant to section 337(c) of the Tariff Act of 1930, to the extent that it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim in the proceeding under section 337(a) of that Act.".

(B) CLERICAL AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"1368. Counterclaims in unfair practices in international trade.".

SEC. 322. EFFECTIVE DATE.

The amendments made by this subtitle apply—

(1) with respect to complaints filed under section 337 of the Tariff Act of 1930 on or after the date on which the WTO Agreement enters into force with respect to the United States, or

(2) in cases under such section 337 in which no complaint is filed, with respect to investigations initiated under such section on or after such date.

Subtitle D—Textiles

SEC. 331. TEXTILE PRODUCT INTEGRATION.

Not later than 120 days after the date that the WTO Agreement, as defined in section 2(9) of the Uruguay Round Implementation Act, enters into force with respect to the United States, the Secretary of Commerce shall publish in the Federal Register a notice containing the list of products to be integrated in each stage set out in Article 2(8) of the Agreement on Textiles and Clothing referred to in section 101(d)(4). After publication of such list, the list may not be changed unless otherwise required by statute or the international obligations of the United States, to correct technical errors, or to reflect reclassifications. Within 30 days after the publication of such list, the Trade Representative shall notify the list to the Textiles Monitoring Body established under Article 8 of the Agreement on Textiles and Clothing.

SEC. 332. AMENDMENT TO SECTION 204 OF THE AGRICULTURAL ACT OF 1956.

Section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) is amended by amending the second sentence to read as follows: "In addition, if a multilateral agreement, including but not limited to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Implementation Act, has been or is concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement, or countries to which the United States does not apply the agreement.".

SEC. 333. TEXTILE TRANSSHIPMENTS.

Part V of title IV of the Tariff Act of 1930 is amended by inserting after section 592 the following:

"SEC. 592A. SPECIAL PROVISIONS REGARDING CERTAIN VIOLATIONS.

"(a) PUBLICATION OF NAMES OF CERTAIN VIOLATORS.—

"(1) PUBLICATION.—The Secretary of the Treasury is authorized to publish in the Federal Register a list of the name of any producer, manufacturer, supplier, seller, exporter,

or other person located outside the customs territory of the United States—

"(A) against whom the Customs Service has issued a penalty claim under section 592, and

"(B) if a petition with respect to that claim has been filed under section 618, against whom a final decision has been issued under such section after exhaustion of administrative remedies,

citing any of the violations of the customs laws referred to in paragraph (2). Such list shall be published not later than March 31 and September 30 of each year.

"(2) VIOLATIONS.—The violations of the customs laws referred to in paragraph (1) are the following:

"(A) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products.

"(B) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the customs territory of the United States of textile or apparel products.

"(C) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labelled as to country of origin or source.

"(D) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

"(3) REMOVAL FROM LIST.—Any person whose name has been included in a list published under paragraph (1) may petition the Secretary to be removed from such list. If the Secretary finds that such person has not committed any violations described in paragraph (2) for a period of not less than 3 years after the date on which the person's name was so published, the Secretary shall remove such person from the list as of the next publication of the list under paragraph (2).

"(4) REASONABLE CARE REQUIRED FOR SUBSEQUENT IMPORTS.—

"(A) RESPONSIBILITY OF IMPORTERS AND OTHERS.—After the name of a person has been published under paragraph (1), the Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labelling that are accurate as to its origin. Such reasonable

care shall not include reliance solely on a source of information which is the named person.

"(B) FAILURE TO EXERCISE REASONABLE CARE.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether the importer of record is in violation of section 484(a).

"(b) LIST OF HIGH RISK COUNTRIES.—

"(1) LIST.—The President or his designee, upon the advice of the Secretaries of Commerce and Treasury, and the heads of other appropriate departments and agencies, is authorized to publish a list of countries in which illegal activities have occurred involving transshipped textile or apparel products or activities designed to evade quotas of the United States on textile or apparel products, if those countries fail to demonstrate a good faith effort to cooperate with United States authorities in ceasing such activities. Such list shall be published in the Federal Register not later than March 31 of each year. Any country that is on the list and that subsequently demonstrates a good faith effort to cooperate with United States authorities in ceasing illegal activities described in the first sentence shall be removed from the list, and such removal shall be published in the Federal Register as soon as practicable.

"(2) REASONABLE CARE REQUIRED FOR SUBSEQUENT IMPORTS.—

"(A) RESPONSIBILITY OF IMPORTERS OF RECORD.—The Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products indicated, on the documentation, packaging, or labelling accompanying such products, to be from any country on the list published under paragraph (1) to show, to the satisfaction of the Secretary, that such importer, consignee, or purchaser has exercised reasonable care to ascertain the true country of origin of the textile or apparel products.

"(B) FAILURE TO EXERCISE REASONABLE CARE.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether the importer of record is in violation of section 484(a).

"(3) DEFINITION.—For purposes of this subsection, the term 'country' means a foreign country or territory, including any overseas dependent territory or possession of a foreign country.".

SEC. 334. RULES OF ORIGIN FOR TEXTILE AND APPAREL PRODUCTS.

(a) REGULATORY AUTHORITY.—The Secretary of the Treasury shall prescribe rules implementing the principles contained in subsection (b) for determining the origin of textiles and apparel products. Such rules shall be promulgated in final form not later than July 1, 1995.

(b) PRINCIPLES.—

(1) IN GENERAL.—Except as otherwise provided for by statute, a textile or apparel product, for purposes of the customs laws and the administration of quantitative restrictions, originates in a country, territory, or insular possession, and is the growth, product, or manufacture of that country, territory, or insular possession, if—

(A) the product is wholly obtained or produced in that country, territory, or possession;

(B) the product is a yarn, thread, twine, cordage, rope, cable, or braiding and—

(i) the constituent staple fibers are spun in that country, territory, or possession, or

(ii) the continuous filament is extruded in that country, territory, or possession,

(C) the product is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in that country, territory, or possession; or

(D) the product is any other textile or apparel product that is wholly assembled in that country, territory, or possession from its component pieces.

(2) SPECIAL RULES.—Notwithstanding paragraph (1)(D)—

(A) the origin of a good that is classified under one of the following HTS headings or subheadings shall be determined under subparagraph (A), (B), or (C) of paragraph (1), as appropriate: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, or 9404.90; and

(B) a textile or apparel product which is knit to shape shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which it is knit.

(3) MULTICOUNTRY RULE.—If the origin of a good cannot be determined under paragraph (1) or (2), then that good shall be considered to originate in, and be the growth, product, or manufacture of—

(A) the country, territory, or possession in which the most important assembly or manufacturing process occurs, or

(B) if the origin of the good cannot be determined under subparagraph (A), the last country, territory, or possession in which important assembly or manufacturing occurs.

(4) COMPONENTS CUT IN THE UNITED STATES.—(A) The value of a component that is cut to shape (but not to length, width, or both) in the United States from foreign fabric and exported to another country, territory, or insular possession for assembly into an article that is then returned to the United States—

(i) shall not be included in the dutiable value of such article, and

(ii) may be applied toward determining the percentage referred to in General Note 7(b)(i)(B) of the HTS, subject to the limitation provided in that note.

(B) No article (except a textile or apparel product) assembled in whole of components described in subparagraph (A), or of such components and components that are products of

the United States, in a beneficiary country as defined in General Note 7(a) of the HTS shall be treated as a foreign article, or as subject to duty if—

(i) the components after exportation from the United States, and

(ii) the article itself before importation into the United States

do not enter into the commerce of any foreign country other than such a beneficiary country.

(5) EXCEPTION FOR UNITED STATES-ISRAEL FREE TRADE AGREEMENT.—This section shall not affect, for purposes of the customs laws and administration of quantitative restrictions, the status of goods that, under rulings and administrative practices in effect immediately before the enactment of this Act, would have originated in, or been the growth, product, or manufacture of, a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1987. For such purposes, such rulings and administrative practices that were applied, immediately before the enactment of this Act, to determine the origin of textile and apparel products covered by such agreement shall continue to apply after the enactment of this Act, and on and after the effective date described in subsection (c), unless such rulings and practices are modified by the mutual consent of the parties to the agreement.

(c) EFFECTIVE DATE.—This section shall apply to goods entered, or withdrawn from warehouse, for consumption on or after July 1, 1996, except that this section shall not apply to goods if—

(1) the contract for the sale of such goods to the United States is entered into before July 20, 1994;

(2) all of the material terms of sale in such contract, including the price and quantity of the goods, are fixed and determinable before July 20, 1994;

(3) a copy of the contract is filed with the Commissioner of Customs within 60 days after the date of the enactment of this Act, together with a certification that the contract meets the requirements of paragraphs (1) and (2); and

(4) the goods are entered, or withdrawn from warehouse, for consumption on or before January 1, 1998.

The origin of goods to which this section does not apply shall be determined in accordance with the applicable rules in effect on July 20, 1994.

SEC. 335. EFFECTIVE DATE.

Except as provided in section 334, this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle E—Government Procurement

SEC. 341. MONITORING AND ENFORCEMENT OF THE AGREEMENT ON GOVERNMENT PROCUREMENT.

(a) IN GENERAL.—Section 305(f)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(f)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "a year" and inserting "the 18 months",

(2) by striking "or" at the end of subparagraph (B),

(3) by redesignating subparagraph (C) as subparagraph (D), and

(4) by inserting after subparagraph (B), the following new subparagraph:

"(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".

(b) SANCTIONS AFTER DISPUTE RESOLUTION FAILS.—

(1) SANCTIONS.—Paragraph (3) of section 305(f) of such Act (19 U.S.C. 2515(f)(3)) is amended to read as follows:

"(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).".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 305(f) of such Act (19 U.S.C. 2515(f)(4)) is amended by striking "subparagraph (A) or (B) of paragraph (3)" and inserting "subclause (I) or (II) of paragraph (3)(B)(i)".

(c) REPORT TO CONGRESS.—

(1) Section 305(d)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)(2)) is amended by adding at the end the following new subparagraphs:

"(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.".

(2) Section 305(d)(3)(C) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)(3)(C)) is amended by adding before the period at the end the following: ", including the failure to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement".

SEC. 342. CONFORMING AMENDMENTS.

(a) WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS REGARDING PURCHASES OF CIVIL AIRCRAFT.—Section 303 of the Trade Agreements Act of 1979 (19 U.S.C. 2513) is amended by inserting "referred to in section 2(c) and approved under section 2(a)" after "Civil Aircraft".

(b) EXPANSION OF COVERAGE OF THE AGREEMENT.—Section 304 of the Trade Agreements Act of 1979 (19 U.S.C. 2514) is amended—

(1) in subsections (a) and (c) by striking "part IX, paragraph 6" and inserting "article XXIV(7)";

(2) in subsection (c) by striking "part VI, paragraph 9" and inserting "article XIX(5)"; and

(3) in subsection (e) by striking "date of enactment of this Act" and inserting "date it enters into force with respect to the United States".

(c) ANNUAL REPORT ON FOREIGN DISCRIMINATION.—Section 305(d) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)) is amended by striking out "April 30, 1990, and annually on April 30 thereafter," and inserting "April 30 of each year,".

(d) LABOR SURPLUS AREA STUDIES.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516), and the item relating to such section in the table of contents for such Act, are repealed.

(e) AVAILABILITY OF INFORMATION TO CONGRESSIONAL ADVISORS.—Section 307 of the Trade Agreements Act of 1979 (19 U.S.C. 2517) is amended by striking "part VI, paragraph 9," and inserting "article XIX(5)".

(f) DEFINITIONS.—Section 308 of the Trade Agreements Act of 1979 (19 U.S.C. 2518) is amended—

(1) in paragraph (1) by striking "section 2(c) of this Act" and inserting "section 101(d)(17) of the Uruguay Round Agreements Act"; and

(2) in paragraph (4)—

(A) in subparagraph (C) by striking "having a contract value" and all that follows through the end of the subpara-

graph and inserting "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."; and

(B) in subparagraph (D) by striking "GATT" the first place it appears and all that follows through the end of the subparagraph and inserting "the Agreement (as defined in paragraph (1)), but for the thresholds provided for in the Agreement.".

(g) CONFORMING AMENDMENTS.—Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note) is amended—

(1) by striking ", Mexico, or Canada" each place that it appears and inserting "or in any eligible country"; and

(2) by adding at the end the following: "For purposes of this section, an 'eligible country' is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.".

SEC. 343. RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.

(a) APPLICABILITY.—Section 302(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(a)) is amended to read as follows:

"(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) ADDITIONAL WAIVER AUTHORITY.—Section 302(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(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;"; and

(2) by adding after paragraph (3) the following:

"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) CONFORMING AMENDMENT.—Section 305(g) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(B) or (C)" and inserting "(B), (C), (D), or (E)"; and

(B) by striking "their discriminatory procurement practices" and inserting "the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be)"; and

(2) in paragraph (3) by striking "discrimination identified pursuant to subsection (d)(2)(B) or (C)" and inserting "the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be)".

SEC. 344. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle take effect on the date on which the Agreement on Government Procurement referred to in section 101(d)(17) enters into force with respect to the United States.

(b) SECTION 342(g).—The amendments made by section 342(g) take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle F—Technical Barriers to Trade

SEC. 351. TECHNICAL BARRIERS TO TRADE.

(a) REFERENCES.—All references in this section are to title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) unless otherwise specified.

(b) SECTION 401.—Section 401 is amended—

(1) by striking "Nothing" and inserting "(b) UNNECESSARY OBSTACLES.—Nothing"; and

(2) by inserting after the section heading the following:

"(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.".

(c) SECTION 402.—Section 402(4) is amended—

(1) by striking "CERTIFICATION ACCESS" in the paragraph heading and inserting "ACCESS";

(2) by striking "certification system" and inserting "conformity assessment procedure"; and

(3) by striking "certification under that system" and inserting "an assessment of conformity and the mark of the system, if any".

(d) SECTION 414.—Section 414(b)(1) is amended—

(1) by inserting "(A)" after "relating to";

(2) by striking "certification systems" and inserting "technical regulations, conformity assessment procedures,";

(3) by striking "such standards, systems" and inserting "such standards, technical regulations, conformity assessment procedures,"; and

(4) after "local" by inserting "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".

(e) DEFINITIONS.—Section 451 is amended—

(1) so that paragraph (1) reads as follows:

"(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) so that paragraph (2) reads as follows:

"(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) in paragraph (4), by striking "certification system" and inserting "conformity assessment procedure" each place it occurs;

(4) so that paragraph (6)(A) reads as follows:

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

(5) in paragraph (7), by striking "certification system" and inserting "conformity assessment procedure";

(6) so that paragraph (8) reads as follows:

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

(7) so that paragraph (13) reads as follows:

"(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.";

(8) in paragraph (14), by striking "or any certification system" and inserting ", technical regulation, or conformity assessment procedure"; and

(9) by redesignating paragraph (17) as paragraph (18) and inserting after paragraph (16) the following:

"(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.".

(f) REPORTS TO CONGRESS.—Section 453 is amended by inserting "through 2001" after "succeeding 3-year period".

(g) EFFECTIVE DATE.—Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) is amended by striking section 454.

SEC. 352. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE IV—AGRICULTURE-RELATED PROVISIONS

Subtitle A—Agriculture

PART I—MARKET ACCESS

SEC. 401. SECTION 22 AMENDMENTS.

(a) AMENDMENT TO SECTION 22.—

(1) GENERALLY.—Subsection (f) of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624(f)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(f) No quantitative limitation or fee shall be imposed under this section with respect to any article that is the product of a WTO member (as defined in section 2(10) of the Uruguay Round Agreements Act).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of entry into force of the WTO Agreement with respect to the United States, except that with respect to wheat, that amendment shall take effect on the later of such date or September 12, 1995.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 202 OF THE AGRICULTURAL ACT OF 1956.—Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)".

(2) COTTON IMPORT QUOTAS.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended—

(A) in subsection (a)(5)(F)(i)—

(i) by striking "this section" and inserting "the Uruguay Round Agreements Act"; and

(ii) by striking "limited global";

(B) in subsection (a)(5)(F)(iv), by striking "special quota period has" and inserting "quota period has";

(C) by adding at the end of subsection (a)(5)(F) the following:

"(v) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)), and General Note 3(a)(iv) to the HTS.

"(vi) DEFINITION.—As used in this subparagraph, the term 'special import quota' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota."; and

(D) in subsection (n)—

(i) in the subsection heading, by striking "SPECIAL";

(ii) in paragraph (1), by striking "this section" and inserting "the Uruguay Round Agreements Act";

(iii) in paragraph (1), by striking "special" each place it appears;

(iv) by redesignating paragraph (1)(C) as paragraph (1)(D);

(v) by inserting after subparagraph (B) of paragraph (1) the following:

"(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)), and General Note 3(a)(iv) to the HTS."; and

(vi) in paragraph (1)(D) (as redesignated by clause (iv)), by adding at the end the following:

"(iii) LIMITED GLOBAL IMPORT QUOTA.—As used in this subsection, the term 'limited global import quota' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota."; and

(vii) in paragraph (2), by striking "special quota period may" and inserting "quota period may".

SEC. 402. CHEESE AND CHOCOLATE CRUMB IMPORTS.

(a) REPEAL OF SECTIONS 701 AND 703.—Sections 701 and 703 of the Trade Agreements Act of 1979 (93 Stat. 268) are hereby repealed.

(b) PRESIDENTIAL ACTION.—Section 702(d)(1) (93 Stat. 268) of the Trade Agreements Act of 1979 is amended to read as follows:

"(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.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 702 of the Trade Agreements Act of 1979 is amended by striking "of quota cheese" each place it appears and inserting "of cheese subject to an in-quota rate of duty".

(2) Section 702(c)(2) of such Act is amended—

(A) by striking "the Special Representative for Trade Negotiations" and inserting "the United States Trade Representative", and

(B) by striking "The Special Representative" and inserting "The United States Trade Representative".

(3) Subsections (c)(3)(B) and (e) of section 702 of such Act are each amended by striking "or quantitative limitation".

(4) Section 702(f) of such Act is amended—

(A) by inserting "(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act)" after "Tariff Act of 1930", and

(B) by striking "under title I of this Act" and inserting "under title VII of the Tariff Act of 1930".

(5) Section 702(g)(2) of such Act is amended by striking "or quantitative limitations".

(6) Section 702(h) of such Act is amended by adding at the end the following new paragraphs:

"(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. 403. MEAT IMPORT ACT.

The Meat Import Act of 1979 (19 U.S.C. 2253 note) is repealed.

SEC. 404. ADMINISTRATION OF TARIFF-RATE QUOTAS.

(a) ORDERLY MARKETING.—In implementing the tariff-rate quotas set out in Schedule XX for the entry, or withdrawal from warehouse, for consumption of goods in the United States, the President shall take such action as may be necessary to ensure that imports of agricultural products do not disrupt the orderly marketing of commodities in the United States.

(b) INADEQUATE SUPPLY.—Where imports of an agricultural product are subject to a tariff-rate quota, and where the President determines and proclaims that the supply of the same or directly competitive or substitutable agricultural product will be inadequate, because of a natural disaster, disease, or major national market disruption, to meet domestic demand at reasonable prices, the President may temporarily increase the quantity of imports of the

agricultural product that is subject to the in-quota rate of duty established under the tariff-rate quota.

(c) MONITORING.—The Secretary of Agriculture shall monitor the domestic supply of agricultural products subject to a tariff-rate quota as the Secretary considers appropriate and shall advise the President when the domestic supply of the products and substitutable products combined with the estimated imports of the products under the tariff-rate quota may be inadequate to meet domestic demand at reasonable prices.

(d) COVERAGE OF TARIFF-RATE QUOTAS.—

(1) EXCLUSIONS.—The President may, subject to terms and conditions determined appropriate by the President, provide that the entry, or withdrawal from warehouse, for consumption in the United States of an agricultural product shall not be subject to the over-quota rate of duty established under a tariff-rate quota if the agricultural product—

(A) is imported by, or for the account of, any agency of the United States or of any foreign embassy;

(B) is imported as a sample for taking orders, for the personal use of the importer, or for the testing of equipment;

(C) is a commercial sample or is entered for exhibition, display, or sampling at a trade fair or for research; or

(D) is a blended syrup provided for in subheadings 1702.20.28, 1702.30.28, 1702.40.28, 1702.60.28, 1702.90.58, 1806.20.92, 1806.20.93, 1806.90.38, 1806.90.40, 2101.10.38, 2101.20.38, 2106.90.38, or 2106.90.67 of Schedule XX, if entered from a foreign trade zone by a foreign trade zone user whose facilities were in operation on June 1, 1990, to the extent that the annual quantity entered into the customs territory from such zone does not contain a quantity of sugar of nondomestic origin greater than the quantity authorized by the Foreign Trade Zones Board for processing in that zone during calendar year 1985.

(2) RECLASSIFICATION.—Subject to the consultation and layover requirements of section 115, the President may proclaim a modification to the coverage of a tariff-rate quota for any agricultural product if the President determines the modification is necessary or appropriate to conform the tariff-rate quota to Schedule XX as a result of a reclassification of any item by the Secretary of the Treasury.

(3) ALLOCATION.—The President may allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas and may modify any allocation as determined appropriate by the President.

(4) BILATERAL AGREEMENT.—The President may proclaim an increase in the tariff-rate quota for beef if the President determines that an increase is necessary to implement—

(A) the March 24, 1994, agreement between the United States and Argentina; or

(B) the March 9, 1994, agreement between the United States and Uruguay.

(5) CONTINUATION OF SUGAR HEADNOTE.—The President is authorized to proclaim additional United States note 3 to chapter 17 of the HTS, and to proclaim the modifications to the note, as determined appropriate by the President to reflect Schedule XX.

(e) CONFORMING AMENDMENTS.—

(1) SECTION 213 OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)) is amended to read as follows:

"(d) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.".

(2) SECTION 204 OF THE ANDEAN TRADE PREFERENCE ACT.—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended by adding at the end the following new subsection:

"(g) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this Act.".

(3) GSP.—Section 503 of the Trade Act of 1974 (19 U.S.C. 2463) is amended by adding at the end the following new subsection:

"(d) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.".

(4) GENERAL NOTE 3(a) TO THE HTS.—General Note 3(a)(iv) to the HTS is amended by adding at the end the following:

"(F) No quantity of an agricultural product that is subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this paragraph.".

(5) DUTY DRAWBACK.—

(A) GENERALLY.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end the following new subsection:

"(w) LIMITED APPLICABILITY FOR CERTAIN AGRICULTURAL PRODUCTS.—No drawback shall be available with respect to an agricultural product subject to the over-quota rate of duty established under a tariff-rate quota, except pursuant to subsection (j)(1).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on the earlier of the date of entry into force of the WTO Agreement with respect to the United States or January 1, 1995.

(6) RESTRICTIONS ON IMPORTED PEANUTS.—Paragraph (6) of section 358e(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(f)(6)) is amended by inserting after "issues a proclamation" the following: "under section 404(b) of the Uruguay Round Agreements Act expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or".

SEC. 405. SPECIAL AGRICULTURAL SAFEGUARD AUTHORITY.

(a) DETERMINATION OF TRIGGER LEVELS.—Consistent with Article 5 as determined by the President, the President shall cause to be published in the Federal Register—

(1) the list of special safeguard agricultural goods not later than the date of entry into force of the WTO Agreement with respect to the United States; and

(2) for each special safeguard agricultural good—

(A) the trigger level specified in subparagraph 1(a) of Article 5, on an annual basis;

(B) the trigger price specified in subparagraph 1(b) of Article 5; and

(C) the relevant period.

(b) DETERMINATION OF SAFEGUARD.—If the President determines with respect to a special safeguard agricultural good that it is appropriate to impose—

(1) the price-based safeguard in accordance with subparagraph 1(a) of Article 5; or

(2) the volume-based safeguard in accordance with subparagraph 1(b) of Article 5,

the President shall, consistent with Article 5 as determined by the President, determine the amount of the duty to be imposed, the period such duty shall be in effect, and any other terms and conditions applicable to the duty.

(c) IMPOSITION OF SAFEGUARD.—The President shall direct the Secretary of the Treasury to impose a duty on a special safeguard agricultural good entered, or withdrawn from warehouse, for consumption in the United States in accordance with a determination made under subsection (b).

(d) NO SIMULTANEOUS SAFEGUARD.—A duty may not be in effect for a special safeguard agricultural good pursuant to this section during any period in which such good is the subject of any action proclaimed pursuant to section 202 or 203 of the Trade Act of 1974 (19 U.S.C. 2252 or 2253).

(e) EXCLUSION OF NAFTA COUNTRIES.—The President may exempt from any duty imposed under this section any good originating in a NAFTA country (as determined in accordance with section 202 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332)).

(f) ADVICE OF SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall advise the President on the implementation of this section.

(g) TERMINATION DATE.—This section shall cease to be effective on the date, as determined by the President, that the special safeguard provisions of Article 5 are no longer in force with respect to the United States.

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

(1) the term "Article 5" means Article 5 of the Agreement on Agriculture described in section 101(d)(2);

(2) the term "relevant period" means the period determined by the President to be applicable to a special safeguard agricultural good for purposes of applying this section; and

(3) the term "special safeguard agricultural good" means an agricultural good on which an additional duty may be imposed pursuant to the special safeguard provisions of Article 5.

PART II—EXPORTS

SEC. 411. EXPORT PROGRAMS.

(a) EXPORT ENHANCEMENT PROGRAM.—

(1) SHORT TITLE.—This subsection may be cited as the "Export Enhancement Program Amendments of 1994".

(2) TITLE HEADING.—Title III of the Agricultural Trade Act of 1978 (7 U.S.C. 5651 et seq.) is amended by striking the title heading and inserting the following:

"TITLE III—EXPORT ENHANCEMENT PROGRAM".

(3) GENERAL AUTHORITY.—Subsection (a) of section 301 of such Act (7 U.S.C. 5651(a)) is amended to read as follows:

"(a) IN GENERAL.—The Commodity Credit Corporation shall carry out an export enhancement program in accordance with this section to encourage the commercial sale of United States agricultural commodities in world markets at competitive prices. The program shall be carried out in a market sensitive manner. Activities under the program shall not be limited to responses to unfair trade practices.".

(4) FUNDING.—Section 301 of such Act (7 U.S.C. 5651) is amended—

(A) in subsection (e), by striking "1995" and inserting "2001"; and

(B) by adding at the end the following:

"(g) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—Notwithstanding any other provision of this section, the Commodity Credit Corporation shall administer and carry out the program authorized by this section in a manner consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements.".

(b) DAIRY EXPORT INCENTIVE PROGRAM.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by striking "1995" and inserting "2001".

(c) EXPORT SALES OF DAIRY PRODUCTS.—Subsection (a) of section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) is amended to read as follows:

"(a) In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the disposition of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of commercial trade.".

(d) MARKET PROMOTION PROGRAM.—(1) Section 203(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(c)) is amended—

(A) by striking paragraph (2);

(B) by striking "PARTICIPATION.—" and all that follows through "To" in paragraph (1) and inserting "PARTICIPATION.—To";

(C) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(D) by aligning the margins of paragraphs (1), (2), and (3) (as so redesignated) so as to align with the margin of paragraph (1) of subsection (d).

(2) Section 203(f)(2) of such Act (7 U.S.C. 5623(f)(2)) is amended—

(A) by striking subparagraph (D);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by redesignating subparagraph (E) as subparagraph (D).

(e) FOOD AID.—

(1) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

(B) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.

SEC. 412. OTHER CONFORMING AMENDMENTS.

(a) PUBLIC LAW 98–332.—Section 106 of Public Law 98–332 (98 Stat. 287), is repealed.

(b) AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 1984.—Section 625(A) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1984, as given the force of law by section 101(d) of Public Law 98–151 (97 Stat. 1853), is repealed.

(c) AGRICULTURAL ACT OF 1956.—Section 203 of the Agriculture Act of 1956 (7 U.S.C. 1853) is repealed.

PART III—OTHER PROVISIONS

SEC. 421. AUTHORITY FOR CERTAIN ACTIONS UNDER ARTICLE XXVIII.

(a) IN GENERAL.—In the application of section 125(c) of the Trade Act of 1974 (19 U.S.C. 2135) with respect to any item provided for in subheadings 2401.10.60, 2401.20.30, 2401.20.80, 2401.30.30, 2401.30.60, 2401.30.90, 2403.10.00, 2403.91.40, or 2403.99.00 of the HTS, "350" shall be substituted for "20" where it appears in such section.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 422. TOBACCO IMPORTS.

(a) DOMESTIC MARKETING ASSESSMENT.—Section 320C of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314i) is amended by adding at the end the following new subsection:

"(g) EFFECTIVE DATE.—This section shall be effective only for calendar year 1994.".

(b) BUDGET DEFICIT ASSESSMENT.—

(1) IMPORTER ASSESSMENTS.—Section 106(g) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) Effective only for each of the 1994 through 1998 crops of tobacco for which price support is made available under this Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

"(A) in the case of a producer or purchaser of domestic tobacco, .5 percent of the national price support level for each such crop; and

"(B) in the case of an importer of tobacco, 1 percent of the national support price for the same kind of tobacco; as provided for in this section."; and

(B) in paragraph (2), by striking "assessments and purchaser" and inserting ", purchaser, and importer".

(2) CONFORMING AMENDMENT.—Section 106 of such Act (7 U.S.C. 1445) is amended by striking subsection (h).

(c) WAIVER AUTHORITY.—The President may waive the application to imported tobacco of section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2) or the amendment made in subsection (c) of section 1106 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 323) if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States.

(d) DUTY DRAWBACK.—Section 313(w) of the Tariff Act of 1930 (19 U.S.C. 1313) (as added by section 404(d)(5)) is further amended—

(1) by striking "PRODUCTS.—No" and inserting "PRODUCTS.—

"(1) IN GENERAL.—No"; and

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

"(2) APPLICATION TO TOBACCO.—Notwithstanding paragraph (1), drawback shall also be available pursuant to subsection (a) with respect to any tobacco subject to the over-quota rate of duty established under a tariff-rate quota.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421, establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.

SEC. 423. TOBACCO PROCLAMATION AUTHORITY.

(a) IN GENERAL.—The President, after consultation with the Committee on Ways and Means of the House of Representatives and with the Committee on Finance of the Senate, may proclaim the reduction or elimination of any duty with respect to cigar binder and filler tobacco, wrapper tobacco, or oriental tobacco set forth in Schedule XX.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 424. REPORT TO CONGRESS ON ACCESS TO CANADIAN DAIRY AND POULTRY MARKETS.

The President, not later than 6 months after the date of entry into force of the WTO Agreement with respect to the United States, shall submit a report to the Congress on the extent to which Canada is complying with its obligations under the Uruguay Round Agreements with respect to dairy and poultry products and with its related obligations under the North American Free Trade Agreement.

SEC. 425. STUDY OF MILK MARKETING ORDER SYSTEM.

The Secretary of Agriculture shall conduct a study to determine the effects of the Uruguay Round Agreements on the Federal milk marketing order system. Not later than 6 months after the date of entry into force of the WTO Agreement with respect to the

United States, the Secretary of Agriculture shall report to the Congress on the results of the study.

SEC. 426. ADDITIONAL PROGRAM FUNDING.

(a) USE OF ADDITIONAL FUNDS.—Consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, the Commodity Credit Corporation shall use, in addition to any other funds appropriated or made available for such purposes, any funds made available under subsection (b) for authorized export promotion, foreign market development, export credit financing, and promoting the development, commercialization, and marketing of products resulting from alternative uses of agricultural commodities.

(b) AMOUNT OF ADDITIONAL FUNDS.—Amounts shall be credited to the Commodity Credit Corporation in fiscal year 1995 equal to the lesser of the dollar amount of—

(1) the fiscal year 1995 Pay-As-You-Go savings; and

(2) the 5-year Pay-As-You-Go savings;

under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, resulting from the enactment of the Federal Crop Insurance Reform Act of 1994.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this section.

Subtitle B—Sanitary and Phytosanitary Measures

SEC. 431. SANITARY AND PHYTOSANITARY MEASURES.

(a) TRADE AGREEMENTS ACT OF 1979.—Section 414 of the Trade Agreements Act of 1979 (19 U.S.C. 2544) is amended by adding at the end the following:

"(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.".

(b) RAILWAY CAR INSPECTION.—Subsection (a) of the Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149), is amended by striking "from Mexico".

(c) FEDERAL PLANT PEST ACT.—The Federal Plant Pest Act (7 U.S.C. 150aa et seq.) is amended—

(1) so that section 103 (7 U.S.C. 150bb) reads as follows:

"SEC. 103. MOVEMENT OF PESTS PROHIBITED.

"(a) IN GENERAL.—No person shall import or enter any plant pest into the United States, or move any plant pest interstate, or accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless the movement is made in accordance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

"(b) REGULATIONS.—The regulations promulgated by the Secretary to implement subsection (a) may include regulations requiring that a plant pest moving into or through the United States, or interstate—

"(1) be accompanied by a permit issued by the Secretary prior to the movement of the plant pest; or

"(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary, by appropriate officials of the country or State from which the plant pest is to be moved."; and

(2) in section 104 (7 U.S.C. 150cc)—

(A) so that subsection (a) reads as follows:

"(a) Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless it is mailed in conformance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.";

(B) by striking subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) PLANT QUARANTINE ACT.—The Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the "Plant Quarantine Act") is amended—

(1) so that the first section (7 U.S.C. 151) reads as follows:

"SECTION 1. IMPORTATION OF NURSERY STOCK.

"(a) IN GENERAL.—No person shall—

"(1) import or enter into the United States any nursery stock; or

"(2) accept delivery of any nursery stock moving from any foreign country into or through the United States;

unless the movement is made in accordance with such regulations as the Secretary of Agriculture may promulgate to prevent dissemination into the United States of plant pests, plant diseases, or insect pests.

"(b) REGULATIONS.—The regulations promulgated by the Secretary of Agriculture to implement subsection (a) may include regulations requiring that nursery stock moving into or through the United States—

"(1) be accompanied by a permit issued by the Secretary of Agriculture prior to the movement of the nursery stock;

"(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary of Agriculture, by appropriate officials of the country or State from which the nursery stock is to be moved;

"(3) be grown under postentry quarantine conditions by or under the supervision of the Secretary of Agriculture for the purposes of determining whether the nursery stock may be infested with plant pests or insect pests, or infected with plant diseases, not discernible by port-of-entry inspection; and

"(4) if the nursery stock is found to be infested with plant pests or insect pests or infected with plant diseases, be subject to remedial measures the Secretary of Agriculture determines to be necessary to prevent the spread of plant pests, insect pests, or plant diseases."; and

(2) so that the last sentence of section 2 (7 U.S.C. 156) reads as follows: "This section does not apply to nursery stock that is imported or entered from a country or a region of a country that the Secretary of Agriculture designates, pursuant to procedures set forth in such regulations as the Secretary may promulgate, as exempt from the requirements of this section.".

(e) HONEYBEE IMPORTATION.—The first section of the Act of August 31, 1922 (42 Stat. 833, chapter 301; 7 U.S.C. 281) (commonly known as the "Honeybee Act"), is amended to read as follows:

"SECTION 1. HONEYBEE IMPORTATION.

"(a) IN GENERAL.—The Secretary of Agriculture is authorized to prohibit or restrict the importation or entry of honeybees and honeybee semen into or through the United States in order to prevent the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, or the introduction and spread of undesirable species or subspecies of honeybees and the semen of honeybees.

"(b) REGULATIONS.—The Secretary of Agriculture and the Secretary of the Treasury are each authorized to prescribe such regulations as the respective Secretary determines necessary to carry out this section.

"(c) ENFORCEMENT.—Honeybees or honeybee semen offered for importation into, intercepted entering, or having entered the United States, other than in accordance with regulations promulgated by the Secretary of Agriculture and the Secretary of the Treasury, shall be destroyed or immediately exported.

"(d) DEFINITION.—As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus Apis, except honeybee semen.".

(f) FEDERAL NOXIOUS WEED ACT OF 1974.—Section 4 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2803) is amended so that subsections (a) through (b) read as follows:

"(a) No person shall import or enter any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or move any noxious weed interstate, unless the movement is in accordance with such conditions as the Secretary may prescribe by regulation under this Act to prevent the dissemination into the United States, or interstate, of such noxious weeds.

"(b) The regulations prescribed by the Secretary to implement subsection (a) may include regulations requiring that any noxious weed imported or entered into the United States or moving inter-

state be accompanied by a permit issued by the Secretary prior to the movement of the noxious weed.".

(g) TARIFF ACT OF 1930.—Section 306(b) of the Tariff Act of 1930 (19 U.S.C. 1306(b)) is amended by inserting before the period at the end the following: ", or is, and is likely to remain, a region of low prevalence of rinderpest and foot-and-mouth disease".

(h) IMPORTATION OF ANIMALS.—Section 6 of the Act of August 30, 1890 (26 Stat. 416, chapter 839; 21 U.S.C. 104), is amended to read as follows:

"SEC. 6. IMPORTATION OF ANIMALS.

"(a) IN GENERAL.—The Secretary of Agriculture may by regulation prohibit or restrict the importation or entry of any cattle, sheep, or other ruminants, or swine, that are diseased or infected with any disease, or that have been exposed to an infection, into or through the United States to prevent the dissemination into the United States of a disease.

"(b) PENALTIES.—

"(1) CRIMINAL.—Any person who knowingly violates any regulation promulgated by the Secretary pursuant to this section, or any provision of sections 7 through 10 or any regulation promulgated by the Secretary pursuant to such sections, shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.

"(2) CIVIL.—Any person who violates any such provision or any such regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding $1,000. The Secretary may issue an order assessing the civil penalty only after notice and an opportunity for an agency hearing on the record. The order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the order may not be reviewed in an action to collect such civil penalty.".

(i) INSPECTION OF ANIMALS.—Section 10 of the Act of August 30, 1890 (26 Stat. 417, chapter 839; 21 U.S.C. 105), is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—Except as provided in subsection (b), the" and inserting "The";

(B) in the first sentence, by striking "shall cause careful inspection to be made by a suitable officer of all" and inserting "may cause careful inspection of any"; and

(C) in the third sentence, by striking "they shall not be allowed to be placed" and inserting "the Secretary may prohibit or restrict their placement"; and

(2) by striking subsection (b).

(j) INTERNATIONAL ANIMAL QUARANTINE STATION.—The 6th sentence in the first section of Public Law 91–239 (21 U.S.C. 135) is amended—

(1) by striking "North American"; and

(2) by striking "within the United States".

(k) POULTRY PRODUCTS INSPECTION ACT.—Section 17(d) of the Poultry Products Inspection Act (21 U.S.C. 466) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Notwithstanding any other provision of law, all poultry, or parts or products of poultry, capable of use as human food offered for importation into the United States shall—

"(A) be subject to inspection, sanitary, quality, species verification, and residue standards that achieve a level of sanitary protection equivalent to that achieved under United States standards; and

"(B) have been processed in facilities and under conditions that achieve a level of sanitary protection equivalent to that achieved under United States standards."; and

(2) in paragraph (2)—

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

"(A) The Secretary may treat as equivalent to a United States standard a standard of an exporting country described in paragraph (1) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the standard of the exporting country achieves the level of sanitary protection achieved under the United States standard. For the purposes of this subsection, the term 'sanitary protection' means protection to safeguard public health.";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(l) FEDERAL MEAT INSPECTION ACT.—Section 20(e) of the Federal Meat Inspection Act (21 U.S.C. 620(e)) is amended—

(1) so that subparagraphs (A) through (B) of paragraph (1) read as follows:

"(A) A certification by the Secretary that foreign plants exporting carcasses or meat or meat products referred to in subsection (a) have complied with requirements that achieve a level of sanitary protection equivalent to that achieved under United States requirements with regard to all inspection, building construction standards, and all other provisions of this Act and regulations issued under this Act.

"(B) The Secretary may treat as equivalent to a United States requirement a requirement described in subparagraph (A) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the requirement achieves the level of sanitary protection achieved under the United States requirement. For the purposes of this subsection, the term 'sanitary protection' means protection to safeguard public health.";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively.

SEC. 432. INTERNATIONAL STANDARD-SETTING ACTIVITIES.

Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) is amended by adding at the end the following new subtitle:

"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 ending 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.

"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 phystosanitary measure of the Food and Drug Administration that is not required to be promulgated 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.

"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 NAFTA countries (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act) 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.".

Subtitle C—Standards

SEC. 441. THE FEDERAL SEED ACT.

The Federal Seed Act (7 U.S.C. 1551 et seq.) is amended—

(1) in section 301(a) (7 U.S.C. 1581(a))—

(A) by striking "(a)";

(B) in paragraph (1), by striking ", or is required to be stained and is not so stained, under the terms of this title,";

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in section 302 (7 U.S.C. 1582)—

(A) in subsection (a), by striking "staining," both places it appears; and

(B) by striking subsection (e);

(3) by striking section 303 (7 U.S.C. 1585) and inserting the following new section:

"SEC. 303. CERTAIN SEEDS NOT ADAPTED FOR GENERAL AGRICULTURAL USE.

"Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country is not adapted for general agricultural use in the United States, the Secretary shall publish the determination and the reasons for the determination."; and

(4) in section 304 (7 U.S.C. 1586)—

(A) in subsection (a)—

(i) by inserting "or" at the end of paragraph (2);

(ii) by striking the semicolon at the end of paragraph (3) and inserting a period; and

(iii) by striking paragraphs (4) through (7);

(B) by striking subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

Subtitle D—General Effective Date

SEC. 451. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect on the date of entry into force of the WTO Agreement with respect to the United States.

TITLE V—INTELLECTUAL PROPERTY

SEC. 501. DEFINITION.

For purposes of this title—

(1) the term "WTO Agreement" has the meaning given that term in section 2(9) of the Uruguay Round Agreements Act; and

(2) the term "WTO member country" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act.

Subtitle A—Copyright Provisions

SEC. 511. RENTAL RIGHTS IN COMPUTER PROGRAMS.

Section 804(c) of the Computer Software Rental Amendments Act of 1990 (17 U.S.C. 109 note; 104 Stat. 5136) is amended by striking the first sentence.

SEC. 512. CIVIL PENALTIES FOR UNAUTHORIZED FIXATION OF AND TRAFFICKING IN SOUND RECORDINGS AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES.

(a) IN GENERAL.—Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 11—SOUND RECORDINGS AND MUSIC VIDEOS

"Sec.
"1101. Unauthorized fixation and trafficking in sound recordings and music videos.

"§ 1101. Unauthorized fixation and trafficking in sound recordings and music videos

"(a) UNAUTHORIZED ACTS.—Anyone who, without the consent of the performer or performers involved—

"(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation,

"(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance, or

"(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States,

shall be subject to the remedies provided in sections 502 through 505, to the same extent as an infringer of copyright.

"(b) DEFINITION.—As used in this section, the term 'traffic in' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

"(c) APPLICABILITY.—This section shall apply to any act or acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

"(d) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the common law or statutes of any State.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"11. Sound Recordings and Music Videos ..... 1101".

SEC. 513. CRIMINAL PENALTIES FOR UNAUTHORIZED FIXATION OF AND TRAFFICKING IN SOUND RECORDINGS AND MUSIC VIDEOS OR LIVE MUSICAL PERFORMANCES.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by inserting after section 2319 the following:

"§ 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

"(a) OFFENSE.—Whoever, without the consent of the performer or performers involved, knowingly and for purposes of commercial advantage or private financial gain—

"(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation;

"(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance; or

"(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States;

shall be imprisoned for not more than 5 years or fined in the amount set forth in this title, or both, or if the offense is a second or subsequent offense, shall be imprisoned for not more than 10 years or fined in the amount set forth in this title, or both.

"(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court shall order the forfeiture and destruction of any copies or phonorecords created in violation thereof, as well as any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made. The court may also, in its discretion, order the forfeiture and destruction of any other equipment by means of which such copies or phonorecords may be reproduced, taking into account the nature, scope, and proportionality of the use of the equipment in the offense.

"(c) SEIZURE AND FORFEITURE.—If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of the performer or performers involved, such copies or phonorecords are subject to seizure and forfeiture in the United States in the same manner as property imported in violation of the customs laws. The Secretary of the Treasury shall, not later than 60 days after the date of the enactment of the Uruguay Round Agreements Act, issue regulations to carry out this subsection, including regulations by which any performer may, upon payment of a specified fee, be entitled to notification by the United States Customs Service of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'copy', 'fixed', 'musical work', 'phonorecord', 'reproduce', 'sound recordings', and 'transmit' mean those terms within the meaning of title 17; and

"(2) the term 'traffic in' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

"(e) APPLICABILITY.—This section shall apply to any Act or Acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319 the following:

"2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.".

SEC. 514. RESTORED WORKS.

(a) IN GENERAL.—Section 104A of title 17, United States Code, is amended to read as follows:

"§ 104A. Copyright in restored works

"(a) AUTOMATIC PROTECTION AND TERM.—

"(1) TERM.—

"(A) Copyright subsists, in accordance with this section, in restored works, and vests automatically on the date of restoration.

"(B) Any work in which copyright is restored under this section shall subsist for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.

"(2) EXCEPTION.—Any work in which the copyright was ever owned or administered by the Alien Property Custodian and in which the restored copyright would be owned by a government or instrumentality thereof, is not a restored work.

"(b) OWNERSHIP OF RESTORED COPYRIGHT.—A restored work vests initially in the author or initial rightholder of the work as determined by the law of the source country of the work.

"(c) FILING OF NOTICE OF INTENT TO ENFORCE RESTORED COPYRIGHT AGAINST RELIANCE PARTIES.—On or after the date of restoration, any person who owns a copyright in a restored work or an exclusive right therein may file with the Copyright Office a notice of intent to enforce that person's copyright or exclusive right or may serve such a notice directly on a reliance party. Acceptance of a notice by the Copyright Office is effective as to any reliance parties but shall not create a presumption of the validity of any of the facts stated therein. Service on a reliance party is effective as to that reliance party and any other reliance parties with actual knowledge of such service and of the contents of that notice.

"(d) REMEDIES FOR INFRINGEMENT OF RESTORED COPYRIGHTS.—

"(1) ENFORCEMENT OF COPYRIGHT IN RESTORED WORKS IN THE ABSENCE OF A RELIANCE PARTY.—As against any party who is not a reliance party, the remedies provided in chapter 5 of this title shall be available on or after the date of restoration of a restored copyright with respect to an act of infringement of the restored copyright that is commenced on or after the date of restoration.

"(2) ENFORCEMENT OF COPYRIGHT IN RESTORED WORKS AS AGAINST RELIANCE PARTIES.—As against a reliance party, except to the extent provided in paragraphs (3) and (4), the remedies provided in chapter 5 of this title shall be available, with respect to an act of infringement of a restored copyright, on or after the date of restoration of the restored copyright if the requirements of either of the following subparagraphs are met:

"(A)(i) The owner of the restored copyright (or such owner's agent) or the owner of an exclusive right therein

(or such owner's agent) files with the Copyright Office, during the 24-month period beginning on the date of restoration, a notice of intent to enforce the restored copyright; and

"(ii)(I) the act of infringement commenced after the end of the 12-month period beginning on the date of publication of the notice in the Federal Register;

"(II) the act of infringement commenced before the end of the 12-month period described in subclause (I) and continued after the end of that 12-month period, in which case remedies shall be available only for infringement occurring after the end of that 12-month period; or

"(III) copies or phonorecords of a work in which copyright has been restored under this section are made after publication of the notice of intent in the Federal Register.

"(B)(i) The owner of the restored copyright (or such owner's agent) or the owner of an exclusive right therein (or such owner's agent) serves upon a reliance party a notice of intent to enforce a restored copyright; and

"(ii)(I) the act of infringement commenced after the end of the 12-month period beginning on the date the notice of intent is received;

"(II) the act of infringement commenced before the end of the 12-month period described in subclause (I) and continued after the end of that 12-month period, in which case remedies shall be available only for the infringement occurring after the end of that 12-month period; or

"(III) copies or phonorecords of a work in which copyright has been restored under this section are made after receipt of the notice of intent.

In the event that notice is provided under both subparagraphs (A) and (B), the 12-month period referred to in such subparagraphs shall run from the earlier of publication or service of notice.

"(3) EXISTING DERIVATIVE WORKS.—(A) In the case of a derivative work that is based upon a restored work and is created—

"(i) before the date of the enactment of the Uruguay Round Agreements Act, if the source country of the derivative work is an eligible country on such date, or

"(ii) before the date of adherence or proclamation, if the source country of the derivative work is not an eligible country on such date of enactment,

a reliance party may continue to exploit that work for the duration of the restored copyright if the reliance party pays to the owner of the restored copyright reasonable compensation for conduct which would be subject to a remedy for infringement but for the provisions of this paragraph.

"(B) In the absence of an agreement between the parties, the amount of such compensation shall be determined by an action in United States district court, and shall reflect any harm to the actual or potential market for or value of the restored work from the reliance party's continued exploitation of the work, as well as compensation for the relative contributions of expression of the author of the restored work and the reliance party to the derivative work.

"(4) COMMENCEMENT OF INFRINGEMENT FOR RELIANCE PARTIES.—For purposes of section 412, in the case of reliance parties, infringement shall be deemed to have commenced before registration when acts which would have constituted infringement had the restored work been subject to copyright were commenced before the date of restoration.

"(e) NOTICES OF INTENT TO ENFORCE A RESTORED COPYRIGHT.—

"(1) NOTICES OF INTENT FILED WITH THE COPYRIGHT OFFICE.—(A)(i) A notice of intent filed with the Copyright Office to enforce a restored copyright shall be signed by the owner of the restored copyright or the owner of an exclusive right therein, who files the notice under subsection (d)(2)(A)(i) (hereafter in this paragraph referred to as the 'owner'), or by the owner's agent, shall identify the title of the restored work, and shall include an English translation of the title and any other alternative titles known to the owner by which the restored work may be identified, and an address and telephone number at which the owner may be contacted. If the notice is signed by an agent, the agency relationship must have been constituted in a writing signed by the owner before the filing of the notice. The Copyright Office may specifically require in regulations other information to be included in the notice, but failure to provide such other information shall not invalidate the notice or be a basis for refusal to list the restored work in the Federal Register.

"(ii) If a work in which copyright is restored has no formal title, it shall be described in the notice of intent in detail sufficient to identify it.

"(iii) Minor errors or omissions may be corrected by further notice at any time after the notice of intent is filed. Notices of corrections for such minor errors or omissions shall be accepted after the period established in subsection (d)(2)(A)(i). Notices shall be published in the Federal Register pursuant to subparagraph (B).

"(B)(i) The Register of Copyrights shall publish in the Federal Register, commencing not later than 4 months after the date of restoration for a particular nation and every 4 months thereafter for a period of 2 years, lists identifying restored works and the ownership thereof if a notice of intent to enforce a restored copyright has been filed.

"(ii) Not less than 1 list containing all notices of intent to enforce shall be maintained in the Public Information Office of the Copyright Office and shall be available for public inspection and copying during regular business hours pursuant to sections 705 and 708. Such list shall also be published in the Federal Register on an annual basis for the first 2 years after the applicable date of restoration.

"(C) The Register of Copyrights is authorized to fix reasonable fees based on the costs of receipt, processing, recording, and publication of notices of intent to enforce a restored copyright and corrections thereto.

"(D)(i) Not later than 90 days before the date the Agreement on Trade-Related Aspects of Intellectual Property referred to in section 101(d)(15) of the Uruguay Round Agreements Act enters into force with respect to the United States, the Copyright Office shall issue and publish in the Federal Register

regulations governing the filing under this subsection of notices of intent to enforce a restored copyright.

"(ii) Such regulations shall permit owners of restored copyrights to file simultaneously for registration of the restored copyright.

"(2) NOTICES OF INTENT SERVED ON A RELIANCE PARTY.—(A) Notices of intent to enforce a restored copyright may be served on a reliance party at any time after the date of restoration of the restored copyright.

"(B) Notices of intent to enforce a restored copyright served on a reliance party shall be signed by the owner or the owner's agent, shall identify the restored work and the work in which the restored work is used, if any, in detail sufficient to identify them, and shall include an English translation of the title, any other alternative titles known to the owner by which the work may be identified, the use or uses to which the owner objects, and an address and telephone number at which the reliance party may contact the owner. If the notice is signed by an agent, the agency relationship must have been constituted in writing and signed by the owner before service of the notice.

"(3) EFFECT OF MATERIAL FALSE STATEMENTS.—Any material false statement knowingly made with respect to any restored copyright identified in any notice of intent shall make void all claims and assertions made with respect to such restored copyright.

"(f) IMMUNITY FROM WARRANTY AND RELATED LIABILITY.—

"(1) IN GENERAL.—Any person who warrants, promises, or guarantees that a work does not violate an exclusive right granted in section 106 shall not be liable for legal, equitable, arbitral, or administrative relief if the warranty, promise, or guarantee is breached by virtue of the restoration of copyright under this section, if such warranty, promise, or guarantee is made before January 1, 1995.

"(2) PERFORMANCES.—No person shall be required to perform any act if such performance is made infringing by virtue of the restoration of copyright under the provisions of this section, if the obligation to perform was undertaken before January 1, 1995.

"(g) PROCLAMATION OF COPYRIGHT RESTORATION.—Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States, restored copyright protection on substantially the same basis as provided under this section, the President may by proclamation extend restored protection provided under this section to any work—

"(1) of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation; or

"(2) which was first published in that nation.

The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under such a proclamation.

"(h) DEFINITIONS.—For purposes of this section and section 109(a):

"(1) The term 'date of adherence or proclamation' means the earlier of the date on which a foreign nation which, as of the date the WTO Agreement enters into force with respect

to the United States, is not a nation adhering to the Berne Convention or a WTO member country, becomes—

"(A) a nation adhering to the Berne Convention or a WTO member country; or

"(B) subject to a Presidential proclamation under subsection (g).

"(2) The 'date of restoration' of a restored copyright is the later of—

"(A) the date on which the Agreement on Trade-Related Aspects of Intellectual Property referred to in section 101(d)(15) of the Uruguay Round Agreements Act enters into force with respect to the United States, if the source country of the restored work is a nation adhering to the Berne Convention or a WTO member country on such date; or

"(B) the date of adherence or proclamation, in the case of any other source country of the restored work.

"(3) The term 'eligible country' means a nation, other than the United States, that is a WTO member country, adheres to the Berne Convention, or is subject to a proclamation under section 104A(g).

"(4) The term 'reliance party' means any person who—

"(A) with respect to a particular work, engages in acts, before the source country of that work becomes an eligible country, which would have violated section 106 if the restored work had been subject to copyright protection, and who, after the source country becomes an eligible country, continues to engage in such acts;

"(B) before the source country of a particular work becomes an eligible country, makes or acquires 1 or more copies or phonorecords of that work; or

"(C) as the result of the sale or other disposition of a derivative work covered under subsection (d)(3), or significant assets of a person described in subparagraph (A) or (B), is a successor, assignee, or licensee of that person.

"(5) The term 'restored copyright' means copyright in a restored work under this section.

"(6) The term 'restored work' means an original work of authorship that—

"(A) is protected under subsection (a);

"(B) is not in the public domain in its source country through expiration of term of protection;

"(C) is in the public domain in the United States due to—

"(i) noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, lack of proper notice, or failure to comply with any manufacturing requirements;

"(ii) lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; or

"(iii) lack of national eligibility; and

"(D) has at least one author or rightholder who was, at the time the work was created, a national or domiciliary of an eligible country, and if published, was first published in an eligible country and not published in the United

States during the 30-day period following publication in such eligible country.

"(7) The term 'rightholder' means the person—

"(A) who, with respect to a sound recording, first fixes a sound recording with authorization, or

"(B) who has acquired rights from the person described in subparagraph (A) by means of any conveyance or by operation of law.

"(8) The 'source country' of a restored work is—

"(A) a nation other than the United States;

"(B) in the case of an unpublished work—

"(i) the eligible country in which the author or rightholder is a national or domiciliary, or, if a restored work has more than 1 author or rightholder, the majority of foreign authors or rightholders are nationals or domiciliaries of eligible countries; or

"(ii) if the majority of authors or rightholders are not foreign, the nation other than the United States which has the most significant contacts with the work; and

"(C) in the case of a published work—

"(i) the eligible country in which the work is first published, or

"(ii) if the restored work is published on the same day in 2 or more eligible countries, the eligible country which has the most significant contacts with the work.

"(9) The terms 'WTO Agreement' and 'WTO member country' have the meanings given those terms in paragraphs (9) and (10), respectively, of section 2 of the Uruguay Round Agreements Act.".

(b) LIMITATION.—Section 109(a) of title 17, United States Code, is amended by adding at the end the following: "Notwithstanding the preceding sentence, copies or phonorecords of works subject to restored copyright under section 104A that are manufactured before the date of restoration of copyright or, with respect to reliance parties, before publication or service of notice under section 104A(e), may be sold or otherwise disposed of without the authorization of the owner of the restored copyright for purposes of direct or indirect commercial advantage only during the 12-month period beginning on—

"(1) the date of the publication in the Federal Register of the notice of intent filed with the Copyright Office under section 104A(d)(2)(A), or

"(2) the date of the receipt of actual notice served under section 104A(d)(2)(B),

whichever occurs first.".

(c) CONFORMING AMENDMENT.—The item relating to section 104A in the table of sections for chapter 1 of title 17, United States Code, is amended to read as follows:

"104A. Copyright in restored works.".

Subtitle B—Trademark Provisions

SEC. 521. DEFINITION OF "ABANDONED".

Section 45 of the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry

out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1127) (hereafter in this title referred to as the "Trademark Act of 1946"), is amended by amending the paragraph defining "abandoned" to read as follows:

"A mark shall be deemed to be 'abandoned' if either of the following occurs:

"(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment. 'Use' of a mark means the bona fide use of such mark made in the ordinary course of trade, and not made merely to reserve a right in a mark.

"(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to become the generic name for the goods or services on or in connection with which it is used or otherwise to lose its significance as a mark. Purchaser motivation shall not be a test for determining abandonment under this paragraph.".

SEC. 522. NONREGISTRABILITY OF MISLEADING GEOGRAPHIC INDICATIONS FOR WINES AND SPIRITS.

Subsection (a) of section 2 of the Trademark Act of 1946 (15 U.S.C. 1052(a)) is amended to read as follows:

"(a) Consists of or comprises immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or a geographical indication which, when used on or in connection with wines or spirits, identifies a place other than the origin of the goods and is first used on or in connection with wines or spirits by the applicant on or after one year after the date on which the WTO Agreement (as defined in section 2(9) of the Uruguay Round Agreements Act) enters into force with respect to the United States.".

SEC. 523. EFFECTIVE DATE.

The amendments made by this subtitle take effect one year after the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle C—Patent Provisions

SEC. 531. TREATMENT OF INVENTIVE ACTIVITY.

(a) IN GENERAL.—Section 104 of title 35, United States Code, is amended to read as follows:

"§ 104. Invention made abroad

"(a) IN GENERAL.—

"(1) PROCEEDINGS.—In proceedings in the Patent and Trademark Office, in the courts, and before any other competent authority, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country other than a NAFTA country or a WTO member country, except as provided in sections 119 and 365 of this title.

"(2) RIGHTS.—If an invention was made by a person, civil or military—

"(A) while domiciled in the United States, and serving in any other country in connection with operations by or on behalf of the United States,

"(B) while domiciled in a NAFTA country and serving in another country in connection with operations by or on behalf of that NAFTA country, or

"(C) while domiciled in a WTO member country and serving in another country in connection with operations by or on behalf of that WTO member country,

that person shall be entitled to the same rights of priority in the United States with respect to such invention as if such invention had been made in the United States, that NAFTA country, or that WTO member country, as the case may be.

"(3) USE OF INFORMATION.—To the extent that any information in a NAFTA country or a WTO member country concerning knowledge, use, or other activity relevant to proving or disproving a date of invention has not been made available for use in a proceeding in the Patent and Trademark Office, a court, or any other competent authority to the same extent as such information could be made available in the United States, the Commissioner, court, or such other authority shall draw appropriate inferences, or take other action permitted by statute, rule, or regulation, in favor of the party that requested the information in the proceeding.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'NAFTA country' has the meaning given that term in section 2(4) of the North American Free Trade Agreement Implementation Act; and

"(2) the term 'WTO member country' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to all patent applications that are filed on or after the date that is 12 months after the date of entry into force of the WTO Agreement with respect to the United States.

(2) ESTABLISHMENT OF DATE.—An applicant for a patent, or a patentee, may not establish a date of invention for purposes of title 35, United States Code, that is earlier than 12 months after the date of entry into force of the WTO Agreement with respect to the United States by reference to knowledge or use, or other activity, in a WTO member country, except as provided in sections 119 and 365 of such title.

SEC. 532. PATENT TERM AND INTERNAL PRIORITY.

(a) PATENT RIGHTS.—

(1) CONTENTS AND TERM OF PATENT.—Section 154 of title 35, United States Code, is amended to read as follows:

"§ 154. Contents and term of patent

"(a) IN GENERAL.—

"(1) CONTENTS.—Every patent shall contain a short title of the invention and a grant to the patentee, his heirs or assigns, of the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States, and,

if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States, or importing into the United States, products made by that process, referring to the specification for the particulars thereof.

"(2) TERM.—Subject to the payment of fees under this title, such grant shall be for a term beginning on the date on which the patent issues and ending 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, from the date on which the earliest such application was filed.

"(3) PRIORITY.—Priority under section 119, 365(a), or 365(b) of this title shall not be taken into account in determining the term of a patent.

"(4) SPECIFICATION AND DRAWING.—A copy of the specification and drawing shall be annexed to the patent and be a part of such patent.

"(b) TERM EXTENSION.—

"(1) INTERFERENCE DELAY OR SECRECY ORDERS.—If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

"(2) EXTENSION FOR APPELLATE REVIEW.—If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

"(3) LIMITATIONS.—The period of extension referred to in paragraph (2)—

"(A) shall include any period beginning on the date on which an appeal is filed under section 134 or 141 of this title, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant;

"(B) shall be reduced by any time attributable to appellate review before the expiration of 3 years from the filing date of the application for patent; and

"(C) shall be reduced for the period of time during which the applicant for patent did not act with due diligence, as determined by the Commissioner.

"(4) LENGTH OF EXTENSION.—The total duration of all extensions of a patent under this subsection shall not exceed 5 years.

"(c) CONTINUATION.—

"(1) DETERMINATION.—The term of a patent that is in force on or that results from an application filed before the date that is 6 months after the date of the enactment of the Uruguay

Round Agreements Act shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant, subject to any terminal disclaimers.

"(2) REMEDIES.—The remedies of sections 283, 284, and 285 of this title shall not apply to Acts which—

"(A) were commenced or for which substantial investment was made before the date that is 6 months after the date of the enactment of the Uruguay Round Agreements Act; and

"(B) became infringing by reason of paragraph (1).

"(3) REMUNERATION.—The acts referred to in paragraph (2) may be continued only upon the payment of an equitable remuneration to the patentee that is determined in an action brought under chapter 28 and chapter 29 (other than those provisions excluded by paragraph (2)) of this title.".

(2) PROVISION OF FURTHER LIMITED REEXAMINATION AND CONDITIONS OF RESTRICTION REQUIREMENTS.—(A) The Commissioner of Patents and Trademarks shall prescribe regulations to provide for further limited reexamination of applications that have been pending for 2 years or longer as of the effective date of section 154(a)(2) of title 35, United States Code, as added by paragraph (1) of this subsection, taking into account any reference made in such application to any earlier filed application under section 120, 121, or 365(c) of such title. The Commissioner may establish appropriate fees for such further limited reexamination.

(B) The Commissioner of Patents and Trademarks shall prescribe regulations to provide for the examination of more than 1 independent and distinct invention in an application that has been pending for 3 years or longer as of the effective date of section 154(a)(2) of title 35, United States Code, as added by paragraph (1) of this subsection, taking into account any reference made in such application to any earlier filed application under section 120, 121, or 365(c) of such title. The Commissioner may establish appropriate fees for such examination.

(b) ESTABLISHMENT OF A DOMESTIC PRIORITY SYSTEM.—

(1) IN GENERAL.—Section 119 of title 35, United States Code, is amended—

(A) by amending the section caption to read as follows:

"§ 119. Benefit of earlier filing date; right of priority";

(B) by designating the undesignated paragraphs as subsections (a), (b), (c), and (d), respectively; and

(C) by adding at the end the following:

"(e)(1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application.

"(2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid and the provisional application was pending on the filing date of the application for patent under section 111(a) or section 363 of this title.".

(2) FEES.—Section 41(a)(1) of title 35, United States Code, is amended by adding at the end the following:

"(C) On filing each provisional application for an original patent, $150.".

(3) APPLICATIONS.—Section 111 of title 35, United States Code, is amended to read as follows:

"§ 111. Application

"(a) IN GENERAL.—

"(1) WRITTEN APPLICATION.—An application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Commissioner.

"(2) CONTENTS.—Such application shall include—

"(A) a specification as prescribed by section 112 of this title;

"(B) a drawing as prescribed by section 113 of this title; and

"(C) an oath by the applicant as prescribed by section 115 of this title.

"(3) FEE AND OATH.—The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

"(4) FAILURE TO SUBMIT.—Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

"(b) PROVISIONAL APPLICATION.—

"(1) AUTHORIZATION.—A provisional application for patent shall be made or authorized to be made by the inventor, except as otherwise provided in this title, in writing to the Commissioner. Such application shall include—

"(A) a specification as prescribed by the first paragraph of section 112 of this title; and

"(B) a drawing as prescribed by section 113 of this title.

"(2) CLAIM.—A claim, as required by the second through fifth paragraphs of section 112, shall not be required in a provisional application.

"(3) FEE.—(A) The application must be accompanied by the fee required by law.

"(B) The fee may be submitted after the specification and any required drawing are submitted, within such period and

under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

"(C) Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee was unavoidable or unintentional.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

"(5) ABANDONMENT.—The provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.

"(6) OTHER BASIS FOR PROVISIONAL APPLICATION.—Subject to all the conditions in this subsection and section 119(e) of this title, and as prescribed by the Commissioner, an application for patent filed under subsection (a) may be treated as a provisional application for patent.

"(7) NO RIGHT OF PRIORITY OR BENEFIT OF EARLIEST FILING DATE.—A provisional application shall not be entitled to the right of priority of any other application under section 119 or 365(a) of this title or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c) of this title.

"(8) APPLICABLE PROVISIONS.—The provisions of this title relating to applications for patent shall apply to provisional applications for patent, except as otherwise provided, and except that provisional applications for patent shall not be subject to sections 115, 131, 135, and 157 of this title.".

(c) CONFORMING CHANGES.—

(1) Section 156(a)(2) of title 35, United States Code, is amended by inserting "under subsection (e)(1) of this section" after "extended".

(2) Section 172 of title 35, United States Code, is amended—

(A) by striking "section 119" and inserting "subsections (a) through (d) of section 119"; and

(B) by inserting at the end the following new sentence: "The right of priority provided for by section 119(e) of this title shall not apply to designs.".

(3) Section 173 of title 35, United States Code, is amended by inserting "from the date of grant" after "years".

(4) Section 365 of title 35, United States Code, is amended—

(A) in subsection (a), by striking "section 119" and inserting "subsections (a) through (d) of section 119"; and

(B) in subsection (b), by striking "the first paragraph of section 119" and inserting "section 119(a)".

(5) Section 373 of title 35, United States Code, is amended by striking "section 119" and inserting "subsections (a) through (d) of section 119".

(6) The table of sections for chapter 11 of title 35, United States Code, is amended—

(A) by striking the item relating to section 111 and inserting the following:

"111. Application.";

and

(B) by striking the item relating to section 119 and inserting the following:

"119. Benefit of earlier filing date; right of priority.".

SEC. 533. PATENT RIGHTS.

(a) DEFINITION OF INFRINGEMENT.—Section 271 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", offers to sell," after "uses"; and

(B) by inserting "or imports into the United States any patented invention" after "the United States";

(2) in subsection (c), by striking "sells" and inserting "offers to sell or sells within the United States or imports into the United States";

(3) in subsection (e)—

(A) in paragraph (1), by striking "or sell" and inserting "offer to sell, or sell within the United States or import into the United States";

(B) in paragraph (3), by striking "or selling" and inserting "offering to sell, or selling within the United States or importing into the United States";

(C) in paragraph (4)(B), by striking "or sale" and inserting "offer to sell, or sale within the United States or importation into the United States"; and

(D) in paragraph (4)(C), by striking "or sale" and inserting "offer to sell, or sale within the United States or importation into the United States";

(4) in subsection (g)—

(A) by striking "sells" and inserting "offers to sell, sells,";

(B) by striking "importation, sale," and inserting "importation, offer to sell, sale,"; and

(C) by striking "other use or" and inserting "other use, offer to sell, or"; and

(5) by adding at the end the following:

"(i) As used in this section, an 'offer for sale' or an 'offer to sell' by a person other than the patentee, or any designee of the patentee, is that in which the sale will occur before the expiration of the term of the patent.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 41(c) of title 35, United States Code, is amended to read as follows:

"(2) A patent, the term of which has been maintained as a result of the acceptance of a payment of a maintenance fee under this subsection, shall not abridge or affect the right of any person or that person's successors in business who made, purchased, offered to sell, or used anything protected by the patent within the United States, or imported anything protected by the patent into the United States after the 6-month grace period but prior to the acceptance of a maintenance fee under this subsection, to continue the use of, to offer for sale, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, or used within the United States, or imported into the United States, as specified, or for the manufacture, use, offer for sale,

or sale in the United States of which substantial preparation was made after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, and the court may also provide for the continued practice of any process that is practiced, or for the practice of which substantial preparation was made, after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced after the 6-month grace period but before the acceptance of a maintenance fee under this subsection.".

(2) The second undesignated paragraph of section 252 of title 35, United States Code, is amended to read as follows:

"A reissued patent shall not abridge or affect the right of any person or that person's successors in business who, prior to the grant of a reissue, made, purchased, offered to sell, or used within the United States, or imported into the United States, anything patented by the reissued patent, to continue the use of, to offer to sell, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported unless the making, using, offering for sale, or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, used, or imported as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made before the grant of the reissue, and the court may also provide for the continued practice of any process patented by the reissue that is practiced, or for the practice of which substantial preparation was made, before the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.".

(3) Section 262 of title 35, United States Code, is amended—

(A) by striking "use or sell" and inserting "use, offer to sell, or sell"; and

(B) by inserting "within the United States, or import the patented invention into the United States," after "invention".

(4) Section 272 of title 35, United States Code, is amended by striking "not sold" and inserting "not offered for sale or sold".

(5) Section 287 of title 35, United States Code, is amended—

(A) in subsection (a)—

(i) by striking "making or selling" and inserting "making, offering for sale, or selling within the United States"; and

(ii) by inserting "or importing any patented article into the United States," after "under them,"; and

(B) in subsection (b)—

(i) in paragraph (1)(C), by striking "use, or sale" and inserting "use, offer for sale, or sale";

(ii) in paragraph (4)(A), by striking "sold or" and inserting "sold, offered for sale, or" in the matter preceding clause (i);

(iii) in paragraph (4)(A)(ii), by striking "use, or sale" and inserting "use, offer for sale, or sale";

(iv) in paragraph (4)(C), by striking "have been sold" and inserting "have been offered for sale or sold"; and

(v) in paragraph (4)(C), by striking "United States before" and inserting "United States, or imported by the person into the United States, before".

(6) Section 292(a) of title 35, United States Code, is amended—

(A) by striking "used, or sold by him" and inserting "used, offered for sale, or sold by such person within the United States, or imported by the person into the United States"; and

(B) by striking "made or sold" and inserting "made, offered for sale, sold, or imported into the United States".

(7) Section 295 of title 35, United States Code, is amended by striking "sale, or use" and inserting "sale, offer for sale, or use".

(8) Section 307(b) of title 35, United States Code, is amended by striking "used anything" and inserting "used within the United States, or imported into the United States, anything".

SEC. 534. EFFECTIVE DATES AND APPLICATION.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this subtitle take effect on the date that is one year after the date on which the WTO Agreement enters into force with respect to the United States.

(b) PATENT APPLICATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 532 take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all patent applications filed in the United States on or after the effective date.

(2) SECTION 154(a)(1).—Section 154(a)(1) of title 35, United States Code, as amended by section 532(a)(1) of this Act, shall take effect on the effective date described in subsection (a).

(3) EARLIEST FILING.—The term of a patent granted on an application that is filed on or after the effective date described in subsection (a) and that contains a specific reference to an earlier application filed under the provisions of section 120, 121, or 365(c) of title 35, United States Code, shall be measured from the filing date of the earliest filed application.

TITLE VI—RELATED PROVISIONS

Subtitle A—Expiring Provisions

SEC. 601. GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505(a) of the Trade Act of 1974 (19 U.S.C. 2465(a)) is

amended by striking "September 30, 1994" and inserting "July 31, 1995".

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 1994, and

(B) that was made after September 30, 1994, and before such date of enactment,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 602. U.S. INSULAR POSSESSIONS.

(a) EXTENSION OF VERIFICATION AND CERTIFICATE ISSUANCE PROVISIONS.—Additional U.S. Note 5(h)(i) to chapter 91 of the HTS is amended by striking "and before January 1, 1995," and inserting "and before January 1, 2007,".

(b) EXTENSION OF CERTIFICATE NUMBER PIC–EV–89.—Notwithstanding any other provision of law, the production incentive certificate, number PIC–EV–89, issued jointly by the Secretary of Commerce and the Secretary of the Interior, pursuant to paragraph (h)(i)(B) of Additional U.S. Note 5 to chapter 91 of the HTS (formerly paragraph (h)(i)(II) of headnote 6 of schedule 7, part 2, subpart E of the Tariff Schedules of the United States), shall be deemed to have been reissued on the date of the enactment of this Act in the amount of the balance remaining on such certificate, and shall expire on the date that is 1 year after such date of enactment.

Subtitle B—Certain Customs Provisions

SEC. 611. REIMBURSEMENTS FROM CUSTOMS USER FEE ACCOUNT.

(a) IN GENERAL.—Subclause (II) of section 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i)(II)) is amended to read as follows:

"(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 5(b) and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before the effective date of section 13813 of the Omnibus Budget Reconciliation Act of 1993,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to customs inspectional services performed on or after January 1, 1994.

SEC. 612. MERCHANDISE PROCESSING FEES.

(a) IN GENERAL.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) in subsection (a)(9)—

(A) in subparagraph (A), by striking "0.17" and inserting "0.21",

(B) in subparagraph (B)(i), by striking "(but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would" and inserting "(but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than $485 nor less than $21) to rates and amounts which would", and

(C) in subparagraph (B)(ii), by striking "section 613A of the Tariff Act of 1930" and inserting "subsection (f)",

(2) in subsection (a)(10)—

(A) in subparagraph (C), by striking "entry or release." and inserting "entry or release,",

(B) in clause (ii), by striking "$5" and inserting "$6", and

(C) in clause (iii), by striking "$8" and inserting "$9", and

(3) in subsection (b)(8)(A)(i), by striking "$400 or be less than $21", and inserting "$485 or be less than $25, unless adjusted pursuant to subsection (a)(9)(B)".

(b) EFFECTIVE DATE.—The amendments made by this section apply to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

Subtitle C—Conforming Amendments

SEC. 621. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1317(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 1677k(a)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) by striking "General Agreement on Tariffs and Trade" and inserting "GATT 1994"; and

(C) by adding at the end the following:

"(B) The term 'GATT 1994' has the meaning given that term in section 2(1)(B) of the Uruguay Round Agreements Act.".

(2) Section 212(c)(4) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)(4)) is amended by striking "General" and all that follows through "1979" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(3) Section 203(d)(4) of the Andean Trade Preference Act (19 U.S.C. 3202(d)(4)) is amended by striking "General" and all that follows through "1979" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are

defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(4) Section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2905) is amended—

(A) in subsection (a), by striking "the GATT" and inserting "the GATT 1947, or to the WTO Agreement,";

(B) in subsections (b) and (c), by inserting after "the GATT" each place it appears "1947 or the WTO Agreement";

(C) by adding at the end the following new subsection: "(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'GATT 1947' has the meaning given that term in section 2(1)(A) of the Uruguay Round Agreements Act.

"(2) The term 'WTO Agreement' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994 and the multilateral trade agreements (as such term is defined in section 2(4) of the Uruguay Round Agreements Act).."; and

(D) by inserting after "GENERAL AGREEMENT ON TARIFFS AND TRADE" in the heading "FOR THE WTO".

(5) Section 1107(a)(3) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2906(3)) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the GATT 1947 (as defined in section 2(1)(A) of the Uruguay Round Agreements Act)".

(6) Section 1378(2) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3107(2)) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(7) Section 1382 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3111) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(8) Section 141(c)(1) of the Trade Act of 1974 (19 U.S.C. 2171(c)(1)) is amended—

(A) in subparagraph (C) by inserting "all negotiations on any matter considered under the auspices of the World Trade Organization," after "including"; and

(B) in subparagraph (D) by inserting ", including any matter considered under the auspices of the World Trade Organization," after "functions".

(9) Section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)(A)) is amended by striking "the Contracting Parties" and all that follows through "Parties," and inserting "the Dispute Settlement Body (as defined in section 121(5) of the Uruguay Round Agreements Act) has adopted a report,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE VII—REVENUE PROVISIONS

SEC. 700. AMENDMENT OF 1986 CODE AND TABLE OF CONTENTS.

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TABLE OF CONTENTS.—

TITLE VII—REVENUE PROVISIONS

Sec. 700. Amendment of 1986 Code and table of contents.

Subtitle A—Withholding Tax Provisions

Sec. 701. Withholding on distributions of Indian casino profits to tribal members.
Sec. 702. Voluntary withholding on certain Federal payments and on unemployment compensation.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

Sec. 711. Treatment of subpart F and section 936 income of taxpayers using annualized method for estimated tax.
Sec. 712. Time for payments and deposits of certain taxes.
Sec. 713. Reduction in rate of interest paid on certain corporate overpayments.

Subtitle C—Earned Income Tax Credit

Sec. 721. Extension of earned income tax credit to military personnel stationed outside the United States.
Sec. 722. Certain nonresident aliens ineligible for earned income tax credit.
Sec. 723. Income of prisoners disregarded in determining earned income tax credit.

Subtitle D—Provisions Relating To Retirement Benefits

Sec. 731. Treatment of excess pension assets used for retiree health benefits.
Sec. 732. Rounding rules for cost-of-living adjustments.
Sec. 733. Increase in inclusion of social security benefits paid to nonresidents.

Subtitle E—Other Provisions

Sec. 741. Partnership distributions of marketable securities.
Sec. 742. Taxpayer identification numbers required at birth.
Sec. 743. Extension of Internal Revenue Service user fees.
Sec. 744. Modification of substantial understatement penalty for corporations participating in tax shelters.
Sec. 745. Modification of authority to set terms and conditions for savings bonds.

Subtitle F—Pension Plan Funding and Premiums

Sec. 750. Short title.

PART I—PENSION PLAN FUNDING

SUBPART A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 751. Minimum funding requirements.
Sec. 752. Limitation on changes in current liability assumptions.
Sec. 753. Anticipation of bargained benefit increases.
Sec. 754. Modification of quarterly contribution requirement.
Sec. 755. Exceptions to excise tax on nondeductible contributions.

SUBPART B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 761. Minimum funding requirements.
Sec. 762. Limitation on changes in current liability assumptions.
Sec. 763. Anticipation of bargained benefit increases.
Sec. 764. Modification of quarterly contribution requirement.

SUBPART C—OTHER FUNDING PROVISIONS

Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.

Sec. 767. Single sum distributions.
Sec. 768. Adjustments to lien for missed minimum funding contributions.
Sec. 769. Special funding rules for certain plans.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 771. Reportable events.
Sec. 772. Certain information required to be furnished to PBGC.
Sec. 773. Enforcement of minimum funding requirements.
Sec. 774. Computation of additional PBGC premium.
Sec. 775. Disclosure to participants.
Sec. 776. Missing participants.
Sec. 777. Modification of maximum guarantee for disability benefits.
Sec. 778. Procedures to facilitate distribution of termination benefits.

PART III—EFFECTIVE DATES

Sec. 781. Effective dates.

Subtitle A—Withholding Tax Provisions

SEC. 701. WITHHOLDING ON DISTRIBUTIONS OF INDIAN CASINO PROFITS TO TRIBAL MEMBERS.

(a) IN GENERAL.—Section 3402 (relating to income tax collected at source) is amended by inserting after subsection (q) the following new subsection:

"(r) EXTENSION OF WITHHOLDING TO CERTAIN TAXABLE PAYMENTS OF INDIAN CASINO PROFITS.—

"(1) IN GENERAL.—Every person, including an Indian tribe, making a payment to a member of an Indian tribe from the net revenues of any class II or class III gaming activity conducted or licensed by such tribe shall deduct and withhold from such payment a tax in an amount equal to such payment's proportionate share of the annualized tax.

"(2) EXCEPTION.—The tax imposed by paragraph (1) shall not apply to any payment to the extent that the payment, when annualized, does not exceed an amount equal to the sum of—

"(A) the basic standard deduction (as defined in section 63(c)) for an individual to whom section 63(c)(2)(C) applies, and

"(B) the exemption amount (as defined in section 151(d)).

"(3) ANNUALIZED TAX.—For purposes of paragraph (1), the term 'annualized tax' means, with respect to any payment, the amount of tax which would be imposed by section 1(c) (determined without regard to any rate of tax in excess of 31 percent) on an amount of taxable income equal to the excess of—

"(A) the annualized amount of such payment, over

"(B) the amount determined under paragraph (2).

"(4) CLASSES OF GAMING ACTIVITIES, ETC.—For purposes of this subsection, terms used in paragraph (1) which are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), as in effect on the date of the enactment of this subsection, shall have the respective meanings given such terms by such section.

"(5) ANNUALIZATION.—Payments shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(6) ALTERNATE WITHHOLDING PROCEDURES.—At the election of an Indian tribe, the tax imposed by this subsection

on any payment made by such tribe shall be determined in accordance with such tables or computational procedures as may be specified in regulations prescribed by the Secretary (in lieu of in accordance with paragraphs (2) and (3)).

"(7) COORDINATION WITH OTHER SECTIONS.—For purposes of this chapter and so much of subtitle F as relates to this chapter, payments to any person which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1994.

SEC. 702. VOLUNTARY WITHHOLDING ON CERTAIN FEDERAL PAYMENTS AND ON UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Subsection (p) of section 3402 (relating to voluntary withholding agreements) is amended to read as follows:

"(p) VOLUNTARY WITHHOLDING AGREEMENTS.—

"(1) CERTAIN FEDERAL PAYMENTS.—

"(A) IN GENERAL.—If, at the time a specified Federal payment is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee.

"(B) AMOUNT WITHHELD.—The amount to be deducted and withheld under this chapter from any payment to which any request under subparagraph (A) applies shall be an amount equal to the percentage of such payment specified in such request. Such a request shall apply to any payment only if the percentage specified is 7, 15, 28, or 31 percent or such other percentage as is permitted under regulations prescribed by the Secretary.

"(C) SPECIFIED FEDERAL PAYMENTS.—For purposes of this paragraph, the term 'specified Federal payment' means—

"(i) any payment of a social security benefit (as defined in section 86(d)),

"(ii) any payment referred to in the second sentence of section 451(d) which is treated as insurance proceeds,

"(iii) any amount which is includible in gross income under section 77(a), and

"(iv) any other payment made pursuant to Federal law which is specified by the Secretary for purposes of this paragraph.

"(D) REQUESTS FOR WITHHOLDING.—Rules similar to the rules that apply to annuities under subsection (o)(4) shall apply to requests under this paragraph and paragraph (2).

"(2) VOLUNTARY WITHHOLDING ON UNEMPLOYMENT BENEFITS.—If, at the time a payment of unemployment compensation (as defined in section 85(b)) is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages

by an employer to an employee. The amount to be deducted and withheld under this chapter from any payment to which any request under this paragraph applies shall be an amount equal to 15 percent of such payment.

"(3) AUTHORITY FOR OTHER VOLUNTARY WITHHOLDING.—The Secretary is authorized by regulations to provide for withholding—

"(A) from remuneration for services performed by an employee for the employee's employer which (without regard to this paragraph) does not constitute wages, and

"(B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter,

if the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulations prescribe. For purposes of this chapter (and so much of subtitle F as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect."

(b) STATE LAW MUST PERMIT VOLUNTARY WITHHOLDING OF FEDERAL INCOME TAX FROM UNEMPLOYMENT COMPENSATION.—Section 3304(a) is amended by striking "and" at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph:

"(18) Federal individual income tax from unemployment compensation is to be deducted and withheld if an individual receiving such compensation voluntarily requests such deduction and withholding; and".

(c) WITHHOLDING FROM UNEMPLOYMENT COMPENSATION OF FEDERAL, STATE, AND LOCAL INCOME TAXES PERMITTED.—

(1) Subparagraph (C) of section 3304(a)(4) is amended by inserting after "health insurance" the following: ", or the withholding of Federal, State, or local individual income tax,".

(2) Subsection (f) of section 3306 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) nothing in this subsection shall be construed to prohibit deducting any amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;".

(3) Paragraph (5) of section 303(a) of the Social Security Act is amended by inserting after "health insurance" the following: ", or the withholding of Federal, State, or local individual income tax,".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1996.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

SEC. 711. TREATMENT OF SUBPART F AND SECTION 936 INCOME OF TAXPAYERS USING ANNUALIZED METHOD FOR ESTIMATED TAX.

(a) CORPORATIONS.—Section 6655(e) (relating to lower required installment where annualized income installment is less) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF SUBPART F AND SECTION 936 INCOME.—

"(A) IN GENERAL.—Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under paragraph (2) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

"(B) PRIOR YEAR SAFE HARBOR.—

"(i) IN GENERAL.—If a taxpayer elects to have this subparagraph apply for any taxable year—

"(I) subparagraph (A) shall not apply, and

"(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in subparagraph (A) in an amount equal to 115 percent of the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

"(ii) SPECIAL RULE FOR NONCONTROLLING SHAREHOLDER.—

"(I) IN GENERAL.—If a taxpayer making the election under clause (i) is a noncontrolling shareholder of a corporation, clause (i)(II) shall be applied with respect to items of such corporation by substituting '100 percent' for '115 percent'.

"(II) NONCONTROLLING SHAREHOLDER.—For purposes of subclause (I), the term 'noncontrolling shareholder' means, with respect to any corporation, a shareholder which (as of the beginning of the taxable year for which the installment is being made) does not own (within the meaning of section 958(a)), and is not treated as owning (within the meaning of section 958(b)), more than 50 percent (by vote or value) of the stock in the corporation."

(b) INDIVIDUALS.—Section 6654(d)(2) (relating to lower required installment where annualized income installment is less) is amended by adding at the end the following new subparagraph:

"(D) TREATMENT OF SUBPART F AND SECTION 936 INCOME.—

"(i) IN GENERAL.—Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under subparagraph (B) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

"(ii) PRIOR YEAR SAFE HARBOR.—If a taxpayer elects to have this clause apply to any taxable year—

"(I) clause (i) shall not apply, and

"(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in clause (i) in an amount equal to the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after December 31, 1994.

SEC. 712. TIME FOR PAYMENTS AND DEPOSITS OF CERTAIN TAXES.

(a) DEPOSITS REQUIRED FOR SEMIMONTHLY PERIODS.—Subsection (f) of section 6302 (relating to collection authority) is amended to read as follows:

"(f) TIME FOR DEPOSIT OF CERTAIN EXCISE TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection and subsection (e), if any person is required under regulations to make deposits of taxes under subtitle D with respect to semimonthly periods, such person shall make deposits of such taxes for the period beginning on September 16 and ending on September 26 not later than September 29. In the case of taxes imposed by sections 4261 and 4271, this paragraph shall not apply to periods before January 1, 1997.

"(2) TAXES ON OZONE DEPLETING CHEMICALS.—If any person is required under regulations to make deposits of taxes under subchapter D of chapter 38 with respect to semimonthly periods, in lieu of paragraph (1), such person shall make deposits of such taxes for—

"(A) the second semimonthly period in August, and

"(B) the period beginning on September 1 and ending on September 11,

not later than September 29.

"(3) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of deposits not required to be made by electronic funds transfer, paragraphs (1) and (2) shall be applied by substituting 'September 25' for 'September 26', 'September 10' for 'September 11', and 'September 28' for 'September 29'.

"(4) SPECIAL RULE WHERE DUE DATE ON SATURDAY OR SUNDAY.—If, but for this paragraph, the due date under paragraph

(1), (2), or (3) would fall on a Saturday or Sunday, such due date shall be deemed to be—

"(A) in the case of Saturday, the preceding day, and

"(B) in the case of Sunday, the following day."

(b) TAXES ON DISTILLED SPIRITS, WINES, AND BEER.—

(1) Subsection (d) of section 5061 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(A) IN GENERAL.—Notwithstanding the preceding provisions of this subsection, the taxes on distilled spirits, wines, and beer for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

"(B) SAFE HARBOR.—The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on distilled spirits, wines, and beer for the period beginning on September 1 and ending on September 15.

"(C) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of payments not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting 'September 25' for 'September 26', 'September 28' for 'September 29', and '2/3' for '11/15'."

(2) Section 5061(d)(5), as redesignated by paragraph (1), is amended—

(A) by inserting "(or the immediately following day where the due date described in paragraph (4) falls on a Sunday)" before the period at the end, and

(B) by striking "14TH DAY" in the heading and inserting "DUE DATE".

(c) TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES.—

(1) Paragraph (2) of section 5703(b) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

"(ii) SAFE HARBOR.—The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

"(iii) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting 'September 25' for 'September 26', 'September 28' for 'September 29', and '2/3' for '11/15'."

(2) Section 5703(b)(2)(E), as redesignated by paragraph (1), is amended—

(A) by inserting "(or the immediately following day where the due date described in subparagraph (D) falls on a Sunday)" before the period at the end, and

(B) by striking "14TH DAY" in the heading and inserting "DUE DATE".

(d) COMMUNICATION SERVICES AND AIRLINE TICKETS.—Subsection (e) of section 6302 is amended to read as follows:

"(e) TIME FOR DEPOSIT OF TAXES ON COMMUNICATIONS SERVICES AND AIRLINE TICKETS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.

"(2) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(A) AMOUNTS CONSIDERED COLLECTED.—In the case of a person required to make deposits of the tax imposed by—

"(i) section 4251, or

"(ii) effective on January 1, 1997, section 4261 or 4271,

with respect to amounts considered collected by such person during any semimonthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

"(B) SPECIAL RULE WHERE SEPTEMBER 29 IS ON SATURDAY OR SUNDAY.—If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be—

"(i) in the case of Saturday, the preceding day, and

"(ii) in the case of Sunday, the following day.

"(C) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of deposits not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting 'September 10' for 'September 11' and 'September 28' for 'September 29'."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. 713. REDUCTION IN RATE OF INTEREST PAID ON CERTAIN CORPORATE OVERPAYMENTS.

(a) IN GENERAL.—Paragraph (1) of section 6621(a) (defining overpayment rate) is amended by adding at the end the following new flush sentence:

"To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3)) exceeds $10,000, subparagraph (B) shall be applied by substituting '0.5 percentage point' for '2 percentage points'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining interest for periods after December 31, 1994.

Subtitle C—Earned Income Tax Credit

SEC. 721. EXTENSION OF EARNED INCOME TAX CREDIT TO MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (c) of section 32 (relating to earned income credit) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES.—For purposes of paragraphs (1)(A)(ii)(I) and (3)(E), the principal place of abode of a member of the Armed Forces of the United States shall be treated as in the United States during any period during which such member is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1994.

SEC. 722. CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 32(c) (defining eligible individual) is amended by adding at the end the following new subparagraph:

"(E) LIMITATION ON ELIGIBILITY OF NONRESIDENT ALIENS.—The term 'eligible individual' shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

SEC. 723. INCOME OF PRISONERS DISREGARDED IN DETERMINING EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 32(c)(2) (defining earned income) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) no amount received for services provided by an individual while the individual is an inmate at a penal institution shall be taken into account."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

Subtitle D—Provisions Relating To Retirement Benefits

SEC. 731. TREATMENT OF EXCESS PENSION ASSETS USED FOR RETIREE HEALTH BENEFITS.

(a) 5-YEAR EXTENSION.—Paragraph (5) of section 420(b) (defining qualified transfer) is amended by striking "1995" and inserting "2000".

(b) MINIMUM BENEFIT REQUIREMENTS.—Paragraph (3) of section 420(c) (relating to requirements of plans transferring assets) is amended to read as follows:

"(3) MAINTENANCE OF BENEFIT REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable health benefits provided by the employer during each taxable year during the benefit maintenance period are substantially the same as the applicable health benefits provided by the employer during the taxable year immediately preceding the taxable year of the qualified transfer.

"(B) ELECTION TO APPLY SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(C) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more benefit maintenance periods, this paragraph shall be applied by taking into account the highest level of benefits required to be provided under subparagraph (A) for such taxable year."

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 420(b)(1)(C) is amended by striking "cost" and inserting "benefits".

(2) Subparagraph (B) of section 420(e)(1) is amended to read as follows:

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A)

shall be reduced by the amount which bears the same ratio to such amount as—

"(i) the value (as of the close of the plan year preceding the year of the qualified transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the qualified current retiree health liability, bears to

"(ii) the present value of the qualified current retiree health liabilities for all plan years (determined without regard to this subparagraph)."

(3) Subparagraph (D) of section 420(e)(1) is amended by striking "or in calculating applicable employer cost under subsection (c)(3)(B)" and inserting "and shall not be subject to the minimum benefit requirements of subsection (c)(3)".

(4)(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "1991" and inserting "1995".

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "1991" and inserting "1995".

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking "1996" and inserting "2001", and

(ii) by striking "1991" and inserting "1995".

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsections (a) and (c)(3) shall apply to taxable years beginning after December 31, 1995.

(2) BENEFITS.—The amendments made by subsections (b) and (c)(1) and (2) shall apply to qualified transfers occurring after the date of the enactment of this Act.

SEC. 732. ROUNDING RULES FOR COST-OF-LIVING ADJUSTMENTS.

(a) COST-OF-LIVING ADJUSTMENT FOR COMPENSATION LIMIT.—Section 401(a)(17)(B) is amended to read as follows:

"(B) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the $150,000 amount in subparagraph (A) for increases in the cost-of-living at the same time and in the same manner as adjustments under section 415(d); except that the base period shall be the calendar quarter beginning October 1, 1993, and any increase which is not a multiple of $10,000 shall be rounded to the next lowest multiple of $10,000."

(b) COST-OF-LIVING ADJUSTMENT FOR MAXIMUM DEFINED BENEFIT AMOUNT AND MAXIMUM ANNUAL ADDITION.—

(1) IN GENERAL.—Section 415(d) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A),

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B), and

"(C) the $30,000 amount in subsection (c)(1)(A),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—The regulations prescribed under paragraph (1) shall provide for—

"(A) an adjustment with respect to any calendar year based on the increase in the applicable index for the calendar quarter ending September 30 of the preceding calendar year over such index for the base period, and

"(B) adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(3) BASE PERIOD.—For purposes of paragraph (2)—

"(A) $90,000 AMOUNT.—The base period taken into account for purposes of paragraph (1)(A) is the calendar quarter beginning October 1, 1986.

"(B) SEPARATIONS AFTER DECEMBER 31, 1994.—The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer after December 31, 1994, is the calendar quarter beginning July 1 of the calendar year preceding the calendar year in which such separation occurs.

"(C) SEPARATIONS BEFORE JANUARY 1, 1995.—The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer before January 1, 1995, is the calendar quarter beginning October 1 of the calendar year preceding the calendar year in which such separation occurs.

"(D) $30,000 AMOUNT.—The base period taken into account for purposes of paragraph (1)(C) is the calendar quarter beginning October 1, 1993.

"(4) ROUNDING.—Any increase under subparagraph (A) or (C) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000."

(2) CONFORMING AMENDMENT.—Section 415(c)(1)(A) is amended by striking "(or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A))".

(c) COST-OF-LIVING ADJUSTMENT FOR MAXIMUM SALARY DEFERRAL.—Section 402(g)(5) is amended by inserting before the period "; except that any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500".

(d) COST-OF-LIVING ADJUSTMENT FOR ELIGIBILITY FOR SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k)(8) is amended by inserting before the period "; except that any increase in the $300 amount which is not a multiple of $50 shall be rounded to the next lowest multiple of $50".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1994.

(2) ROUNDING NOT TO RESULT IN DECREASES.—The amendments made by this section providing for the rounding of indexed amounts shall not apply to any year to the extent the rounding would require the indexed amount to be reduced below the amount in effect for years beginning in 1994.

SEC. 733. INCREASE IN INCLUSION OF SOCIAL SECURITY BENEFITS PAID TO NONRESIDENTS.

(a) IN GENERAL.—Subparagraph (A) of section 871(a)(3) (relating to taxation of Social Security benefits) is amended by striking "one-half" and inserting "85 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits paid after December 31, 1994, in taxable years ending after such date.

Subtitle E—Other Provisions

SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES.

(a) IN GENERAL.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF MARKETABLE SECURITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) and section 737—

"(A) the term 'money' includes marketable securities, and

"(B) such securities shall be taken into account at their fair market value as of the date of the distribution.

"(2) MARKETABLE SECURITIES.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'marketable securities' means financial instruments and foreign currencies which are, as of the date of the distribution, actively traded (within the meaning of section 1092(d)(1)).

"(B) OTHER PROPERTY.—Such term includes—

"(i) any interest in—

"(I) a common trust fund, or

"(II) a regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer,

"(ii) any financial instrument which, pursuant to its terms or any other arrangement, is readily convertible into, or exchangeable for, money or marketable securities,

"(iii) any financial instrument the value of which is determined substantially by reference to marketable securities,

"(iv) except to the extent provided in regulations prescribed by the Secretary, any interest in a precious metal which, as of the date of the distribution, is actively traded (within the meaning of section 1092(d)(1)) unless such metal was produced, used, or held in the active conduct of a trade or business by the partnership,

"(v) except as otherwise provided in regulations prescribed by the Secretary, interests in any entity if substantially all of the assets of such entity consist

(directly or indirectly) of marketable securities, money, or both, and

"(vi) to the extent provided in regulations prescribed by the Secretary, any interest in an entity not described in clause (v) but only to the extent of the value of such interest which is attributable to marketable securities, money, or both.

"(C) FINANCIAL INSTRUMENT.—The term 'financial instrument' includes stocks and other equity interests, evidences of indebtedness, options, forward or futures contracts, notional principal contracts, and derivatives.

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the distribution from a partnership of a marketable security to a partner if—

"(i) the security was contributed to the partnership by such partner, except to the extent that the value of the distributed security is attributable to marketable securities or money contributed (directly or indirectly) to the entity to which the distributed security relates,

"(ii) to the extent provided in regulations prescribed by the Secretary, the property was not a marketable security when acquired by such partnership, or

"(iii) such partnership is an investment partnership and such partner is an eligible partner thereof.

"(B) LIMITATION ON GAIN RECOGNIZED.—In the case of a distribution of marketable securities to a partner, the amount taken into account under paragraph (1) shall be reduced (but not below zero) by the excess (if any) of—

"(i) such partner's distributive share of the net gain which would be recognized if all of the marketable securities of the same class and issuer as the distributed securities held by the partnership were sold (immediately before the transaction to which the distribution relates) by the partnership for fair market value, over

"(ii) such partner's distributive share of the net gain which is attributable to the marketable securities of the same class and issuer as the distributed securities held by the partnership immediately after the transaction, determined by using the same fair market value as used under clause (i).

Under regulations prescribed by the Secretary, all marketable securities held by the partnership may be treated as marketable securities of the same class and issuer as the distributed securities.

"(C) DEFINITIONS RELATING TO INVESTMENT PARTNERSHIPS.—For purposes of subparagraph (A)(iii):

"(i) INVESTMENT PARTNERSHIP.—The term 'investment partnership' means any partnership which has never been engaged in a trade or business and substantially all of the assets (by value) of which have always consisted of—

"(I) money,

"(II) stock in a corporation,

"(III) notes, bonds, debentures, or other evidences of indebtedness,

"(IV) interest rate, currency, or equity notional principal contracts,

"(V) foreign currencies,

"(VI) interests in or derivative financial instruments (including options, forward or futures contracts, short positions, and similar financial instruments) in any asset described in any other subclause of this clause or in any commodity traded on or subject to the rules of a board of trade or commodity exchange,

"(VII) other assets specified in regulations prescribed by the Secretary, or

"(VIII) any combination of the foregoing.

"(ii) EXCEPTION FOR CERTAIN ACTIVITIES.—A partnership shall not be treated as engaged in a trade or business by reason of—

"(I) any activity undertaken as an investor, trader, or dealer in any asset described in clause (i), or

"(II) any other activity specified in regulations prescribed by the Secretary.

"(iii) ELIGIBLE PARTNER.—

"(I) IN GENERAL.—The term 'eligible partner' means any partner who, before the date of the distribution, did not contribute to the partnership any property other than assets described in clause (i).

"(II) EXCEPTION FOR CERTAIN NONRECOGNITION TRANSACTIONS.—The term 'eligible partner' shall not include the transferor or transferee in a nonrecognition transaction involving a transfer of any portion of an interest in a partnership with respect to which the transferor was not an eligible partner.

"(iv) LOOK-THRU OF PARTNERSHIP TIERS.—Except as otherwise provided in regulations prescribed by the Secretary—

"(I) a partnership shall be treated as engaged in any trade or business engaged in by, and as holding (instead of a partnership interest) a proportionate share of the assets of, any other partnership in which the partnership holds a partnership interest, and

"(II) a partner who contributes to a partnership an interest in another partnership shall be treated as contributing a proportionate share of the assets of the other partnership.

If the preceding sentence does not apply under such regulations with respect to any interest held by a partnership in another partnership, the interest in such other partnership shall be treated as if it were specified in a subclause of clause (i).

"(4) BASIS OF SECURITIES DISTRIBUTED.—

"(A) IN GENERAL.—The basis of marketable securities with respect to which gain is recognized by reason of this subsection shall be—

"(i) their basis determined under section 732, increased by

"(ii) the amount of such gain.

"(B) ALLOCATION OF BASIS INCREASE.—Any increase in basis attributable to the gain described in subparagraph (A)(ii) shall be allocated to marketable securities in proportion to their respective amounts of unrealized appreciation before such increase.

"(5) SUBSECTION DISREGARDED IN DETERMINING BASIS OF PARTNER'S INTEREST IN PARTNERSHIP AND OF BASIS OF PARTNERSHIP PROPERTY.—Sections 733 and 734 shall be applied as if no gain were recognized, and no adjustment were made to the basis of property, under this subsection.

"(6) CHARACTER OF GAIN RECOGNIZED.—In the case of a distribution of a marketable security which is an unrealized receivable (as defined in section 751(c)) or an inventory item (as defined in section 751(d)(2)), any gain recognized under this subsection shall be treated as ordinary income to the extent of any increase in the basis of such security attributable to the gain described in paragraph (4)(A)(ii).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations to prevent the avoidance of such purposes."

(b) CONFORMING AMENDMENTS.—

(1) The last sentence of section 737(c)(1) is amended to read as follows: "For purposes of determining the basis of the distributed property (other than money), such increase shall be treated as occurring immediately before the distribution."

(2) Section 737 is amended by adding at the end the following new subsection:

"(e) MARKETABLE SECURITIES TREATED AS MONEY.—

"For treatment of marketable securities as money for purposes of this section, see section 731(c)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after the date of the enactment of this Act.

(2) CERTAIN DISTRIBUTIONS BEFORE JANUARY 1, 1995.—The amendments made by this section shall not apply to any marketable security distributed before January 1, 1995, by the partnership which held such security on July 27, 1994.

(3) DISTRIBUTIONS IN LIQUIDATION OF PARTNER'S INTEREST.—The amendments made by this section shall not apply to the distribution of a marketable security in liquidation of a partner's interest in a partnership if—

(A) such liquidation is pursuant to a written contract which was binding on July 15, 1994, and at all times thereafter before the distribution, and

(B) such contract provides for the purchase of such interest not later than a date certain for—

(i) a fixed value of marketable securities that are specified in the contract, or

(ii) other property.

The preceding sentence shall not apply if the partner has the right to elect that such distribution be made other than in marketable securities.

(4) DISTRIBUTIONS IN COMPLETE LIQUIDATION OF PUBLICLY TRADED PARTNERSHIPS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to the distribution of a marketable security in a qualified partnership liquidation if—

(i) the marketable securities were received by the partnership in a nonrecognition transaction in exchange for substantially all of the assets of the partnership,

(ii) the marketable securities are distributed by the partnership within 90 days after their receipt by the partnership, and

(iii) the partnership is liquidated before the beginning of the 1st taxable year of the partnership beginning after December 31, 1997.

(B) QUALIFIED PARTNERSHIP LIQUIDATION.—For purposes of subparagraph (A), the term ''qualified partnership liquidation'' means—

(i) a complete liquidation of a publicly traded partnership (as defined in section 7704(b) of the Internal Revenue Code of 1986) which is an existing partnership (as defined in section 10211(c)(2) of the Revenue Act of 1987), and

(ii) a complete liquidation of a partnership which is related to a partnership described in clause (i) if such liquidation is related to a complete liquidation of the partnership described in clause (i).

(5) MARKETABLE SECURITIES.—For purposes of this subsection, the term ''marketable securities'' has the meaning given such term by section 731(c) of the Internal Revenue Code of 1986, as added by this section.

SEC. 742. TAXPAYER IDENTIFICATION NUMBERS REQUIRED AT BIRTH.

(a) EARNED INCOME CREDIT.—Clause (i) of section 32(c)(3)(D) is amended to read as follows:

''(i) IN GENERAL.—The requirements of this subparagraph are met if the taxpayer includes the name, age, and TIN of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year.''

(b) DEPENDENCY EXEMPTION.—Subsection (e) of section 6109 is amended to read as follows:

''(e) FURNISHING NUMBER FOR DEPENDENTS.—Any taxpayer who claims an exemption under section 151 for any dependent on a return for any taxable year shall include on such return the identifying number (for purposes of this title) of such dependent.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns for taxable years beginning after December 31, 1994.

(2) EXCEPTION.—The amendments made by this section shall not apply to—

(A) returns for taxable years beginning in 1995 with respect to individuals who are born after October 31, 1995, and

(B) returns for taxable years beginning in 1996 with respect to individuals who are born after November 30, 1996.

SEC. 743. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by striking "October 1, 1995" and inserting "October 1, 2000".

SEC. 744. MODIFICATION OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR CORPORATIONS PARTICIPATING IN TAX SHELTERS.

(a) IN GENERAL.—Subparagraph (C) of section 6662(d)(2) (relating to special rules in cases involving tax shelters) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SUBPARAGRAPH (B) NOT TO APPLY TO CORPORATIONS.—Subparagraph (B) shall not apply to any item of a corporation which is attributable to a tax shelter."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 6662(d)(2)(C) is amended by striking "In the case of any item" and inserting "In the case of any item of a taxpayer other than a corporation which is".

(2) Clause (iii) of section 6662(d)(2)(C), as redesignated by subsection (a), is amended by striking "clause (i)" and inserting "this subparagraph".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items related to transactions occurring after the date of the enactment of this Act.

SEC. 745. MODIFICATION OF AUTHORITY TO SET TERMS AND CONDITIONS FOR SAVINGS BONDS.

(a) IN GENERAL.—Subsection (b) of section 3105 of title 31, United States Code, is amended to read as follows:

"(b)(1) The Secretary may—

"(A) fix the investment yield for savings bonds; and

"(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

"(2) The Secretary may prescribe regulations providing that—

"(A) owners of savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

"(B) savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after October 31, 1994.

Subtitle F—Pension Plan Funding and Premiums

SEC. 750. SHORT TITLE.

This subtitle may be cited as the "Retirement Protection Act of 1994".

PART I—PENSION PLAN FUNDING

Subpart A—Amendments to the Internal Revenue Code of 1986

SEC. 751. MINIMUM FUNDING REQUIREMENTS.

(a) AMENDMENTS TO ADDITIONAL FUNDING REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

(1) LIMITATIONS ON ADDITIONAL FUNDING REQUIREMENT FOR CERTAIN PLANS.—

(A) IN GENERAL.—Paragraph (1) of section 412(l) (relating to additional funding requirements for plans which are not multiemployer plans) is amended by striking "which has an unfunded current liability" and inserting "to which this subsection applies under paragraph (9)".

(B) PLANS TO WHICH REQUIREMENT APPLIES.—Section 412(l) is amended by adding at the end the following new paragraph:

"(9) APPLICABILITY OF SUBSECTION.—

"(A) IN GENERAL.—Except as provided in paragraph (6)(A), this subsection shall apply to a plan for any plan year if its funded current liability percentage for such year is less than 90 percent.

"(B) EXCEPTION FOR CERTAIN PLANS AT LEAST 80 PERCENT FUNDED.—Subparagraph (A) shall not apply to a plan for a plan year if—

"(i) the funded current liability percentage for the plan year is at least 80 percent, and

"(ii) such percentage for each of the 2 immediately preceding plan years (or each of the 2d and 3d immediately preceding plan years) is at least 90 percent.

"(C) FUNDED CURRENT LIABILITY PERCENTAGE.—For purposes of subparagraphs (A) and (B), the term 'funded current liability percentage' has the meaning given such term by paragraph (8)(B), except that such percentage shall be determined for any plan year—

"(i) without regard to paragraph (8)(E), and

"(ii) by using the rate of interest which is the highest rate allowable for the plan year under paragraph (7)(C).

"(D) TRANSITION RULES.—For purposes of this paragraph:

"(i) FUNDED PERCENTAGE FOR YEARS BEFORE 1995.—The funded current liability percentage for any plan year beginning before January 1, 1995, shall be treated as not less than 90 percent only if for such plan year the plan met one of the following requirements (as in effect for such year):

"(I) The full-funding limitation under subsection (c)(7) for the plan was zero.

"(II) The plan had no additional funding requirement under this subsection (or would have had no such requirement if its funded current liability percentage had been determined under subparagraph (C)).

"(III) The plan's additional funding requirement under this subsection did not exceed the lesser of 0.5 percent of current liability or $5,000,000.

"(ii) SPECIAL RULE FOR 1995 AND 1996.—For purposes of determining whether subparagraph (B) applies to any plan year beginning in 1995 or 1996, a plan shall be treated as meeting the requirements of subparagraph (B)(ii) if the plan met the requirements of clause (i) of this subparagraph for any two of the plan years beginning in 1992, 1993, and 1994 (whether or not consecutive)."

(2) RELATIONSHIP OF ADDITIONAL FUNDING REQUIREMENT TO FUNDING STANDARD ACCOUNT CHARGES AND CREDITS.—

(A) Clause (ii) of section 412(l)(1)(A) is amended to read as follows:

"(ii) the sum of the charges for such plan year under subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B) of subsection (b)(3), plus".

(B) The last sentence in section 412(l)(1) of such Code is amended to read as follows:

"Such increase shall not exceed the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent."

(3) AMENDMENT TO DEFICIT REDUCTION CONTRIBUTION.—Paragraph (2) of section 412(l) is amended—

(A) by striking "plus" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", plus"; and

(C) by adding at the end the following new subparagraph:

"(C) the expected increase in current liability due to benefits accruing during the plan year."

(4) INCREASE IN CURRENT LIABILITY DUE TO CHANGE IN REQUIRED ASSUMPTIONS.—

(A) Paragraph (3) of section 412(l) is amended by adding at the end the following new subparagraphs:

"(D) SPECIAL RULE FOR REQUIRED CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(i) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year shall be increased by the amount necessary to amortize the amount of additional unfunded old liability under the plan in equal annual installments over a period of 12 plan years (beginning with the first plan year beginning after December 31, 1994).

"(ii) ADDITIONAL UNFUNDED OLD LIABILITY.—For purposes of clause (i), the term 'additional unfunded old liability' means the amount (if any) by which—

"(I) the current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the current liability of the plan as of the beginning of such first plan year, valued using the same assumptions used under subclause (I) (other than the assumptions required by paragraph (7)(C)), using the prior interest rate, and using such mortality assumptions as were used to determine current liability for the first plan year beginning after December 31, 1992.

"(iii) PRIOR INTEREST RATE.—For purposes of clause (ii), the term 'prior interest rate' means the rate of interest that is the same percentage of the weighted average under subsection (b)(5)(B)(ii)(I) for the first plan year beginning after December 31, 1994, as the rate of interest used by the plan to determine current liability for the first plan year beginning after December 31, 1992, is of the weighted average under subsection (b)(5)(B)(ii)(I) for such first plan year beginning after December 31, 1992.

"(E) OPTIONAL RULE FOR ADDITIONAL UNFUNDED OLD LIABILITY.—

"(i) IN GENERAL.—If an employer makes an election under clause (ii), the additional unfunded old liability for purposes of subparagraph (D) shall be the amount (if any) by which—

"(I) the unfunded current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the unamortized portion of the unfunded old liability under the plan as of the beginning of the first plan year beginning after December 31, 1994.

"(ii) ELECTION.—

"(I) An employer may irrevocably elect to apply the provisions of this subparagraph as of the beginning of the first plan year beginning after December 31, 1994.

"(II) If an election is made under this clause, the increase under paragraph (1) for any plan year beginning after December 31, 1994, and before January 1, 2002, to which this subsection applies (without regard to this subclause) shall not be less than the increase that would be required under paragraph (1) if the provisions of this title as in effect for the last plan year beginning before January 1, 1995, had remained in effect."

(B) Clause (i) of section 412(l)(4)(B) is amended by inserting ", the unamortized portion of the additional unfunded old liability," after "old liability".

(5) APPLICABLE PERCENTAGE FOR DETERMINING UNFUNDED NEW LIABILITY AMOUNT.—Subparagraph (C) of section 412(l)(4) is amended—

(A) by striking ".25" and inserting ".40", and

(B) by striking "35" and inserting "60".

(6) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

(A) Subparagraph (A) of section 412(l)(5) is amended—

(i) by striking "greater of" and inserting "greatest of" before clause (i);

(ii) by striking "or" at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting ", or"; and

(iv) by adding after clause (ii) the following new clause:

"(iii) the additional amount that would be determined under paragraph (4)(A) if the unpredictable contingent event benefit liabilities were included in unfunded new liability notwithstanding paragraph (4)(B)(ii)."

(B) Paragraph (5) of section 412(l) is amended by adding at the end the following new subparagraph:

"(E) LIMITATION.—The present value of the amounts described in subparagraph (A) with respect to any one event shall not exceed the unpredictable contingent event benefit liabilities attributable to that event."

(C) Clause (ii) of section 412(m)(4)(D) is amended—

(i) by striking "greater of" and inserting "greatest of" before subclause (I);

(ii) by striking "or" at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting ", or"; and

(iv) by adding after subclause (II) the following new clause:

"(III) 25 percent of the amount determined under subsection (l)(5)(A)(iii) for the plan year."

(7) REQUIRED INTEREST RATE AND MORTALITY ASSUMPTIONS FOR DETERMINING CURRENT LIABILITY.—

(A) IN GENERAL.—Subparagraph (C) of section 412(l)(7) is amended to read as follows:

"(C) INTEREST RATE AND MORTALITY ASSUMPTIONS USED.—Effective for plan years beginning after December 31, 1994—

"(i) INTEREST RATE.—

"(I) IN GENERAL.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5), except that the highest rate in the permissible range under subparagraph (B)(ii) thereof shall not exceed the specified percentage under subclause (II) of the weighted average referred to in such subparagraph.

"(II) SPECIFIED PERCENTAGE.—For purposes of subclause (I), the specified percentage shall be determined as follows:

"In the case of plan years beginning in calendar year:	The specified percentage is:
1995	109
1996	108
1997	107
1998	106
1999 and thereafter	105.

"(ii) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(III) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subsection and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(iii) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (ii)—

"(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (ii)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(III) PLAN YEARS BEGINNING IN 1995.—In the case of any plan year beginning in 1995, a plan may use its own mortality assumptions for individuals who are entitled to benefits under the plan on account of disability."

(B) AMORTIZATION OF UNFUNDED MORTALITY INCREASE AMOUNT.—

(i) IN GENERAL.—Paragraph (2) of section 412(l), as amended by paragraph (3), is amended by striking "plus" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the aggregate of the unfunded mortality increase amounts."

(ii) UNFUNDED MORTALITY INCREASE AMOUNT.—Section 412(l), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(10) UNFUNDED MORTALITY INCREASE AMOUNT.—

"(A) IN GENERAL.—The unfunded mortality increase amount with respect to each unfunded mortality increase is the amount necessary to amortize such increase in equal annual installments over a period of 10 plan years (beginning with the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III)).

"(B) UNFUNDED MORTALITY INCREASE.—For purposes of subparagraph (A), the term 'unfunded mortality increase' means an amount equal to the excess of—

"(i) the current liability of the plan for the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III), over

"(ii) the current liability of the plan for such plan year which would have been determined if the mortality table in effect for the preceding plan year had been used."

(iii) CONFORMING AMENDMENT.—Clause (i) of section 412(l)(4)(B), as amended by paragraph (4)(B), is amended by inserting "the unamortized portion of each unfunded mortality increase," after "additional unfunded old liability,".

(8) TRANSITION RULE.—Section 412(l), as amended by paragraph (7), is amended by adding at the end the following new paragraph:

"(11) PHASE-IN OF INCREASES IN FUNDING REQUIRED BY RETIREMENT PROTECTION ACT OF 1994.—

"(A) IN GENERAL.—For any applicable plan year, at the election of the employer, the increase under paragraph (1) shall not exceed the greater of—

"(i) the increase that would be required under paragraph (1) if the provisions of this title as in effect for plan years beginning before January 1, 1995, had remained in effect, or

"(ii) the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is nec-

essary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) for the applicable plan year to a percentage equal to the sum of the initial funded current liability percentage of the plan plus the applicable number of percentage points for such applicable plan year.

"(B) APPLICABLE NUMBER OF PERCENTAGE POINTS.—

"(i) INITIAL FUNDED CURRENT LIABILITY PERCENTAGE OF 75 PERCENT OR LESS.—Except as provided in clause (ii), for plans with an initial funded current liability percentage of 75 percent or less, the applicable number of percentage points for the applicable plan year is:

"In the case of applicable plan years beginning in:	**The applicable number of percentage points is:**
1995	3
1996	6
1997	9
1998	12
1999	15
2000	19
2001	24.

"(ii) OTHER CASES.—In the case of a plan to which this clause applies, the applicable number of percentage points for any such applicable plan year is the sum of—

"(I) 2 percentage points;

"(II) the applicable number of percentage points (if any) under this clause for the preceding applicable plan year;

"(III) the product of .10 multiplied by the excess (if any) of (a) 85 percentage points over (b) the sum of the initial funded current liability percentage and the number determined under subclause (II);

"(IV) for applicable plan years beginning in 2000, 1 percentage point; and

"(V) for applicable plan years beginning in 2001, 2 percentage points.

"(iii) PLANS TO WHICH CLAUSE (ii) APPLIES.—

"(I) IN GENERAL.—Clause (ii) shall apply to a plan for an applicable plan year if the initial funded current liability percentage of such plan is more than 75 percent.

"(II) PLANS INITIALLY UNDER CLAUSE (i).—In the case of a plan which (but for this subclause) has an initial funded current liability percentage of 75 percent or less, clause (ii) (and not clause (i)) shall apply to such plan with respect to applicable plan years beginning after the first applicable plan year for which the sum of the initial funded current liability percentage and the applicable number of percentage points (determined under clause (i)) exceeds 75 percent. For purposes of applying clause (ii) to such a plan,

the initial funded current liability percentage of such plan shall be treated as being the sum referred to in the preceding sentence.

"(C) DEFINITIONS.—For purposes of this paragraph:

"(i) The term 'applicable plan year' means a plan year beginning after December 31, 1994, and before January 1, 2002.

"(ii) The term 'initial funded current liability percentage' means the funded current liability percentage as of the first day of the first plan year beginning after December 31, 1994."

(9) LIQUIDITY REQUIREMENT.—

(A) IN GENERAL.—Section 412(m) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) LIQUIDITY REQUIREMENT.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a defined benefit plan (other than a multiemployer plan or a plan described in subsection (l)(6)(A)) which—

"(i) is required to pay installments under this subsection for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph:

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of the base amount with respect to such quarter over the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disburse-

ments from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under clause (i) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funded current liability percentage (as defined in subsection (l)(8)) for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities and such other assets as specified by the Secretary in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph."

(B) EXCISE TAX ON UNPAID LIQUIDITY SHORTFALL.—

(i) Subsection (e) of section 4971 is amended by striking "(a) or (b)" wherever it appears and inserting "(a), (b), or (f)".

(ii) Section 4971 is amended by redesignating subsection (f) as subsection (g) and adding a new subsection (f) to read as follows:

"(f) FAILURE TO PAY LIQUIDITY SHORTFALL.—

"(1) IN GENERAL.—In the case of a plan to which section 412(m)(5) applies, there is hereby imposed a tax of 10 percent of the excess (if any) of—

"(A) the amount of the liquidity shortfall for any quarter, over

"(B) the amount of such shortfall which is paid by the required installment under section 412(m) for such quarter (but only if such installment is paid on or before the due date for such installment).

"(2) ADDITIONAL TAX.—If the plan has a liquidity shortfall as of the close of any quarter and as of the close of each of the following 4 quarters, there is hereby imposed a tax

equal to 100 percent of the amount on which tax was imposed by paragraph (1) for such first quarter.

"(3) DEFINITIONS AND SPECIAL RULE.—

"(A) LIQUIDITY SHORTFALL; QUARTER.—For purposes of this subsection, the terms 'liquidity shortfall' and 'quarter' have the respective meanings given such terms by section 412(m)(5).

"(B) SPECIAL RULE.—If the tax imposed by paragraph (2) is paid with respect to any liquidity shortfall for any quarter, no further tax shall be imposed by this subsection on such shortfall for such quarter."

(C) TREATMENT OF FAILURE TO MAKE CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORTFALL.—Section 401(a) is amended by adding at the end the following new paragraph:

"(32) TREATMENT OF FAILURE TO MAKE CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORTFALL.—

"(A) IN GENERAL.—A trust forming part of a pension plan to which section 412(m)(5) applies shall not be treated as failing to constitute a qualified trust under this section merely because such plan ceases to make any payment described in subparagraph (B) during any period that such plan has a liquidity shortfall (as defined in section 412(m)(5)).

"(B) PAYMENTS DESCRIBED.—A payment is described in this subparagraph if such payment is—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs during the period referred to in subparagraph (A),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary by regulations.

"(C) PERIOD OF SHORTFALL.—For purposes of this paragraph, a plan has a liquidity shortfall during the period that there is an underpayment of an installment under section 412(m) by reason of paragraph (5)(A) thereof."

(10) AMENDMENT TO DEFINITION OF FULL-FUNDING LIMITATION.—

(A) Subparagraph (A) of section 412(c)(7) is amended by inserting "(including the expected increase in current liability due to benefits accruing during the plan year)" after "current liability" in clause (i).

(B) Section 412(c)(7) is amended by adding at the end the following new subparagraph:

"(E) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) CURRENT LIABILITY; ASSETS.—For purposes of clause (i)—

"(I) the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraph (D) thereof), and

"(II) assets shall not be reduced by any credit balance in the funding standard account."

(C) Subparagraph (B) of section 412(c)(7) is amended to read as follows:

"(B) CURRENT LIABILITY.—For purposes of subparagraph (D) and subclause (I) of subparagraph (A)(i), the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraphs (C) and (D) thereof) and using the rate of interest used under subsection (b)(5)(B)."

(11) REFERENCE TO ACT.—Section 404(g)(4) is amended by striking "the Single-Employer Pension Plan Amendments Act of 1986" and inserting "the Retirement Protection Act of 1994".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 1994.

(2) REFERENCE.—The amendment made by subsection (a)(11) shall take effect on the date of the enactment of this Act.

SEC. 752. LIMITATION ON CHANGES IN CURRENT LIABILITY ASSUMPTIONS.

(a) IN GENERAL.—Paragraph (5) of section 412(c) is amended—

(1) by striking "If the funding method" and inserting the following:

"(A) IN GENERAL.—If the funding method", and

(2) by adding at the end the following new subparagraph:

"(B) APPROVAL REQUIRED FOR CERTAIN CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-EMPLOYER PLANS SUBJECT TO ADDITIONAL FUNDING REQUIREMENT.—

"(i) IN GENERAL.—No actuarial assumption (other than the assumptions described in subsection (l)(7)(C)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary.

"(ii) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

"(I) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV of the Employee Retirement Income Security Act of 1974 applies;

"(II) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13) of such Act) and members of such sponsors' controlled groups (as defined in section

4001(a)(14) of such Act) which are covered by title IV of such Act (disregarding plans with no unfunded vested benefits) exceed $50,000,000; and

"(III) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the unfunded current liability of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the current liability of the plan before such change."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to changes in assumptions for plan years beginning after October 28, 1993.

(2) CERTAIN CHANGES CEASE TO BE EFFECTIVE.—In the case of changes in assumptions for plan years beginning after December 31, 1992, and on or before October 28, 1993, such changes shall cease to be effective for plan years beginning after December 31, 1994, if—

(A) such change would have required the approval of the Secretary of the Treasury had such amendment applied to such change, and

(B) such change is not so approved.

SEC. 753. ANTICIPATION OF BARGAINED BENEFIT INCREASES.

(a) IN GENERAL.—Section 412(c) is amended by adding at the end the following new paragraph:

"(12) ANTICIPATION OF BENEFIT INCREASES EFFECTIVE IN THE FUTURE.—In determining projected benefits, the funding method of a collectively bargained plan described in section 413(a) (other than a multiemployer plan) shall anticipate benefit increases scheduled to take effect during the term of the collective bargaining agreement applicable to the plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1994, with respect to collective bargaining agreements in effect on or after January 1, 1995.

SEC. 754. MODIFICATION OF QUARTERLY CONTRIBUTION REQUIREMENT.

(a) IN GENERAL.—Paragraph (1) of section 412(m) is amended—

(1) by inserting "which has a funded current liability percentage (as defined in subsection (l)(8)) for the preceding plan year of less than 100 percent" before "fails", and

(2) by striking "any plan year" and inserting "the plan year".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after the date of enactment of this Act.

SEC. 755. EXCEPTIONS TO EXCISE TAX ON NONDEDUCTIBLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 4972(c) is amended by adding at the end the following new paragraph:

"(6) EXCEPTIONS.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account—

"(A) contributions that would be deductible under section 404(a)(1)(D) if the plan had more than 100 participants if—

"(i) the plan is covered under section 4021 of the Employee Retirement Income Security Act of 1974, and

"(ii) the plan is terminated under section 4041(b) of such Act on or before the last day of the taxable year, and

"(B) contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7), but only to the extent such contributions do not exceed 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans.

If 1 or more defined benefit plans were taken into account in determining the amount allowable as a deduction under section 404 for contributions to any defined contribution plan, subparagraph (B) shall apply only if such defined benefit plans are described in section 404(a)(1)(D). For purposes of subparagraph (B), the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to a defined benefit plan and then to amounts described in subparagraph (B)."

(b) EFFECTIVE DATE.—

(1) SECTION 4972(C)(6)(A).—Section 4972(c)(6)(A) of the Internal Revenue Code of 1986 (as added by this section) shall apply to taxable years ending on or after the date of enactment of this Act.

(2) SECTION 4972(C)(6)(B).—Section 4972(c)(6)(B) of such Code (as added by this section) shall apply to taxable years ending on or after December 31, 1992.

Subpart B—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 761. MINIMUM FUNDING REQUIREMENTS.

(a) AMENDMENTS TO ADDITIONAL FUNDING REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

(1) LIMITATIONS ON ADDITIONAL FUNDING REQUIREMENT FOR CERTAIN PLANS.—

(A) IN GENERAL.—Paragraph (1) of section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by striking "which has an unfunded current liability" and inserting "to which this subsection applies under paragraph (9)".

(B) PLANS TO WHICH REQUIREMENT APPLIES.—Section 302(d) of such Act is amended by adding at the end the following new paragraph:

"(9) APPLICABILITY OF SUBSECTION.—

"(A) IN GENERAL.—Except as provided in paragraph (6)(A), this subsection shall apply to a plan for any plan year if its funded current liability percentage for such year is less than 90 percent.

"(B) EXCEPTION FOR CERTAIN PLANS AT LEAST 80 PERCENT FUNDED.—Subparagraph (A) shall not apply to a plan for a plan year if—

"(i) the funded current liability percentage for the plan year is at least 80 percent, and

"(ii) such percentage for each of the 2 immediately preceding plan years (or each of the 2d and 3d immediately preceding plan years) is at least 90 percent.

"(C) FUNDED CURRENT LIABILITY PERCENTAGE.—For purposes of subparagraphs (A) and (B), the term 'funded current liability percentage' has the meaning given such term by paragraph (8)(B), except that such percentage shall be determined for any plan year—

"(i) without regard to paragraph (8)(E), and

"(ii) by using the rate of interest which is the highest rate allowable for the plan year under paragraph (7)(C).

"(D) TRANSITION RULES.—For purposes of this paragraph:

"(i) FUNDED PERCENTAGE FOR YEARS BEFORE 1995.—The funded current liability percentage for any plan year beginning before January 1, 1995, shall be treated as not less than 90 percent only if for such plan year the plan met one of the following requirements (as in effect for such year):

"(I) The full-funding limitation under subsection (c)(7) for the plan was zero.

"(II) The plan had no additional funding requirement under this subsection (or would have had no such requirement if its funded current liability percentage had been determined under subparagraph (C)).

"(III) The plan's additional funding requirement under this subsection did not exceed the lesser of 0.5 percent of current liability or $5,000,000.

"(ii) SPECIAL RULE FOR 1995 AND 1996.—For purposes of determining whether subparagraph (B) applies to any plan year beginning in 1995 or 1996, a plan shall be treated as meeting the requirements of subparagraph (B)(ii) if the plan met the requirements of clause (i) of this subparagraph for any two of the plan years beginning in 1992, 1993, and 1994 (whether or not consecutive)."

(2) RELATIONSHIP OF ADDITIONAL FUNDING REQUIREMENT TO FUNDING STANDARD ACCOUNT CHARGES AND CREDITS.—

(A) Clause (ii) of section 302(d)(1)(A) of such Act is amended to read as follows:

"(ii) the sum of the charges for such plan year under subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B) of subsection (b)(3), plus".

(B) The last sentence in section 302(d)(1) of such Act is amended to read as follows:

"Such increase shall not exceed the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent."

(3) AMENDMENT TO DEFICIT REDUCTION CONTRIBUTION.—Paragraph (2) of section 302(d) of such Act is amended—

(A) by striking "plus" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", plus"; and

(C) by adding at the end the following new subparagraph:

"(C) the expected increase in current liability due to benefits accruing during the plan year."

(4) INCREASE IN CURRENT LIABILITY DUE TO CHANGE IN REQUIRED ASSUMPTIONS.—

(A) Paragraph (3) of section 302(d) of such Act is amended by adding at the end the following new subparagraphs:

"(D) SPECIAL RULE FOR REQUIRED CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(i) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year shall be increased by the amount necessary to amortize the amount of additional unfunded old liability under the plan in equal annual installments over a period of 12 plan years (beginning with the first plan year beginning after December 31, 1994).

"(ii) ADDITIONAL UNFUNDED OLD LIABILITY.—For purposes of clause (i), the term 'additional unfunded old liability' means the amount (if any) by which—

"(I) the current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the current liability of the plan as of the beginning of such first plan year, valued using the same assumptions used under subclause (I) (other than the assumptions required by paragraph (7)(C)), using the prior interest rate, and using such mortality assumptions as were used to determine current liability for the first plan year beginning after December 31, 1992.

"(iii) PRIOR INTEREST RATE.—For purposes of clause (ii), the term 'prior interest rate' means the rate of interest that is the same percentage of the weighted average under subsection (b)(5)(B)(ii)(I) for the first plan year beginning after December 31, 1994, as the rate of interest used by the plan to determine current liability for the first plan year beginning after December 31, 1992, is of the weighted average under subsection (b)(5)(B)(ii)(I) for such first plan year beginning after December 31, 1992.

"(E) OPTIONAL RULE FOR ADDITIONAL UNFUNDED OLD LIABILITY.—

"(i) IN GENERAL.—If an employer makes an election under clause (ii), the additional unfunded old liability for purposes of subparagraph (D) shall be the amount (if any) by which—

"(I) the unfunded current liability of the plan as of the beginning of the first plan year beginning

after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the unamortized portion of the unfunded old liability under the plan as of the beginning of the first plan year beginning after December 31, 1994.

"(ii) ELECTION.—

"(I) An employer may irrevocably elect to apply the provisions of this subparagraph as of the beginning of the first plan year beginning after December 31, 1994.

"(II) If an election is made under this clause, the increase under paragraph (1) for any plan year beginning after December 31, 1994, and before January 1, 2002, to which this subsection applies (without regard to this subclause) shall not be less than the increase that would be required under paragraph (1) if the provisions of this title as in effect for the last plan year beginning before January 1, 1995, had remained in effect."

(B) Clause (i) of section 302(d)(4)(B) of such Act is amended by inserting ", the unamortized portion of the additional unfunded old liability," after "old liability".

(5) APPLICABLE PERCENTAGE FOR DETERMINING UNFUNDED NEW LIABILITY AMOUNT.—Subparagraph (C) of section 302(d)(4) of such Act is amended—

(A) by striking ".25" and inserting ".40", and

(B) by striking "35" and inserting "60".

(6) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

(A) Subparagraph (A) of section 302(d)(5) of such Act is amended—

(i) by striking "greater of" and inserting "greatest of" before clause (i);

(ii) by striking "or" at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting ", or"; and

(iv) by adding after clause (ii) the following new clause:

"(iii) the additional amount that would be determined under paragraph (4)(A) if the unpredictable contingent event benefit liabilities were included in unfunded new liability notwithstanding paragraph (4)(B)(ii)."

(B) Paragraph (5) of section 302(d) of such Act is amended by adding at the end the following new subparagraph:

"(E) LIMITATION.—The present value of the amounts described in subparagraph (A) with respect to any one event shall not exceed the unpredictable contingent event benefit liabilities attributable to that event."

(C) Clause (ii) of section 302(e)(4)(D) of such Act is amended—

(i) by striking "greater of" and inserting "greatest of" before subclause (I);

(ii) by striking "or" at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting ", or"; and

(iv) by adding after subclause (II) the following new clause:

"(III) 25 percent of the amount determined under subsection (d)(5)(A)(iii) for the plan year."

(7) REQUIRED INTEREST RATE AND MORTALITY ASSUMPTIONS FOR DETERMINING CURRENT LIABILITY.—

(A) IN GENERAL.—Subparagraph (C) of section 302(d)(7) of such Act is amended to read as follows:

"(C) INTEREST RATE AND MORTALITY ASSUMPTIONS USED.—Effective for plan years beginning after December 31, 1994—

"(i) INTEREST RATE.—

"(I) IN GENERAL.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5), except that the highest rate in the permissible range under subparagraph (B)(ii) thereof shall not exceed the specified percentage under subclause (II) of the weighted average referred to in such subparagraph.

"(II) SPECIFIED PERCENTAGE.—For purposes of subclause (I), the specified percentage shall be determined as follows:

"In the case of plan years beginning in calendar year:	The specified percentage is:
1995	109
1996	108
1997	107
1998	106
1999 and thereafter	105.

"(ii) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary of the Treasury shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(III) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subsection and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(iii) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (ii)—

"(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (ii)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(III) PLAN YEARS BEGINNING IN 1995.—In the case of any plan year beginning in 1995, a plan may use its own mortality assumptions for individuals who are entitled to benefits under the plan on account of disability."

(B) AMORTIZATION OF UNFUNDED MORTALITY INCREASE AMOUNT.—

(i) IN GENERAL.—Paragraph (2) of section 302(d) of such Act, as amended by paragraph (3), is amended by striking "plus" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the aggregate of the unfunded mortality increase amounts."

(ii) UNFUNDED MORTALITY INCREASE AMOUNT.—Section 302(d) of such Act, as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(10) UNFUNDED MORTALITY INCREASE AMOUNT.—

"(A) IN GENERAL.—The unfunded mortality increase amount with respect to each unfunded mortality increase is the amount necessary to amortize such increase in equal annual installments over a period of 10 plan years (beginning with the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III)).

"(B) UNFUNDED MORTALITY INCREASE.—For purposes of subparagraph (A), the term 'unfunded mortality increase' means an amount equal to the excess of—

"(i) the current liability of the plan for the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III), over

"(ii) the current liability of the plan for such plan year which would have been determined if the mortality table in effect for the preceding plan year had been used."

(iii) CONFORMING AMENDMENT.—Clause (i) of section 302(d)(4)(B) of such Act, as amended by paragraph (4)(B), is amended by inserting "the unamortized portion of each unfunded mortality increase," after "additional unfunded old liability,".

(8) TRANSITION RULE.—Section 302(d) of such Act, as amended by paragraph (7), is amended by adding at the end the following new paragraph:

"(11) PHASE-IN OF INCREASES IN FUNDING REQUIRED BY RETIREMENT PROTECTION ACT OF 1994.—

"(A) IN GENERAL.—For any applicable plan year, at the election of the employer, the increase under paragraph (1) shall not exceed the greater of—

"(i) the increase that would be required under paragraph (1) if the provisions of this title as in effect for plan years beginning before January 1, 1995, had remained in effect, or

"(ii) the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) for the applicable plan year to a percentage equal to the sum of the initial funded current liability percentage of the plan plus the applicable number of percentage points for such applicable plan year.

"(B) APPLICABLE NUMBER OF PERCENTAGE POINTS.—

"(i) INITIAL FUNDED CURRENT LIABILITY PERCENTAGE OF 75 PERCENT OR LESS.—Except as provided in clause (ii), for plans with an initial funded current liability percentage of 75 percent or less, the applicable number of percentage points for the applicable plan year is:

"In the case of applicable plan years beginning in:	The applicable number of percentage points is:
1995	3
1996	6
1997	9
1998	12
1999	15
2000	19
2001	24.

"(ii) OTHER CASES.—In the case of a plan to which this clause applies, the applicable number of percent-

age points for any such applicable plan year is the sum of—

"(I) 2 percentage points;

"(II) the applicable number of percentage points (if any) under this clause for the preceding applicable plan year;

"(III) the product of .10 multiplied by the excess (if any) of (a) 85 percentage points over (b) the sum of the initial funded current liability percentage and the number determined under subclause (II);

"(IV) for applicable plan years beginning in 2000, 1 percentage point; and

"(V) for applicable plan years beginning in 2001, 2 percentage points.

"(iii) PLANS TO WHICH CLAUSE (ii) APPLIES.—

"(I) IN GENERAL.—Clause (ii) shall apply to a plan for an applicable plan year if the initial funded current liability percentage of such plan is more than 75 percent.

"(II) PLANS INITIALLY UNDER CLAUSE (i).—In the case of a plan which (but for this subclause) has an initial funded current liability percentage of 75 percent or less, clause (ii) (and not clause (i)) shall apply to such plan with respect to applicable plan years beginning after the first applicable plan year for which the sum of the initial funded current liability percentage and the applicable number of percentage points (determined under clause (i)) exceeds 75 percent. For purposes of applying clause (ii) to such a plan, the initial funded current liability percentage of such plan shall be treated as being the sum referred to in the preceding sentence.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'applicable plan year' means a plan year beginning after December 31, 1994, and before January 1, 2002.

"(ii) The term 'initial funded current liability percentage' means the funded current liability percentage as of the first day of the first plan year beginning after December 31, 1994."

(9) LIQUIDITY REQUIREMENT.—

(A) IN GENERAL.—Section 302(e) of such Act is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) LIQUIDITY REQUIREMENT.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a defined benefit plan (other than

a multiemployer plan or a plan described in subsection (d)(6)(A)) which—

"(i) is required to pay installments under this subsection for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of the base amount with respect to such quarter over the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under clause (i) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary of the Treasury that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funded current liability percentage (as defined in subsection (d)(8)) for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disburse-

ments as the Secretary of the Treasury shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities and such other assets as specified by the Secretary of the Treasury in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are necessary to carry out this paragraph."

(B) LIMITATION ON DISTRIBUTIONS OTHER THAN LIFE ANNUITIES PAID BY THE PLAN.—

(i) Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

"(e) LIMITATION ON DISTRIBUTIONS OTHER THAN LIFE ANNUITIES PAID BY THE PLAN.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, the fiduciary of a pension plan that is subject to the additional funding requirements of section 302(d) shall not permit a prohibited payment to be made from a plan during a period in which such plan has a liquidity shortfall (as defined in section 302(e)(5)).

"(2) PROHIBITED PAYMENT.—For purposes of paragraph (1), the term 'prohibited payment' means—

"(A) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)), that occurs during the period referred to in paragraph (1),

"(B) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(C) any other payment specified by the Secretary of the Treasury by regulations.

"(3) PERIOD OF SHORTFALL.—For purposes of this subsection, a plan has a liquidity shortfall during the period that there is an underpayment of an installment under section 302(e) by reason of paragraph (5)(A) thereof.

"(4) COORDINATION WITH OTHER PROVISIONS.—Compliance with this subsection shall not constitute a violation of any other provision of this Act."

(ii) Section 502 of such Act is amended by adding at the end a new subsection (m) to read as follows:

"(m) In the case of a distribution to a pension plan participant or beneficiary in violation of section 206(e) by a plan fiduciary, the Secretary shall assess a penalty against such fiduciary in an amount equal to the value of the distribution. Such penalty shall not exceed $10,000 for each such distribution."

(10) AMENDMENT TO DEFINITION OF FULL-FUNDING LIMITATION.—

(A) Subparagraph (A) of section 302(c)(7) of such Act is amended by inserting "(including the expected increase

in current liability due to benefits accruing during the plan year)" after "current liability" in clause (i).

(B) Section 302(c)(7) of such Act is amended by adding at the end the following new subparagraph:

"(E) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) CURRENT LIABILITY; ASSETS.—For purposes of clause (i)—

"(I) the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof), and

"(II) assets shall not be reduced by any credit balance in the funding standard account."

(C) Subparagraph (B) of section 302(c)(7) of such Act is amended to read as follows:

"(B) CURRENT LIABILITY.—For purposes of subparagraph (D) and subclause (I) of subparagraph (A)(i), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraphs (C) and (D) thereof) and using the rate of interest used under subsection (b)(5)(B)."

(11) DEFINITION OF CONTRIBUTING SPONSOR.—Paragraph (13) of section 4001(a) of such Act (29 U.S.C. 1301(a)(13)) is amended by striking "means a person—" and all that follows and inserting "means a person described in section 302(c)(11)(A) of this Act (without regard to section 302(c)(11)(B) of this Act) or section 412(c)(11)(A) of the Internal Revenue Code of 1986 (without regard to section 412(c)(11)(B) of such Code)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 1994.

(2) CONTRIBUTING SPONSOR.—The amendment made by subsection (a)(11) shall be effective as if included in the Pension Protection Act.

SEC. 762. LIMITATION ON CHANGES IN CURRENT LIABILITY ASSUMPTIONS.

(a) IN GENERAL.—Paragraph (5) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(5)) is amended—

(1) by striking "If the funding method" and inserting the following:

"(A) IN GENERAL.—If the funding method", and

(2) by adding at the end the following new subparagraph:

"(B) APPROVAL REQUIRED FOR CERTAIN CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-EMPLOYER PLANS SUBJECT TO ADDITIONAL FUNDING REQUIREMENT.—

"(i) IN GENERAL.—No actuarial assumption (other than the assumptions described in subsection (d)(7)(C)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary of the Treasury.

"(ii) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

"(I) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV applies;

"(II) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors' controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed $50,000,000; and

"(III) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the unfunded current liability of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the current liability of the plan before such change."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to changes in assumptions for plan years beginning after October 28, 1993.

(2) CERTAIN CHANGES CEASE TO BE EFFECTIVE.—In the case of changes in assumptions for plan years beginning after December 31, 1992, and on or before October 28, 1993, such changes shall cease to be effective for plan years beginning after December 31, 1994, if—

(A) such change would have required the approval of the Secretary of the Treasury had such amendment applied to such change, and

(B) such change is not so approved.

SEC. 763. ANTICIPATION OF BARGAINED BENEFIT INCREASES.

(a) IN GENERAL.—Section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)) is amended by adding at the end the following new paragraph:

"(12) ANTICIPATION OF BENEFIT INCREASES EFFECTIVE IN THE FUTURE.—In determining projected benefits, the funding method of a collectively bargained plan described in section 413(a) of the Internal Revenue Code of 1986 (other than a multiemployer plan) shall anticipate benefit increases scheduled to take effect during the term of the collective bargaining agreement applicable to the plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1994 with respect to collective bargaining agreements in effect on or after January 1, 1995.

SEC. 764. MODIFICATION OF QUARTERLY CONTRIBUTION REQUIREMENT.

(a) IN GENERAL.—Paragraph (1) of section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)) is amended—

(1) by inserting "which has a funded current liability percentage (as defined in subsection (d)(8)) for the preceding plan year of less than 100 percent" before "fails", and

(2) by striking "any plan year" and inserting "the plan year".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after the date of enactment of this Act.

Subpart C—Other Funding Provisions

SEC. 766. PROHIBITION ON BENEFIT INCREASES WHERE PLAN SPONSOR IS IN BANKRUPTCY.

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (i) as (j) and inserting after subsection (h) the following new subsection:

"(i)(1) In the case of a plan described in paragraph (3) which is maintained by an employer that is a debtor in a case under title 11, United States Code, or similar Federal or State law, no amendment of the plan which increases the liabilities of the plan by reason of—

"(A) any increase in benefits,

"(B) any change in the accrual of benefits, or

"(C) any change in the rate at which benefits become nonforfeitable under the plan,

with respect to employees of the debtor, shall be effective prior to the effective date of such employer's plan of reorganization.

"(2) Paragraph (1) shall not apply to any plan amendment that—

"(A) the Secretary of the Treasury determines to be reasonable and that provides for only de minimis increases in the liabilities of the plan with respect to employees of the debtor,

"(B) only repeals an amendment described in section 302(c)(8),

"(C) is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986, or

"(D) was adopted prior to, or pursuant to a collective bargaining agreement entered into prior to, the date on which the employer became a debtor in a case under title 11, United States Code, or similar Federal or State law.

"(3) This subsection shall apply only to plans (other than multiemployer plans) covered under section 4021 of this Act for which the funded current liability percentage (within the meaning of section 302(d)(8) of this Act) is less than 100 percent after taking into account the effect of the amendment.

"(4) For purposes of this subsection, the term 'employer' has the meaning set forth in section 302(c)(11)(A), without regard to section 302(c)(11)(B)."

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 401(a), as amended by section 751 of this Act, is further amended by adding at the end the following new paragraph:

"(33) PROHIBITION ON BENEFIT INCREASES WHILE SPONSOR IS IN BANKRUPTCY.—

"(A) IN GENERAL.—A trust which is part of a plan to which this paragraph applies shall not constitute a qualified trust under this section if an amendment to such plan is adopted while the employer is a debtor in a case under title 11, United States Code, or similar Federal or State law, if such amendment increases liabilities of the plan by reason of—

"(i) any increase in benefits,

"(ii) any change in the accrual of benefits, or

"(iii) any change in the rate at which benefits become nonforfeitable under the plan,

with respect to employees of the debtor, and such amendment is effective prior to the effective date of such employer's plan of reorganization.

"(B) EXCEPTIONS.—This paragraph shall not apply to any plan amendment if—

"(i) the plan, were such amendment to take effect, would have a funded current liability percentage (as defined in section 412(l)(8)) of 100 percent or more,

"(ii) the Secretary determines that such amendment is reasonable and provides for only de minimis increases in the liabilities of the plan with respect to employees of the debtor,

"(iii) such amendment only repeals an amendment described in subsection 412(c)(8), or

"(iv) such amendment is required as a condition of qualification under this part.

"(C) PLANS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply only to plans (other than multiemployer plans) covered under section 4021 of the Employee Retirement Income Security Act of 1974.

"(D) EMPLOYER.—For purposes of this paragraph, the term 'employer' means the employer referred to in section 412(c)(11) (without regard to subparagraph (B) thereof)."

(c) EFFECTIVE DATE OF PLAN AMENDMENT.—Section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) is amended by inserting at the end the following new subsection:

"(f) For purposes of this section, the effective date of a plan amendment described in section 204(i)(1) shall be the effective date of the plan of reorganization of the employer described in section 204(i)(1) or, if later, the effective date stated in such amendment."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan amendments adopted on or after the date of enactment of this Act.

SEC. 767. SINGLE SUM DISTRIBUTIONS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 RELATING TO MINIMUM BENEFITS.—

(1) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON MANDATORY DISTRIBUTIONS.—Subparagraph (B) of section 411(a)(11) is amended to read as follows:

"(B) DETERMINATION OF PRESENT VALUE.—For purposes of subparagraph (A), the present value shall be calculated in accordance with section 417(e)(3)."

(2) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Paragraph (3) of section 417(e) is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—

"(i) PRESENT VALUE.—Except as provided in subparagraph (B), for purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(ii) DEFINITIONS.—For purposes of clause (i)—

"(I) APPLICABLE MORTALITY TABLE.—The term 'applicable mortality table' means the table prescribed by the Secretary. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5)).

"(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe.

"(B) EXCEPTION.—In the case of a distribution from a plan that was adopted and in effect before the date of the enactment of the Retirement Protection Act of 1994, the present value of any distribution made before the earlier of—

"(i) the later of the date a plan amendment applying subparagraph (A) is adopted or made effective, or

"(ii) the first day of the first plan year beginning after December 31, 1999,

shall be calculated, for purposes of paragraphs (1) and (2), using the interest rate determined under the regulations of the Pension Benefit Guaranty Corporation for determining the present value of a lump sum distribution on plan termination that were in effect on September 1, 1993, and using the provisions of the plan as in effect on the day before such date of enactment; but only if such provisions of the plan met the requirements of section 417(e)(3) as in effect on the day before such date of enactment."

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 RELATING TO MAXIMUM BENEFITS.—Subparagraph (E) of section 415(b)(2) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively,

(2) by striking clause (i) and inserting the following new clauses:

"(i) Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.

"(ii) For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3), the applicable interest rate (as defined in section 417(e)(3)) shall be substituted for '5 percent' in clause (i).", and

(3) by adding at the end the following new clause:

"(v) For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the table prescribed by the Secretary. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date the adjustment is being made (without regard to any other subparagraph of section 807(d)(5)).''

(c) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON MANDATORY DISTRIBUTIONS.—Section 203(e)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the present value shall be calculated in accordance with section 205(g)(3).''

(2) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—

"(i) PRESENT VALUE.—Except as provided in subparagraph (B), for purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(ii) DEFINITIONS.—For purposes of clause (i)—

"(I) APPLICABLE MORTALITY TABLE.—The term 'applicable mortality table' means the table prescribed by the Secretary of the Treasury. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5) of such Code).

"(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary of the Treasury may by regulations prescribe.

"(B) EXCEPTION.—In the case of a distribution from a plan that was adopted and in effect prior to the date of the enactment of the Retirement Protection Act of 1994, the present value of any distribution made before the earlier of—

"(i) the later of when a plan amendment applying subparagraph (A) is adopted or made effective, or

"(ii) the first day of the first plan year beginning after December 31, 1999,

shall be calculated, for purposes of paragraphs (1) and (2), using the interest rate determined under the regulations of the Pension Benefit Guaranty Corporation for determining the present value of a lump sum distribution on plan termination that were in effect on September 1, 1993, and using the provisions of the plan as in effect on the day before such date of enactment; but only if such provisions of the plan met the requirements of section 205(g)(3) as in effect on the day before such date of enactment."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years and limitation years beginning after December 31, 1994; except that an employer may elect to treat the amendments made by this section as being effective on or after the date of the enactment of this Act.

(2) NO REDUCTION IN ACCRUED BENEFITS.—A participant's accrued benefit shall not be considered to be reduced in violation of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because (A) the benefit is determined in accordance with section 417(e)(3)(A) of such Code, as amended by this Act, or section 205(g)(3) of the Employee Retirement Income Security Act of 1974, as amended by this Act, or (B) the plan applies section 415(b)(2)(E) of such Code, as amended by this Act.

(3) SECTION 415.—

(A) NO REDUCTION REQUIRED.—An accrued benefit shall not be required to be reduced below the accrued benefit as of the last day of the last plan year beginning before January 1, 1995, merely because of the amendments made by subsection (b).

(B) TIMING OF PLAN AMENDMENT.—A plan that operates in accordance with the amendments made by subsection (b) shall not be treated as failing to satisfy section 401(a) of the Internal Revenue Code of 1986 or as not being operated in accordance with the provisions of the plan until such date as the Secretary of the Treasury provides merely because the plan has not been amended to include the amendments made by subsection (b).

SEC. 768. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM FUNDING CONTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) CLARIFICATION OF APPLICABILITY OF PROVISION.—Paragraph (2) of section 412(n) is amended by adding at the end the following new sentence: "This subsection shall not apply to any plan to which section 4021 of the Employee Retirement

Income Security Act of 1974 does not apply (as such section is in effect on the date of the enactment of the Retirement Protection Act of 1994).".

(2) REPEAL OF $1,000,000 OFFSET.—Paragraph (3) of section 412(n) is amended to read as follows:

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(A) for plan years beginning after 1987, and

"(B) for which payment has not been made before the due date."

(3) REPEAL OF 60-DAY DELAY.—Section 412(n)(4)(B) is amended by striking "60th day following the".

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) CLARIFICATION OF APPLICABILITY OF PROVISION.—Section 302(f)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(f)(1)) is amended by striking "to which this section applies" and inserting "covered under section 4021 of this Act".

(2) REPEAL OF $1,000,000 OFFSET.—Paragraph (3) of section 302(f) of such Act is amended to read as follows:

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(A) for plan years beginning after 1987, and

"(B) for which payment has not been made before the due date."

(3) REPEAL OF 60-DAY DELAY.—Section 302(f)(4)(B) of such Act is amended by striking "60th day following the".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 412 of the Internal Revenue Code of 1986 or under part 3 of subtitle B of the Employee Retirement Income Security Act of 1974 that become due on or after the date of enactment.

SEC. 769. SPECIAL FUNDING RULES FOR CERTAIN PLANS.

(a) FUNDING RULES NOT TO APPLY TO CERTAIN PLANS.—Any changes made by this Act to section 412 of the Internal Revenue Code of 1986 or to part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 shall not apply to—

(1) a plan which is, on the date of enactment of this Act, subject to a restoration payment schedule order issued by the Pension Benefit Guaranty Corporation that meets the requirements of section 1.412(c)(1)–3 of the Treasury Regulations, or

(2) a plan established by an affected air carrier (as defined under section 4001(a)(14)(C)(ii)(I) of such Act) and assumed by a new plan sponsor pursuant to the terms of a written agreement with the Pension Benefit Guaranty Corporation dated January 5, 1993, and approved by the United States Bankruptcy Court for the District of Delaware on December 30, 1992.

(b) CHANGE IN ACTUARIAL METHOD.—Any amortization installments for bases established under section 412(b) of the Internal

Revenue Code of 1986 and section 302(b) of the Employee Retirement Income Security Act of 1974 for plan years beginning after December 31, 1987, and before January 1, 1993, by reason of nonelective changes under the frozen entry age actuarial cost method shall not be included in the calculation of offsets under section 412(l)(1)(A)(ii) of such Code and section 302(d)(1)(A)(ii) of such Act for the 1st 5 plan years beginning after December 31, 1994.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 771. REPORTABLE EVENTS.

(a) RESPONSIBILITY FOR REPORTABLE EVENTS REPORTING.—Section 4043(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1343(a)) is amended—

(1) in the first sentence, by inserting "or the contributing sponsor" before "knows or has reason to know";

(2) in the first sentence, by inserting ", unless a notice otherwise required under this subsection has already been provided with respect to such event" before the period at the end; and

(3) by striking the last sentence.

(b) NOTIFICATION THAT EVENT IS ABOUT TO OCCUR.—Section 4043 of such Act is amended by redesignating subsections (b), (c), and (d) as (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The requirements of this subsection shall be applicable to a contributing sponsor if, as of the close of the preceding plan year—

"(A) the aggregate unfunded vested benefits (as determined under section 4006(a)(3)(E)(iii)) of plans subject to this title which are maintained by such sponsor and members of such sponsor's controlled groups (disregarding plans with no unfunded vested benefits) exceed $50,000,000, and

"(B) the funded vested benefit percentage for such plans is less than 90 percent.

For purposes of subparagraph (B), the funded vested benefit percentage means the percentage which the aggregate value of the assets of such plans bears to the aggregate vested benefits of such plans (determined in accordance with section 4006(a)(3)(E)(iii)).

"(2) This subsection shall not apply to an event if the contributing sponsor, or the member of the contributing sponsor's controlled group to which the event relates, is—

"(A) a person subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, or

"(B) a subsidiary (as defined for purposes of such Act) of a person subject to such reporting requirements.

"(3) No later than 30 days prior to the effective date of an event described in paragraph (9), (10), (11), (12), or (13) of subsection (c), a contributing sponsor to which the requirements of this subsection apply shall notify the corporation that the event is about to occur.

"(4) The corporation may waive the requirement of this subsection with respect to any or all reportable events with respect to any contributing sponsor."

(c) NEW REPORTABLE EVENTS.—Subsection (c) of section 4043 of such Act (as redesignated by subsection (b)) is amended—

(1) by striking the "or" at the end of paragraph (8);

(2) by striking paragraph (9); and

(3) by inserting after paragraph (8) the following new paragraphs:

"(9) when, as a result of an event, a person ceases to be a member of the controlled group;

"(10) when a contributing sponsor or a member of a contributing sponsor's controlled group liquidates in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State;

"(11) when a contributing sponsor or a member of a contributing sponsor's controlled group declares an extraordinary dividend (as defined in section 1059(c) of the Internal Revenue Code of 1986) or redeems, in any 12-month period, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of a contributing sponsor and all members of its controlled group;

"(12) when, in any 12-month period, an aggregate of 3 percent or more of the benefit liabilities of a plan covered by this title and maintained by a contributing sponsor or a member of its controlled group are transferred to a person that is not a member of the controlled group or to a plan or plans maintained by a person or persons that are not such a contributing sponsor or a member of its controlled group; or

"(13) when any other event occurs that may be indicative of a need to terminate the plan and that is prescribed by the corporation in regulations."

(d) DISCLOSURE EXEMPTION.—Section 4043 of such Act is amended by adding at the end the following new subsection:

"(f) Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 4043 of such Act, and subsections (d) and (e) of such section 4043 (as redesignated by subsection (b)), are each amended by striking "subsection (b)" each place it appears and inserting "subsection (c)".

(2) Section 4042(a)(3) of such Act is amended by striking "4043(b)(7)" and inserting "4043(c)(7)".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective for events occurring 60 days or more after the date of enactment of this Act.

SEC. 772. CERTAIN INFORMATION REQUIRED TO BE FURNISHED TO PBGC.

(a) GENERAL RULE.—Subtitle A of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMATION.

"(a) INFORMATION REQUIRED.—Each person described in subsection (b) shall provide the corporation annually, on or before a date specified by the corporation in regulations, with—

"(1) such records, documents, or other information that the corporation specifies in regulations as necessary to determine the liabilities and assets of plans covered by this title; and

"(2) copies of such person's audited (or, if unavailable, unaudited) financial statements, and such other financial information as the corporation may prescribe in regulations.

"(b) PERSONS REQUIRED TO PROVIDE INFORMATION.—The persons covered by subsection (a) are each contributing sponsor, and each member of a contributing sponsor's controlled group, of a single-employer plan covered by this title, if—

"(1) the aggregate unfunded vested benefits at the end of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of plans maintained by the contributing sponsor and the members of its controlled group exceed $50,000,000 (disregarding plans with no unfunded vested benefits);

"(2) the conditions for imposition of a lien described in section 302(f)(1)(A) and (B) of this Act or section 412(n)(1)(A) and (B) of the Internal Revenue Code of 1986 have been met with respect to any plan maintained by the contributing sponsor or any member of its controlled group; or

"(3) minimum funding waivers in excess of $1,000,000 have been granted with respect to any plan maintained by the contributing sponsor or any member of its controlled group, and any portion thereof is still outstanding.

"(c) INFORMATION EXEMPT FROM DISCLOSURE REQUIREMENTS.—Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress."

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of such Act is amended by inserting after the item relating to section 4009 the following new item:

"Sec. 4010. Authority to require certain information."

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 773. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(1)) is amended—

(1) by inserting "(A)" after "enforce"; and

(2) by striking the period after "title" and inserting ", and (B) in the case of a plan which is covered under this title (other than a multiemployer plan) and for which the conditions for imposition of a lien described in section 302(f)(1)(A) and (B) of this Act or section 412(n)(1)(A) and (B) of the Internal Revenue Code of 1986 have been met, section 302 of this Act and section 412 of such Code."

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 that become due on or after the date of the enactment of this Act.

SEC. 774. COMPUTATION OF ADDITIONAL PBGC PREMIUM.

(a) PHASE-OUT OF VARIABLE RATE PREMIUM CAP.—

(1) IN GENERAL.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking clause (iv), and by redesignating clause (v) as clause (iv).

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall be effective for plan years beginning on or after July 1, 1994.

(B) TRANSITION RULE.—In the case of plan years beginning on or after July 1, 1994, and before July 1, 1996, the additional premium payable with respect to any participant by reason of the amendments made by this section shall not exceed the sum of—

(i) $53, and

(ii) the product derived by multiplying—

(I) the excess (if any) of the amount determined under clause (i) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974, over $53, by

(II) the applicable percentage.

For purposes of this subparagraph, the applicable percentage shall be the percentage specified in the following table:

For the plan year beginning: on or after	but before	The applicable percentage is:
July 1, 1994	July 1, 1995	20 percent
July 1, 1995	July 1, 1996	60 percent

(b) INTEREST RATE AND ASSET VALUATION.—

(1) INTEREST RATE.—Subclause (II) of section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by striking "80 percent" and inserting "the applicable percentage", and

(B) by adding at the end the following new sentence: "For purposes of this subclause, the applicable percentage is 80 percent for plan years beginning before July 1, 1997, 85 percent for plan years beginning after June 30, 1997, and before the 1st plan year to which the first tables prescribed under section 302(d)(7)(C)(ii)(II) apply, and 100 percent for such 1st plan year and subsequent plan years."

(2) ASSET VALUATION.—Clause (iii) of section 4006(a)(3)(E) of such Act is amended—

(A) by inserting "or (III)" after "subclause (II)" in subclause (I), and

(B) by adding at the end the following new subclause:

"(III) In the case of any plan year for which the applicable percentage under subclause (II) is 100 percent, the value of the plan's assets used in determining unfunded current liability under subclause (I) shall be their fair market value."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after the date of the enactment of this Act.

(c) TRANSITION RULE FOR CERTAIN REGULATED PUBLIC UTILITIES.—In the case of a regulated public utility described in section 7701(a)(33)(A)(i) of the Internal Revenue Code of 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(1) January 1, 1998, or

(2) the date the regulated public utility begins to collect from utility customers rates that reflect the costs incurred or projected to be incurred for additional premiums under section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 pursuant to final and nonappealable determinations by all public utility commissions (or other authorities having jurisdiction over the rates and terms of service by the regulated public utility) that the costs are just and reasonable and recoverable from customers of the regulated public utility.

SEC. 775. DISCLOSURE TO PARTICIPANTS.

(a) PARTICIPANT NOTICE REQUIREMENT.—Subtitle A of title IV of the Employee Retirement Income Security Act of 1974 (as amended by section 772 of this Act) is further amended by adding at the end the following new section:

"SEC. 4011. NOTICE TO PARTICIPANTS.

"(a) IN GENERAL.—The plan administrator of a plan subject to the additional premium under section 4006(a)(3)(E) shall provide, in a form and manner and at such time as prescribed in regulations of the corporation, notice to plan participants and beneficiaries of the plan's funding status and the limits on the corporation's guaranty should the plan terminate while underfunded. Such notice shall be written in a manner so as to be understood by the average plan participant.

"(b) EXCEPTION.—Subsection (a) shall not apply to any plan to which section 302(d) does not apply for the plan year by reason of paragraph (9) thereof."

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of such Act is amended by inserting after the item relating to section 4010 (as added by section 772 of this Act) the following new item:

"Sec. 4011. Notice to participants."

(c) EFFECTIVE DATE.—The amendment made by this section shall be effective for plan years beginning after the date of enactment of this Act.

SEC. 776. MISSING PARTICIPANTS.

(a) IN GENERAL.—Subtitle C of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341 et seq.) is amended by adding at the end the following new section:

"SEC. 4050. MISSING PARTICIPANTS.

"(a) GENERAL RULE.—

"(1) PAYMENT TO THE CORPORATION.—A plan administrator satisfies section 4041(b)(3)(A) in the case of a missing participant only if the plan administrator—

"(A) transfers the participant's designated benefit to the corporation or purchases an irrevocable commitment from an insurer in accordance with clause (i) of section 4041(b)(3)(A), and

"(B) provides the corporation such information and certifications with respect to such designated benefits or irrevocable commitments as the corporation shall specify.

"(2) TREATMENT OF TRANSFERRED ASSETS.—A transfer to the corporation under this section shall be treated as a transfer of assets from a terminated plan to the corporation as trustee, and shall be held with assets of terminated plans for which the corporation is trustee under section 4042, subject to the rules set forth in that section.

"(3) PAYMENT BY THE CORPORATION.—After a missing participant whose designated benefit was transferred to the corporation is located—

"(A) in any case in which the plan could have distributed the benefit of the missing participant in a single sum without participant or spousal consent under section 205(g), the corporation shall pay the participant or beneficiary a single sum benefit equal to the designated benefit paid the corporation plus interest as specified by the corporation, and

"(B) in any other case, the corporation shall pay a benefit based on the designated benefit and the assumptions prescribed by the corporation at the time that the corporation received the designated benefit.

The corporation shall make payments under subparagraph (B) available in the same forms and at the same times as a guaranteed benefit under section 4022 would be available to be paid, except that the corporation may make a benefit available in the form of a single sum if the plan provided a single sum benefit (other than a single sum described in subsection (b)(2)(A)).

"(b) DEFINITIONS.—For purposes of this section—

"(1) MISSING PARTICIPANT.—The term 'missing participant' means a participant or beneficiary under a terminating plan whom the plan administrator cannot locate after a diligent search.

"(2) DESIGNATED BENEFIT.—The term 'designated benefit' means the single sum benefit the participant would receive—

"(A) under the plan's assumptions, in the case of a distribution that can be made without participant or spousal consent under section 205(g);

"(B) under the assumptions of the corporation in effect on the date that the designated benefit is transferred to the corporation, in the case of a plan that does not pay

any single sums other than those described in subparagraph (A); or

"(C) under the assumptions of the corporation or of the plan, whichever provides the higher single sum, in the case of a plan that pays a single sum other than those described in subparagraph (A).

"(c) REGULATORY AUTHORITY.—The corporation shall prescribe such regulations as are necessary to carry out the purposes of this section, including rules relating to what will be considered a diligent search, the amount payable to the corporation, and the amount to be paid by the corporation."

(b) CONFORMING TITLE IV AMENDMENTS.—

(1) AMENDMENT TO SECTION 4003.—Section 4003(a) of such Act (29 U.S.C. 1303(a)) is amended in the second sentence by inserting before the period the following: "and whether section 4050(a) has been satisfied".

(2) AMENDMENT TO SECTION 4005.—Section 4005(b)(2)(A) of such Act (29 U.S.C. 1305(b)(2)(A)) is amended by inserting "or benefits payable under section 4050" after "section 4022A".

(3) AMENDMENT TO SECTION 4041.—Section 4041(b)(3)(A)(ii) of such Act (29 U.S.C. 1341(b)(3)(A)(ii)) is amended by adding at the end the following new sentence: "A transfer of assets to the corporation in accordance with section 4050 on behalf of a missing participant shall satisfy this subparagraph with respect to such participant."

(c) CONFORMING ERISA AMENDMENTS.—

(1) The table of contents contained in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item related to section 4049 the following new item:

"Sec. 4050. Missing participants."

(2) Section 206 of such Act (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

"(f) MISSING PARTICIPANTS IN TERMINATED PLANS.—In the case of a plan covered by title IV, the plan shall provide that, upon termination of the plan, benefits of missing participants shall be treated in accordance with section 4050."

(d) CONFORMING INTERNAL REVENUE CODE AMENDMENTS.—Section 401(a), as amended by section 766 of this Act, is further amended by inserting after paragraph (33) the following new paragraph:

"(34) BENEFITS OF MISSING PARTICIPANTS ON PLAN TERMINATION.—In the case of a plan covered by title IV of the Employee Retirement Income Security Act of 1974, a trust forming part of such plan shall not be treated as failing to constitute a qualified trust under this section merely because the pension plan of which such trust is a part, upon its termination, transfers benefits of missing participants to the Pension Benefit Guaranty Corporation in accordance with section 4050 of such Act."

(e) EFFECTIVE DATE.—The provisions of this section shall be effective with respect to distributions that occur in plan years commencing after final regulations implementing these provisions are prescribed by the Pension Benefit Guaranty Corporation.

SEC. 777. MODIFICATION OF MAXIMUM GUARANTEE FOR DISABILITY BENEFITS.

(a) IN GENERAL.—Section 4022(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(3)) is amended by adding at the end the following new sentences: "The maximum guaranteed monthly benefit shall not be reduced solely on account of the age of a participant in the case of a benefit payable by reason of disability that occurred on or before the termination date, if the participant demonstrates to the satisfaction of the corporation that the Social Security Administration has determined that the participant satisfies the definition of disability under title II or XVI of the Social Security Act, and the regulations thereunder. If a benefit payable by reason of disability is converted to an early or normal retirement benefit for reasons other than a change in the health of the participant, such early or normal retirement benefit shall be treated as a continuation of the benefit payable by reason of disability and this subparagraph shall continue to apply."

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for plan terminations under section 4041(c) of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act, or under section 4042 of such Act with respect to which proceedings are instituted by the corporation, on or after the date of enactment of this Act.

SEC. 778. PROCEDURES TO FACILITATE DISTRIBUTION OF TERMINATION BENEFITS.

(a) REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS FOR STANDARD TERMINATION.—

(1) NOTICE OF NONCOMPLIANCE.—Section 4041(b)(2)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(b)(2)(C)(i)) is amended—

(A) by striking subclause (I) and inserting the following new subclause:

"(I) it determines, based on the notice sent under paragraph (2)(A) of subsection (b), that there is reason to believe that the plan is not sufficient for benefit liabilities,";

(B) by striking the period at the end of subclause (II) and inserting ", or"; and

(C) by adding at the end the following new subclause:

"(III) it determines that any other requirement of subparagraph (A) or (B) of this paragraph or of subsection (a)(2) has not been met, unless it further determines that the issuance of such notice would be inconsistent with the interests of participants and beneficiaries."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any plan termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 with respect to which the Pension Benefit Guaranty Corporation has not, as of the date of enactment of this Act, issued a notice of noncompliance that has become final, or otherwise issued a final determination that the plan termination is nullified.

(b) DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.—

(1) CLARIFICATION OF DISTRESS CRITERION.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)) is amended by inserting after "under any similar" the following: "Federal law or".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as if included in the Single-Employer Pension Plan Amendments Act of 1986.

PART III—EFFECTIVE DATES

SEC. 781. EFFECTIVE DATES.

Except as otherwise provided in this subtitle, the amendments made by this subtitle shall be effective on the date of enactment of this Act.

TITLE VIII—PIONEER PREFERENCES

SEC. 801. PIONEER PREFERENCES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

"(13) RECOVERY OF VALUE OF PUBLIC SPECTRUM IN CONNECTION WITH PIONEER PREFERENCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (6)(G), the Commission shall not award licenses pursuant to a preferential treatment accorded by the Commission to persons who make significant contributions to the development of a new telecommunications service or technology, except in accordance with the requirements of this paragraph.

"(B) RECOVERY OF VALUE.—The Commission shall recover for the public a portion of the value of the public spectrum resource made available to such person by requiring such person, as a condition for receipt of the license, to agree to pay a sum determined by—

"(i) identifying the winning bids for the licenses that the Commission determines are most reasonably comparable in terms of bandwidth, scope of service area, usage restrictions, and other technical characteristics to the license awarded to such person, and excluding licenses that the Commission determines are subject to bidding anomalies due to the award of preferential treatment;

"(ii) dividing each such winning bid by the population of its service area (hereinafter referred to as the per capita bid amount);

"(iii) computing the average of the per capita bid amounts for the licenses identified under clause (i);

"(iv) reducing such average amount by 15 percent; and

"(v) multiplying the amount determined under clause (iv) by the population of the service area of the license obtained by such person.

"(C) INSTALLMENTS PERMITTED.—The Commission shall require such person to pay the sum required by subparagraph (B) in a lump sum or in guaranteed installment payments, with or without royalty payments, over a period of not more than 5 years.

"(D) RULEMAKING ON PIONEER PREFERENCES.—Except with respect to pending applications described in clause (iv) of this subparagraph, the Commission shall prescribe regulations specifying the procedures and criteria by which the Commission will evaluate applications for preferential treatment in its licensing processes (by precluding the filing of mutually exclusive applications) for persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service. Such regulations shall—

"(i) specify the procedures and criteria by which the significance of such contributions will be determined, after an opportunity for review and verification by experts in the radio sciences drawn from among persons who are not employees of the Commission or by any applicant for such preferential treatment;

"(ii) include such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of any such contribution justifies any reduction in the amounts paid for comparable licenses under this subsection;

"(iii) be prescribed not later than 6 months after the date of enactment of this paragraph;

"(iv) not apply to applications that have been accepted for filing on or before September 1, 1994; and

"(v) cease to be effective on the date of the expiration of the Commission's authority under subparagraph (F).

"(E) IMPLEMENTATION WITH RESPECT TO PENDING APPLICATIONS.—In applying this paragraph to any broadband licenses in the personal communications service awarded pursuant to the preferential treatment accorded by the Federal Communications Commission in the Third Report and Order in General Docket 90–314 (FCC 93–550, released February 3, 1994)—

"(i) the Commission shall not reconsider the award of preferences in such Third Report and Order, and the Commission shall not delay the grant of licenses based on such awards more than 15 days following the date of enactment of this paragraph, and the award of such preferences and licenses shall not be subject to administrative or judicial review;

"(ii) the Commission shall not alter the bandwidth or service areas designated for such licenses in such Third Report and Order;

"(iii) except as provided in clause (v), the Commission shall use, as the most reasonably comparable licenses for purposes of subparagraph (B)(i), the broadband licenses in the personal communications service for blocks A and B for the 20 largest markets

(ranked by population) in which no applicant has obtained preferential treatment;

"(iv) for purposes of subparagraph (C), the Commission shall permit guaranteed installment payments over a period of 5 years, subject to—

"(I) the payment only of interest on unpaid balances during the first 2 years, commencing not later than 30 days after the award of the license (including any preferential treatment used in making such award) is final and no longer subject to administrative or judicial review, except that no such payment shall be required prior to the date of completion of the auction of the comparable licenses described in clause (iii); and

"(II) payment of the unpaid balance and interest thereon after the end of such 2 years in accordance with the regulations prescribed by the Commission; and

"(v) the Commission shall recover with respect to broadband licenses in the personal communications service an amount under this paragraph that is equal to not less than $400,000,000, and if such amount is less than $400,000,000, the Commission shall recover an amount equal to $400,000,000 by allocating such amount among the holders of such licenses based on the population of the license areas held by each licensee.

The Commission shall not include in any amounts required to be collected under clause (v) the interest on unpaid balances required to be collected under clause (iv).

"(F) EXPIRATION.—The authority of the Commission to provide preferential treatment in licensing procedures (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service shall expire on September 30, 1998.

"(G) EFFECTIVE DATE.—This paragraph shall be effective on the date of its enactment and apply to any licenses issued on or after August 1, 1994, by the Federal Communications Commission pursuant to any licensing procedure

that provides preferential treatment (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service.".

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.