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To improve the enforcement of the trade laws of the United States, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. HOLLINGS introduced the following bill; which was read twice and
referred to the Committee on Finance

A BILL

To improve the enforcement of the trade laws of the United
States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade Enforcement
5 Act of 1993.”

6 **SEC. 2. TABLE OF CONTENTS.**

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

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1 **TITLE I—ANTIDUMPING AND**
2 **COUNTERVAILING DUTY LAWS**

3 **SECTION 101. DETERMINATIONS OF UNITED STATES PRICE**
4 **AND FOREIGN MARKET VALUE.**

5 (a) DETERMINATION OF UNITED STATES PRICE.—
6 Section 772(e)(1) of the Tariff Act of 1930 (19 U.S.C.
7 1677a(e)(1)) is amended by inserting “and reasonable
8 profits from selling” immediately after “selling”.

9 (b) DETERMINATION OF FOREIGN MARKET
10 VALUE.—Section 773(a)(4) of the Tariff Act of 1930 (19
11 U.S.C. 1677b(a)(4)) is amended by inserting immediately
12 before the period at the end the following: “, except that
13 in no event shall the administering authority deduct indi-
14 rect selling expenses (other than salaries of sales person-
15 nel) from foreign market value in order to offset expenses
16 deducted from an exporter’s sales price under section
17 772(e)”.

18 **SEC. 102. PROPRIETARY INFORMATION.**

19 Section 777 of the Tariff Act of 1930 (19 U.S.C.
20 1677f) is amended—

21 (1) by amending subsection (b)(1)(B)(ii) to
22 read as follows:

23 “(ii) a statement that the information
24 should not be released under administra-
25 tive protective order.”;

1 (2) in subsection (c)(1)—

2 (A) by amending subparagraph (A) to read
3 as follows:

4 “(A) IN GENERAL.—Upon receipt of an
5 application (before or after receipt of the infor-
6 mation requested), which describes with par-
7 ticularity the information requested and sets
8 forth the reasons for the request, the admin-
9 istering authority and the Commission may
10 make proprietary information submitted by any
11 other party to the investigation available under
12 a protective order described in subparagraph
13 (B).”; and

14 (B) by striking subparagraphs (C), (D),
15 and (E);

16 (3) in subsection (c)(2), immediately before
17 “then application”, by inserting the following: “or
18 the Commission denies a request for proprietary in-
19 formation submitted by the petitioner or an inter-
20 ested party in support of the petitioner concerning
21 the domestic price or cost of production of the like
22 product.”; and

23 (4) by striking subsections (d) and (e).

1 **SEC. 103. DOWNSTREAM DUMPING.**

2 (a) IN GENERAL.—Subtitle D of title VII of the Tar-
3 iff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by
4 inserting immediately after section 771B the following:

5 **“SEC. 771C. DOWNSTREAM DUMPING.**

6 “(a) DEFINITION.—As used in this section, the term
7 ‘downstream dumping’ means a course of conduct in which
8 a product is routinely used as a significant part, compo-
9 nent, assembly, subassembly, or material in the manufac-
10 ture or production or merchandise subject to investigation
11 under subtitle B, and such product is purchased at a price
12 that—

13 “(1) is lower than the generally available price
14 of the product in the country of manufacture or pro-
15 duction, or

16 “(2) is lower than the price at which the prod-
17 uct would be generally available in the country of
18 manufacture or production but for the artificial de-
19 pression of such general available price by reason of
20 any subsidy or other sales at below foreign market
21 value.

22 For purposes of this subsection, a ‘significant part’ means
23 that the part involved constitutes not less than 20 percent
24 of the total cost of the product.

25 “(b) INCLUSION OF AMOUNT ATTRIBUTABLE TO
26 DOWNSTREAM DUMPING.—If the administering authority

1 determines, during the course of such an investigation,
2 that downstream dumping is occurring or has occurred
3 with respect to any such product, the administering au-
4 thority, in calculating the amount of any antidumping
5 duty on such merchandise, shall include an amount equal
6 to the difference between—

7 “(1) The price at which the product was pur-
8 chased, and

9 “(2) either (A) the generally available price (re-
10 ferred to in subsection (a)(1)) of the product, or (B)
11 the price (referred to in subsection (a)(2)) of the
12 product that would pertain, but for the artificial de-
13 pression, whichever is appropriate.

14 “(c) SCOPE OF INQUIRY OF ADMINISTERING AU-
15 THORITY.—The administering authority is not required,
16 in undertaking such an investigation, to consider the pres-
17 ence of downstream dumping, beyond that state in the
18 manufacture or production of the class or kind of mer-
19 chandise that immediately precedes the final manufactur-
20 ing or production stage before export to the United States,
21 unless reasonably available information indicates that such
22 dumping has occurred or is occurring before such imme-
23 diately preceding stage and is having or has had a sub-
24 stantial effect on the price of the merchandise.”.

1 (b) IMPOSITION OF ANTIDUMPING DUTIES.—Section
2 731(2) of the Tariff Act of 1930 (19 U.S.C. 1673(2)) is
3 amended—

4 (1) in subparagraph (A)(ii), by striking “or”;

5 (2) by inserting “or” at the end of subpara-
6 graph (B); and

7 (3) by inserting immediately after subpara-
8 graph (B) the following:

9 “(C) an industry producing a product used
10 in the manufacture or production of the foreign
11 merchandise has been materially injured or
12 threatened with material injury, or the estab-
13 lishment of such an industry in the United
14 States has been materially retarded.”

15 (c) DEFINITION OF INTERESTED PARTY.—Subpara-
16 graphs (C), (D), (E), and (F) of section 771(9) of the
17 Tariff Act of 1930 (19 U.S.C. 1677(9)(C), (D), (E), and
18 (F)) are each amended by inserting immediately after
19 “product” the following: “or a product that is used in the
20 manufacture or production of a like product”.

21 (d) CONFORMING AMENDMENT.—The table of con-
22 tents for title VII of the Tariff Act of 1930 is amended
23 by inserting immediately after the item relating to section
24 771B the following:

“Sec. 771C. Downstream dumping.”

1 **SEC. 104. RESOURCE INPUT SUBSIDIES.**

2 (a) IN GENERAL.—Subtitle D of title VII of the Tar-
3 iff Act of 1930 (19 U.S.C. 1677 et seq.), as amended by
4 section 103(a) of this Act, is further amended by adding
5 at the end the following:

6 **“SEC. 771D. RESOURCE INPUT SUBSIDIES.**

7 “(a) GENERAL RULE.—A resource input subsidy ex-
8 ists if—

9 “(1) a product (hereinafter in this section re-
10 ferred to as an ‘input product’)—

11 “(A) is provided or sold by a government
12 or a government-regulated or government-con-
13 trolled entity within a country (hereinafter in
14 this section referred to as an ‘exporting coun-
15 try’), for use as an input in another product
16 manufactured within that country, at a domes-
17 tic price that—

18 “(i) is lower than the fair market
19 value of the input product, and

20 “(ii) is not freely available, by reason
21 of government regulation or control, to
22 United States producers for purchase of
23 the input product for export to the United
24 States; and

25 “(B) would, if sold at the fair market
26 value, constitute a significant portion of the

1 total cost of the manufacture or production of
2 the merchandise in which or for which the input
3 product is used; or

4 “(2) the right to remove or extract a product
5 (hereinafter in this section referred to as the ‘re-
6 moval right’) is provided or sold by a government or
7 a government-regulated or government-controlled en-
8 tity within a country, and—

9 “(A) that product is for input use in an-
10 other product manufactured within that coun-
11 try;

12 “(B) the removal right is provided or sold
13 at a domestic price that is lower than the fair
14 market value of that right; and

15 “(C) that right, if sold at the fair market
16 value, would constitute a significant portion of
17 the total cost of manufacture or production of
18 the merchandise in or for which the product is
19 used.

20 “(b) AMOUNT FOR RESOURCE INPUT.—

21 “(1) IN GENERAL.—The amount of a resource
22 input subsidy is the difference between the domestic
23 price of an input product or of a removal right, and
24 the fair market value of that product or right.

1 “(2) EXCLUSIONS.—For purposes of this sec-
2 tion, the terms ‘domestic price’ and ‘fair market
3 value’ do not include, with respect to an input prod-
4 uct, the costs incident to the transportation and
5 handling required to move the product from its point
6 of production to the respective domestic or foreign
7 destination.

8 “(c) DEFINITIONS AND RULES.—For purposes of
9 this section—

10 “(1) FAIR MARKET VALUE DEFINED.—The
11 term ‘fair market value’ means—

12 “(A) with respect to an input product, the
13 price that, in the absence of government regula-
14 tion or control, a willing buyer would pay a will-
15 ing seller for that product from the exporting
16 country in an arms-length transaction; and

17 “(B) with respect to a removal right, the
18 price that, in the absence of government regula-
19 tion or control, a willing buyer would pay a will-
20 ing seller for the removal right in the country
21 providing or selling the right.

22 “(2) VALUE OF INPUT PRODUCT.—In deter-
23 mining the fair market value of an input product,
24 the administering authority shall take into ac-
25 count—

1 “(A) the export price of the product;

2 “(B) the prices at which the product is
3 generally available in world markets;

4 “(C) the current market clearing price at
5 which the product can be sold competitively by
6 the exporting country in the markets of other
7 countries (including the United States) that are
8 market economy countries; and

9 “(D) the availability to the exporting coun-
10 try of markets described in subparagraph (C).

11 “(3) VALUE OF REMOVAL RIGHT.—In deter-
12 mining the fair market value of a removal right, the
13 administering authority shall take into account—

14 “(A) the price paid in the exporting coun-
15 try for a comparable removal right not subject
16 to government regulation or control;

17 “(B) the price paid in the exporting coun-
18 try for a comparable removal right sold or of-
19 fered for sale through a process of competitive
20 bidding; and

21 “(C) the price paid for a comparable re-
22 moval right in comparable regions of countries
23 other than the exporting country.

24 “(4) INPUT USE DEFINED.—The term ‘input
25 use’ refers to the use (directly or indirectly) of an

1 input product in the manufacture or production of
2 any class or kind of merchandise that is the subject
3 of an investigation under this title.

4 “(d) REQUIREMENT OF INJURY TEST.—Notwith-
5 standing section 303(b), sections 703(a) and 705(b) (re-
6 lating to injury determinations by the Commission) shall
7 apply to any investigation under section 303(b) in which
8 the existence of resource input subsidies under section
9 771C is alleged.”.

10 (b) DEFINITION OF SUBSIDY.—Section 771(5)(A) of
11 the Tariff Act of 1930 (19 U.S.C. 1677(5)(A)) is amended
12 by adding at the end the following:

13 “(iii) Any resource input subsidy pro-
14 vided under section 771D.”.

15 (c) CONFORMING AMENDMENT.—The table of con-
16 tents for title VII of the Tariff Act of 1930, as amended
17 by section 103(d) of this Act, is further amended by in-
18 serting after the item relating to section 771C the follow-
19 ing:

“Sec.—771D.—Resource input subsidies.”.

20 **SEC. 105. APPLICATION OF THE COUNTERVAILING DUTY**
21 **LAW TO NONMARKET ECONOMIES.**

22 Section 771(5) of the Tariff Act of 1930 (19 U.S.C.
23 1677(5)) is amended—

24 (1) by redesignating subparagraph (B) as sub-
25 paragraph (C);

1 (2) in subparagraph (C), as so redesignated, by
2 striking “subparagraph (A)” and inserting in lieu
3 thereof “subparagraphs (A) and (B)”; and

4 (3) by inserting immediately after subpara-
5 graph (A) the following new subparagraph:

6 “(B) SUBSIDIES IN NONMARKET ECON-
7 OMY COUNTRIES.—Benefits that would con-
8 stitute a countervailable subsidy under subpara-
9 graph (A) shall be treated as a subsidy if pro-
10 vided to an enterprise or industry, or group of
11 enterprises or industries, in a nonmarket econ-
12 omy country. In such cases, the amount of the
13 subsidy is equal to the difference between the
14 price at which the merchandise under investiga-
15 tion is sold in the United States, and the
16 weighted average of the prices at which such or
17 similar merchandise, for market economy coun-
18 tries selected by the administering authority as
19 being at a stage of economic development com-
20 parable to that of the country under investiga-
21 tion, is sold either—

22 “(i) for consumption in the home
23 market of those countries, or

24 “(ii) to other countries, including the
25 United States,

1 as such prices are established by public and pri-
2 vate statistical information, by information sup-
3 plied by cooperating industries in such selected
4 countries, and by price information submitted
5 by the petitioner and not rebutted by the for-
6 eign producer.”.

7 **SEC. 106. DETERMINATIONS OF INJURY IN ANTIDUMPING**
8 **AND COUNTERVAILING DUTY INVESTIGA-**
9 **TIONS.**

10 (a) CUMULATION IN MATERIAL INJURY DETERMINA-
11 TIONS.—Section 771(7)(C)(iv)(I) of the Tariff Act of
12 1930 (19 U.S.C. 1677(7)(C)(iv)(I)) is amended by strik-
13 ing “investigation” and inserting in lieu thereof “either
14 an antidumping or a countervailing duty investigation or
15 to an antidumping or countervailing duty order (if the
16 marketing of such products is reasonably coincident)”.

17 (b) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—
18 Section 771(7)(c)(iii) of the Tariff Act of 1930 (19 U.S.C.
19 1677(7)(C)(iii)) is amended—

20 (1) by striking “(B)(iii)” and inserting in lieu
21 thereof “(B)(i)(III)”; and

22 (2) by striking the last sentence and inserting
23 in lieu thereof the following new sentence: “In evalu-
24 ating such factors, the Commission shall consider
25 what effect other factors, including the existence of

1 a national economic recovery, have had upon such
2 factors, and whether an increase in the sale of im-
3 ports compared to sales of domestic products indi-
4 cates that there is a likelihood that such declines will
5 occur.”.

6 (c) STANDARD FOR MATERIAL INJURY DETERMINA-
7 TION.—Section 771(7)(E)(ii) of the Tariff Act of 1930
8 (19 U.S.C. 1677(7)(E)(ii)) is amended by striking the pe-
9 riod at the end and inserting in lieu thereof the following:
10 “; except that factors other than those enumerated in sub-
11 paragraph (B)(i) shall not alone be the basis for a deter-
12 mination of the Commission that there is no material in-
13 jury or threat of material injury to United States produc-
14 ers.”.

15 (d) THREAT OF MATERIAL INJURY.—Section
16 771(7)(F) of the Tariff Act of 1930 (19 U.S.C.
17 1677(7)(F)) is amended by striking clause (iv).

18 (e) TREATMENT OF NEGLIGIBLE IMPORTS.—Section
19 771(7)(C) of the Tariff Act of 1930 (19 U.S.C.
20 1677(7)(C)) is amended by striking clause (v).

21 **SEC. 107. CIRCUMVENTION OF ANTIDUMPING AND COUN-**
22 **TERVAILING DUTY ORDERS.**

23 (a) MERCHANDISE COMPLETED OR ASSEMBLED IN
24 UNITED STATES.—Section 781(a) of the Tariff Act of
25 1930 (19 U.S.C. 1677j(a)) is amended—

1 (1) in paragraph (1)—

2 (A) by adding “and” at the end of sub-
3 paragraph (A)(iii);

4 (B) by striking “and” at the end of sub-
5 paragraph (B); and

6 (C) by striking subparagraph (C); and

7 (2) in paragraph (2)—

8 (A) by redesignating subparagraphs (B)
9 and (C) as subparagraphs (C) and (D), respec-
10 tively; and

11 (B) by inserting immediately after sub-
12 paragraph (A) the following new subparagraph:

13 “(B) the value of the imported parts and
14 components referred to in paragraph (1)(B) or
15 the value of imported parts and components
16 from another country that were utilized in the
17 production or manufacture of the merchandise
18 which was the subject of such order or find-
19 ing.”.

20 (b) MERCHANDISE COMPLETED OR ASSEMBLED IN
21 OTHER FOREIGN COUNTRIES.—Section 781(b) of the
22 Tariff Act of 1930 (19 U.S.C. 1677j(b)) is amended—

23 (1) in paragraph (1)—

24 (A) by adding “and” at the end of sub-
25 paragraph (A)(iii); and

1 (B) by striking subparagraph (C); and
2 (C) by redesignating subparagraph (D) as
3 subparagraph (C); and
4 (2) in paragraph (2)—

5 (A) by redesignating subparagraphs (B)
6 and (C) as subparagraphs (C) and (D), respec-
7 tively; and

8 (B) by inserting immediately after sub-
9 paragraph (A) the following new subparagraph:

10 “(B) the value of the imported parts and
11 components referred to in paragraph (1)(B) or
12 the value of imported parts and components
13 from another country that were utilized in the
14 production or manufacture of the merchandise
15 which was the subject of such order or find-
16 ing.”.

17 **SEC. 108. PRIVATE RIGHT OF ACTION.**

18 (a) UNFAIR COMPETITION.—(1) Section 801 of the
19 Act of September 8, 1916 (15 U.S.C. 72), is amended to
20 read as follows:

21 “SEC. 801. (a) No person shall import or sell within
22 the United States any article manufactured or produced
23 in a foreign country if:

24 “(1) such article is imported or sold within the
25 United States at a United States price which is less

1 than the foreign market value or constructed value
2 of such article; and

3 “(2) such importation or sale—

4 “(A) causes or threatens material injury to
5 industry or labor in the United States; or

6 “(B) prevents, in whole or in part, the es-
7 tablishment or modernization of any industry in
8 the United States.

9 “(b) Any interested party who shall be injured in his
10 business or property by reason of an importation or sale
11 in violation of this section may bring a civil action in the
12 district court of the District of Columbia or in the Court
13 of International Trade against any manufacturer or ex-
14 porter of such article or any importer of such article into
15 the United States who is related to such manufacturer or
16 exporter.

17 “(c) In any action brought under subsection (b), upon
18 a finding of liability on the part of the defendant, the
19 plaintiff shall—

20 “(1)(A) be granted such equitable relief as may
21 be appropriate, which may include an injunction
22 against further importation into, or sale or distribu-
23 tion within, the United States by such defendant of
24 the articles in question, or (B) if such injunctive re-
25 lief cannot be timely provided or is otherwise inad-

1 equate, recover damages for the injuries sustained;
2 and

3 “(2) recover the costs of the action, including
4 reasonable attorney’s fees.

5 “(d) The standard of proof in any action filed under
6 this section is a preponderance of the evidence. Upon a
7 prima facie showing of the elements set forth in subsection
8 (a), or upon a final determination adverse to the defendant
9 by the Department of Commerce or the United States
10 International Trade Commission under section 735 of the
11 Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports
12 of the article in question for the country in which the man-
13 ufacturer of the article is located, which final determina-
14 tion shall be considered a prima facie case for purposes
15 of this Act, the burden of rebutting such prima facie case
16 shall be upon the defendant.

17 “(e) Whenever it shall appear to the court that justice
18 requires that other parties be brought before the court,
19 the court may cause them to be summoned, without regard
20 to where they reside, and the subpoenas for such purpose
21 may be served and enforced in any district of the United
22 States.

23 “(f) The acceptance by any foreign manufacturer,
24 producer, or exporter of any right or privilege conferred
25 upon him to sell his products or have his products sold

1 by another party in the United States shall be deemed
2 equivalent to an appointment by the foreign manufacturer,
3 producer, or exporter of the District Director of the Unit-
4 ed States Customs Service of the Department of the
5 Treasury for the port through which the article is com-
6 monly imported to be the true and lawful agent upon
7 whom may be served all lawful process in any action
8 brought under this section.

9 “(g)(1) An action may be brought under this section
10 only if such action is commenced within four years after
11 the date on which the cause of action accrued.

12 “(2) The running of the statute of limitations pro-
13 vided in paragraph (1) shall be suspended while any ad-
14 ministrative proceedings under section 731, 732, 733,
15 734, or 735 of the Tariff Act of 1930 (19 U.S.C. 1673–
16 1673d) relating to the importations in question, or any
17 appeal of a final determination in such proceeding, is
18 pending and for one year thereafter.

19 “(h) If a defendant in any action brought under sub-
20 section (b) fails to comply with any discovery order or
21 other order or decree of the court, the court may—

22 “(1) enjoin the further importation into, or the
23 sale or distribution within, the United States by
24 such defendant of articles which are the same as, or
25 similar to, those articles which are alleged in such

1 action to have been sold or imported under the con-
2 ditions described in subsection (b) until such time as
3 the defendant complies with such order or decree; or

4 “(2) take any other action authorized by law or
5 by the Federal Rules of Civil Procedure, including
6 entering judgment for the plaintiff.

7 “(i)(1) Except as provided in paragraph (2), the con-
8 fidential or privileged status accorded by law to any docu-
9 ments, evidence, comments, or information shall be pre-
10 served in any action under this section.

11 “(2) The court in any action brought under this sec-
12 tion may—

13 “(A) examine, in camera, any confidential or
14 privileged material;

15 “(B) accept depositions, documents, affidavits,
16 or other evidence under sale; and

17 “(C) disclose such material under such terms
18 and conditions as the court may order.

19 “(j) Any action brought under this section shall be
20 advanced on the docket and expedited in every way pos-
21 sible.

22 “(k) For purposes of this section—

23 “(1) The terms ‘United States price’, ‘foreign
24 market value’, ‘constructed value’, ‘subsidy’, and

1 'material injury', shall have the meaning given such
2 terms by title VII of the Tariff Act of 1930.

3 "(2) If—

4 "(A) a subsidy is provided to the manufac-
5 turer, producer, or exporter of any article, and

6 "(B) such subsidy is not included in the
7 foreign market value or constructed value of
8 such article (but for this paragraph),

9 the foreign market value of such article or the constructed
10 value of such article shall be increased by the amount of
11 such subsidy.

12 "(l) The court shall permit the United States to inter-
13 vene in any action, suit, or proceeding under this section,
14 as a matter of right. The United States shall have all the
15 rights of a party.

16 "(m) Any order by a court under this section is sub-
17 ject to nullification by the President pursuant to the Presi-
18 dent's authority under section 203 of the International
19 Emergency Economic Powers Act (50 U.S.C. 1702).".

20 (2) Section 1 of the Clayton Act (15 U.S.C. 12) is
21 amended by inserting immediately after "nineteen hun-
22 dred and thirteen;" the following: "section 801 of the Act
23 of September 8, 1916, entitled 'An Act to raise revenue,
24 and for other purposes' (15 U.S.C. 72);".

1 (b) PRIVATE ENFORCEMENT ACTION.—(1) Chapter
2 95 of title 28, United States Code, is amended by adding
3 at the end the following:

4 **“§ 1586. Private enforcement action**

5 “(a) Any interested party who shall be injured in his
6 business or property by a fraudulent or grossly negligent
7 violation of section 592(a) of the Tariff Act of 1930 (19
8 U.S.C. 1592(a)) may bring a civil action in the district
9 court of the District of Columbia or in the Court of Inter-
10 national Trade, without respect to the amount in con-
11 troversy.

12 “(b) Upon proof by an interested party that he has
13 been damaged by a fraudulent or grossly negligent viola-
14 tion of section 592(a) of the Tariff Act of 1930 (19 U.S.C.
15 1592(a)), such interested party shall—

16 “(1) be granted such equitable relief as may be ap-
17 propriate, which may include an injunction against further
18 importation into the United States of the articles or prod-
19 ucts in question; or

20 “(2) if such injunctive relief cannot be timely
21 provided or is otherwise inadequate, recover damages
22 for the injuries sustained; and

23 “(3) recover the costs of suit, including reason-
24 able attorney’s fees.

25 “(c) For purposes of this section—

1 “(1) The term ‘interested party’ means—

2 “(A) a manufacturer, producer, or whole-
3 saler in the United States of a like product or
4 competing product; or

5 “(B) a trade or business association a ma-
6 jority of whose members manufacture, produce,
7 or wholesale a like product or competing prod-
8 uct in the United States.

9 “(2) The term ‘like product’ means a product
10 which is like, or in the absence of like, most similar
11 in characteristics and uses to products being im-
12 ported into the United States in violation of section
13 592(a) of the Tariff Act of 1930 (19 U.S.C.
14 1592(a)).

15 “(3) The term ‘competing product’ means a
16 product which competes with or is a substitute for
17 products being imported into the United States in
18 violation of section 592(a) of the Tariff Act of 1930
19 (19 U.S.C. 1592(a)).

20 “(d) The court shall permit the United States to in-
21 tervene in any action, suit, or proceeding under this sec-
22 tion, as a matter of right. The United States shall have
23 all the rights of a party.”.

1 (2) The chapter analysis of chapter 95 of title 28,
2 United States Code, is amended by adding immediately
3 after the time relating to section 1585 the following:

“1586. Private enforcement action.”.

4 **SEC. 109. ANNUAL REPORT ON ANTIDUMPING AND COUN-**
5 **TERVAILING DUTY PROGRAM.**

6 (a) REPORT TO CONGRESS.—The Secretary of Com-
7 merce, with the assistance of the Commissioner of Cus-
8 toms, shall submit to Congress an annual report on the
9 antidumping and countervailing duty program.

10 (b) CONTENTS.—(1) The annual report submitted
11 under subsection (a) shall include—

12 (A) information based on Department of Com-
13 merce and United States Customs Service data, con-
14 cerning (i) the status of the antidumping and coun-
15 tervailing duty program, (ii) the status of individual
16 antidumping or countervailing duty orders, (iii) key
17 problems with the program, and (iv) agency plans
18 for improvement; and

19 (B) reports on progress toward achieving the
20 objectives listed in paragraph (2).

21 (2) The objectives referred to in paragraph (1)(B) are
22 as follows:

23 (A) The revamping of Department of Com-
24 merce and United States Customs Service pro-
25 gram goals and management controls to provide

1 effective means for measuring the performance
2 of the antidumping and countervailing duty
3 program.

4 (B) The establishment by the Customs
5 Service of management controls to provide over-
6 sight of the performance of Customs Service
7 field offices with respect to the antidumping
8 and countervailing duty program.

9 (C) The completion by the Customs Serv-
10 ice of planned software enhancements to pro-
11 vide automated antidumping and countervailing
12 duty data on final duty assessments, liquida-
13 tions, billings, payments, and warehouse with-
14 drawals.

15 (D) The standardization and improvement
16 of the creation, maintenance, and use of the
17 paper files at the Customs Service that pertain
18 to the antidumping and countervailing duty
19 program.

20 (E) The elimination by the Customs Serv-
21 ice and Department of Commerce of their liq-
22 uidation, billing protest, and scope determina-
23 tion backlogs.

1 (F) With respect to the determination of
2 the scope of an antidumping or countervailing
3 duty order—

4 (i) the establishment of a 30-day
5 deadline for the Department of Commerce
6 to issue preliminary or final scope deter-
7 minations;

8 (ii) the issuance of a national directive
9 by the Customs Service on handling im-
10 ports subject to a pending scope deter-
11 mination at the Department of Commerce;
12 and

13 (iii) the establishment by the Customs
14 Service of a national policy of suspending
15 liquidation and assessing duties on imports
16 apparently within the scope of an anti-
17 dumping or countervailing duty order, un-
18 less otherwise instructed by the Depart-
19 ment of Commerce.

20 (G) Improvement of procedures for Har-
21 monized Tariff Schedule classifications involv-
22 ing imports subject to an antidumping or coun-
23 tervailing duty order or to a pending dispute re-
24 garding the scope of such an order.

1 (H) Completion by the Customers Service
2 of its work to replace its accounting software,
3 strengthen its financial controls, and implement
4 the debt collection reforms recommended in the
5 1990 Customs Revenue Accounting Study.

6 (I) Correction of the Customs Service im-
7 porter identification database to eliminate mul-
8 tiple identification numbers for single import-
9 ers.

10 (J) Institution of Customs Service proce-
11 dures to prevent importers from obtaining new
12 or additional identification numbers where the
13 importers, or their affiliates or predecessors,
14 have delinquent debts to the Customs Service.

15 (K) Establishment of Customs Service
16 management controls to ensure that its field of-
17 fices issue timely bills for the collection of anti-
18 dumping and countervailing duties.

19 (L) Streamlining of Department of Com-
20 merce procedures for handling billing protests
21 in a timely manner, together with establishment
22 of effective Customs Service procedures for
23 monitoring such protests.

24 (M) Establishment of policies and proce-
25 dures within the Department of Commerce and

1 Customs Service for prompt response by their
2 personnel to United States industry requests
3 for information on antidumping and counter-
4 vailing duty activities.

5 (N) Implementation of policies and proce-
6 dures at the Department of Commerce and
7 Customs Service for the prompt investigation of
8 complaints by United States industry concern-
9 ing antidumping and countervailing duty en-
10 forcement.

11 **TITLE II—ADJUSTMENT TO IMPORT**
12 **COMPETITION**

13 **SEC. 201. IMPORT RELIEF.**

14 (a) PETITIONS AND ADJUSTMENT PLANS.—Section
15 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a) is
16 amended—

17 (1) in paragraph (3), by striking “the Office of
18 the United States Trade Representative and”;

19 (2) in paragraph (4), by striking “and the
20 United States Trade Representative (hereafter in
21 this chapter referred to as the ‘Trade Representa-
22 tive)’”; and

23 (3) in paragraph (5)—

1 (A) by striking “Trade Representative” the
2 first four times it appears and inserting in lieu
3 thereof “Commission”; and

4 (B) by striking “Trade Representative”
5 the last time it appears and inserting in lieu
6 thereof “Chairman of the Commission”.

7 (b) SUBSTANTIAL CAUSE DETERMINATIONS.—Sec-
8 tion 202(c)(1)(C) of the Trade Act of 1974 (19 U.S.C.
9 2252(c)(1)(C)) is amended by inserting immediately be-
10 fore the period at the end the following: “, or a significant
11 reduction in market share, profits, employment, invest-
12 ment, or research and development which would not have
13 occurred in the absence of increased quantities of imports,
14 even though similar reductions due to other causes might
15 have occurred”.

16 (c) DETERMINATION OF AFFECTED DOMESTIC IN-
17 DUSTRY.—Section 202(c)(4) of the Trade Act of 1974 (19
18 U.S.C. 2252(c)(4)) is amended—

19 (1) by striking “and” at the end of subpara-
20 graph (B);

21 (2) by striking the period at the end of sub-
22 paragraph (C) and inserting in lieu thereof “; and”;
23 and

24 (3) by adding at the end the following:

1 “(D) shall, in a case involving a broad range of
2 related products, many or all of which are produced
3 by the same domestic producers, treat as such do-
4 mestic industry the producers of such products, even
5 though the products may not be like or directly com-
6 petitive with one another.”.

7 (d) COMMISSION RECOMMENDATIONS.—Section
8 202(e) of the Trade Act of 1974 (19 U.S.C. 2252(e)) is
9 amended—

10 (1) in paragraph (3), by striking “203(e)” and
11 inserting in lieu thereof “203(d)”; and

12 (2) in paragraph (5)(B)—

13 (A) by amending clauses (ii) and (iii) to
14 read as follows:

15 “(ii) the extent to which workers and
16 firms in the domestic industry are—

17 “(I) benefitting from adjustment
18 assistance and other manpower pro-
19 grams, and

20 “(II) engaged in worker retrain-
21 ing efforts,

22 “(iii) the efforts being made, or to be
23 implemented, by the domestic industry (in-
24 cluding the efforts included in any adjust-
25 ment plan or commitment submitted to the

1 Commission under section 201(b)) to make
2 a positive adjustment to import competi-
3 tion,”;

4 (B) by striking “and” at the end of clause
5 (iv);

6 (C) by striking the period at the end of
7 clause (v) and inserting in lieu thereof a
8 comma; and

9 (D) by adding at the end the following:

10 “(vi) the extent to which there is di-
11 version of foreign exports to the United
12 States market by reason of foreign re-
13 straints,

14 “(vii) the potential for circumvention
15 of any action taken under this section, and

16 “(viii) the national security interests
17 of the United States.”.

18 (e) LIMITATIONS ON INVESTIGATIONS.—Section
19 202(h) of the Trade Act of 1974 (19 U.S.C. 2252(h)) is
20 amended by striking “section 203(a)(3)(A), (B), (C), or
21 (E)” and inserting in lieu thereof the following: “section
22 202(e)(2)(A), (B), or (C), or section 202(e)(4)(A) with re-
23 spect to orderly marketing agreements,”.

1 **SEC. 202. AUCTION OF IMPORT LICENSES.**

2 Section 1102(a) of the Trade Agreements Act of
3 1979 (19 U.S.C. 2581(a)) is amended by inserting imme-
4 diately after “may” the following: “(except that, in taking
5 action under section 203 of the Trade Act of 1974, the
6 President shall)”.

7 **TITLE III—UNFAIR INTERNATIONAL**
8 **TRADE PRACTICES**

9 **SEC. 301. IDENTIFICATION OF TRADE LIBERALIZATION PRI-**
10 **ORITIES.**

11 (a) EXTENSION OF PERIOD FOR IDENTIFICATION.—
12 Section 310(a)(1) of the Trade Act of 1974 (19 U.S.C.
13 2420(a)(1)) is amended—

14 (1) by striking “By no later than the date that
15 is 30 days after the date in calendar year 1989, and
16 also the date in calendar year 1990, on which the
17 report required under section 181(b) is submitted to
18 the appropriate Congressional committees,” and in-
19 serting in lieu thereof “By no later than September
20 30 of each calendar year,”;

21 (2) in subparagraph (B), by striking “such re-
22 port” and inserting in lieu thereof “the most recent
23 report submitted under section 181(b)”;

24 (3) in subparagraph (D)—

25 (A) by inserting “, Committee on Com-
26 merce, Science, and Transportation, Committee

1 on Banking, Housing, and Urban Affairs, and
2 Committee on Foreign Relations” immediately
3 after “Finance”; and

4 (B) by inserting “, Committee on Energy
5 and Commerce, Committee on Banking, Fi-
6 nance and Urban Affairs, and Committee on
7 Foreign Affairs” immediately after “Ways and
8 Means”; and

9 (4) by adding at the end the following new sub-
10 section:

11 “(e) PETITIONS BY CONGRESSIONAL COMMITTEES.—
12 If the Committee on Finance, Committee on Commerce,
13 Science, and Transportation, Committee on Banking,
14 Housing, and Urban Affairs, or Committee on Foreign
15 Relations of the Senate, or the Committee on Ways and
16 Means, Committee on Energy and Commerce, Committee
17 on Banking, Finance and Urban Affairs, or Committee on
18 Foreign Affairs of the House of Representatives, deter-
19 mines (by a resolution adopted by such Committee) that
20 an investigation under this chapter should be initiated
21 with respect to any barriers and market distorting prac-
22 tices of any foreign country that such Committee deter-
23 mines to be a country that maintains a consistent pattern
24 of import barriers or market distorting practices, such
25 Committee shall be eligible to file a petition under section

1 302(a) and shall file a petition under section 302(a) with
2 respect to such barriers and practices.”.

3 (b) MANDATORY ACTION.—(1) Section 301(a)(1) of
4 the Trade Act of 1974 (19 U.S.C. 2411(a)(1)) is amend-
5 ed—

6 (A) by striking “or” at the end of subpara-
7 graph (A);

8 (B) by inserting “or” at the end of subpara-
9 graph (B)(ii); and

10 (C) by inserting immediately after subpara-
11 graph (B)(ii), the following new subparagraph:

12 “(C) a priority practice—

13 “(i) identified under section 310, or

14 “(ii) with respect to a priority foreign
15 country identified under section 310,

16 constitutes an act, policy, or practice of a foreign
17 country which is unreasonable or discriminatory and
18 burdens or restricts United States commerce;”.

19 (2) Section 304(a)(1)(A)(ii) of the Trade Act of 1974
20 (19 U.S.C. 2414(a)(1)(A)(ii)) is amended by striking
21 “(a)(1)(B)” and inserting in lieu thereof “(a)(1)(B),
22 (a)(1)(C),”.

23 (c) ESTIMATION OF BARRIERS TO MARKET AC-
24 CESS.—Section 181(a)(1)(C) of the Trade Act of 1974 (19
25 U.S.C. 2241(a)(1)(C)) is amended—

1 (1) by striking “, if feasible,”; and

2 (2) by striking the period at the end and insert-
3 ing in lieu thereof the following: “; and if it is not
4 feasible to make an estimate under this subpara-
5 graph, the Trade Representative shall provide an ex-
6 planation of why such estimate is not feasible.”.

7 **SEC. 302. ANNUAL REVIEW OF TRADE AGREEMENTS.**

8 (a) IN GENERAL.—Chapter 1 of title III of the Trade
9 Act of 1974 (19 U.S.C. 2411 et seq.) is amended by in-
10 serting immediately after section 306 the following new
11 section:

12 **“SEC. 306A. ANNUAL REVIEW OF TRADE AGREEMENTS.**

13 “(a) REQUEST FOR REVIEW.—

14 “(1)(A) An interested person may file with the
15 Trade Representative a written request for a review
16 to determine whether a foreign country is in compli-
17 ance with any trade agreement such country has
18 with the United States. Such request may be filed
19 at any time after the date which is within 30 days
20 after the anniversary of the effective date of such
21 agreement, but not later than 90 days before the
22 date of expiration of such agreement.

23 “(B) A written request filed under subpara-
24 graph (A) shall—

1 “(i) identify the person filing the request
2 and the interest of that person which is affected
3 by the noncompliance of a foreign country with
4 a trade agreement with the United States;

5 “(ii) describe the rights of the United
6 States being denied under such trade agree-
7 ment; and

8 “(iii) include information reasonably avail-
9 able to the person regarding the failure of the
10 foreign country to comply with such trade
11 agreement.

12 “(C) For purposes of this subsection—

13 “(i) the term ‘interested person’ means a
14 person with a significant economic interest that
15 is affected by the failure of a foreign country to
16 comply with a trade agreement.

17 “(ii) The term ‘trade agreement’ means an
18 agreement with the United States and does not
19 include multilateral trade agreements such as
20 the General Agreement on Tariffs and Trade.

21 “(b) REVIEW AND DETERMINATION.—

22 “(1) Upon the filing of a request under sub-
23 section (a), the Trade Representative shall com-
24 mence the requested review. In conducting the re-
25 view, the Trade Representative may, as the Trade

1 Representative determines appropriate, consult with
2 the Secretary of Commerce, the Secretary of Agri-
3 culture, or the head of any other relevant Federal
4 agency.

5 “(2)(A) On the basis of the review conducted
6 under paragraph (1), the Trade Representative shall
7 determine whether any act, policy, or practice of the
8 foreign country that is the subject of the review is
9 in material noncompliance with the terms of the ap-
10 plicable trade agreement. Such determination shall
11 be made not later than 90 days after the request for
12 review was filed under subsection (a).

13 “(B) In making a determination under para-
14 graph (1) with respect to a foreign country’s compli-
15 ance with a trade agreement, the Trade Representa-
16 tive shall take into account, among other relevant
17 factors—

18 “(i) achievement of the objectives of the
19 agreement,

20 “(ii) adherence to commitments given, and

21 “(iii) any evidence of actual patterns of
22 trade that do not reflect patterns of trade which
23 would reasonably be anticipated to flow from
24 the concessions or commitments of such country
25 based on the international competitive position

1 and export potential of a United States indus-
2 try.

3 “(C) The Trade Representative may seek the
4 advice of the Commission when considering the fac-
5 tors described in subparagraph (B).

6 “(c) FURTHER ACTION.—

7 “(1) If the Trade Representative determines
8 under subsection (b) that an act, policy, or practice
9 of a foreign country is in material noncompliance
10 with the applicable trade agreement, the Trade Rep-
11 resentative shall determine what further action to
12 take under section 301(a).

13 “(2) For purposes of section 301, any deter-
14 mination made under subsection (b) shall be treated
15 as a determination made under section 304(a)(1).

16 “(3) In determining what further action (in-
17 cluding possible sanctions) to take under paragraph
18 (1), the Trade Representative shall seek to minimize
19 any adverse impact on existing business relations or
20 economic interests of United States persons, includ-
21 ing consideration of taking action with respect to fu-
22 ture products for which a significant volume of cur-
23 rent trade does not exist.”.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents of chapter 1 of title III of the Trade Act of 1974

1 is amended by inserting immediately after the item relat-
2 ing to section 306 the following new item:

“Sec. 306A. Annual review of trade agreements.”.

3 (c) INTERNATIONAL OBLIGATIONS.—The amend-
4 ments made by this section shall not be construed to re-
5 quire actions inconsistent with the international obliga-
6 tions of the United States, including the General Agree-
7 ment on Tariffs and Trade.

8 **SEC. 303. NATIONAL TRADE ESTIMATE.**

9 Section 181(b)(1) of the Trade Act of 1974 (19
10 U.S.C. 2241(b)(1)) is amended by striking the comma im-
11 mediately after “President” and all that follows through
12 “committees of” and inserting in lieu thereof “and to the
13 appropriate committees of the Senate and the”.

14 **TITLE IV—PROVISIONS RELATING TO**
15 **IMPORTS**

16 **SEC. 401. PETITIONS REGARDING MARKET DISRUPTION.**

17 (a) INVESTIGATION IN RESPONSE TO PETITION.—(1)
18 Any interested party may file with the United States Com-
19 mittee for Implementation of Textile Agreements (here-
20 after in this section referred to as “CITA”) a petition to
21 correct market disruption with respect to a particular
22 article.

23 (2) Upon receiving such a petition, CITA shall deter-
24 mine within 30 days whether to commence an investiga-
25 tion to determine whether the product subject to the peti-

1 tion has been or is being imported into the United States
2 in such quantities as to cause disruption in the United
3 States market for that product, contrary to the terms of
4 an international agreement.

5 (3) If CITA determines not to initiate an investiga-
6 tion, it shall publish notice of such determination in the
7 Federal Register, along with the reasons for such deter-
8 mination.

9 (4) If CITA determines to commence an investiga-
10 tion, it shall notify the United States Trade Representa-
11 tive and Congress of such determination.

12 (5) CITA shall conclude any such investigation within
13 180 days after the date on which a petition was filed under
14 this section, except that CITA may extend such time pe-
15 riod for an additional period not to exceed 60 days in com-
16 plicated cases (as determined by CITA).

17 (b) IMPOSITION OF QUOTAS PENDING NEGOTIA-
18 TION.—If a call for consultation is issued regarding the
19 article which is the subject of a petition under this section,
20 CITA shall, in order to correct the market disruption
21 caused by such article, impose quotas on the importation
22 of such article unless and until the United States Trade
23 Representative has negotiated an appropriate bilateral
24 agreement with the country from which such article is
25 imported.

1 (c) CUSTOMS SERVICE RESPONSIBILITIES.—The
2 United States Customs Service shall monitor all imports
3 of products covered by an agreement entered into under
4 subsection (b), and shall deny entry to any imports in
5 amounts exceeding the limits contained in such an agree-
6 ment.

7 **SEC. 402. IMPORT LICENSING.**

8 (a) REQUIREMENT FOR LICENSE.—Notwithstanding
9 any other provision of law, except as provided in sub-
10 section (b), no article may be entered or withdrawn from
11 warehouse for consumption in the customs territory of the
12 United States unless an import license has been issued
13 for such article by the United States Customs Service.

14 (b) EXEMPTIONS.—Subsection (a) does not apply—

15 (1) to articles which are required by any agency
16 of the United States Government (other than the
17 United States Customs Service) to have a license or
18 permit;

19 (2) to noncommercial shipments, as determined
20 by the Secretary of the Treasury in accordance with
21 subsection (c);

22 (3) to commercial shipments valued at less than
23 \$1,000, as determined by the Secretary in accord-
24 ance with subsection (c), except for textiles and tex-
25 tile products; and

1 (4) to shipments of textiles and textile products
2 valued at less than \$250, as determined by the Sec-
3 retary in accordance with subsection (c).

4 (c) DUTIES OF SECRETARY OF THE TREASURY.—

5 The Secretary of the Treasury shall promulgate rules and
6 regulations, and prescribe procedures, to carry out the
7 provisions of this section. The Secretary shall establish a
8 fee for the issuance of licenses under this section to cover
9 the cost of administering the provisions of this section.

10 **SEC. 403. CHILD LABOR.**

11 (a) FINDINGS; PURPOSE; POLICY.—(1) The Congress
12 finds the following:

13 (A) Principle 9 of the Declaration of the Rights
14 of the Child proclaimed by the General Assembly of
15 the United Nations on November 20, 1959, states
16 that “. . . the child shall not be admitted to employ-
17 ment before an appropriate minimum age; he shall
18 in no case be caused or permitted to engage in any
19 occupation or employment which would prejudice his
20 health or education, or interfere with his physical,
21 mental, or moral development. . .”.

22 (B) According to the International Labor Orga-
23 nization, worldwide an estimated 200,000,000 chil-
24 dren under age 15 are working, many of them in
25 dangerous industries like mining and fireworks.

1 (C) Children under age 15 constitute approxi-
2 mately 11 percent of the workforce in some Asian
3 countries, 17 percent in parts of Africa, and a re-
4 ported 12-to-26 percent in many countries in Latin
5 America.

6 (D) The number of children under age 15 who
7 are working, and the scale of their suffering, in-
8 crease every year, despite the existence of more than
9 20 International Labor Organization conventions on
10 child labor and laws in many countries which pur-
11 portedly prohibit the employment of underage chil-
12 dren.

13 (E) In many countries, children under age 15
14 lack either the legal standing or means to protect
15 themselves from exploitation in the workplace.

16 (F) The employment of children under age 15
17 commonly deprives the children of the opportunity
18 for basic education and also denies gainful employ-
19 ment to millions of adults.

20 (G) The prevalence of child labor in many de-
21 veloping countries is rooted in widespread poverty
22 that is attributable to unemployment and
23 underemployment, precarious incomes, low living
24 standards, and insufficient education and training
25 opportunities.

1 (H) The employment of children under age 15,
2 often at pitifully low wages, undermines the stability
3 of families and ignores the importance of increasing
4 jobs, aggregate demand, and purchasing power
5 among adults as a catalyst to the development of in-
6 ternal markets and the achievement of broad-based,
7 self-reliant economic development in many develop-
8 ing countries.

9 (I) Adult workers in the United States and
10 other developed countries should not have their jobs
11 imperiled by imports produced by child labor in de-
12 veloping countries.

13 (2) The purpose of this section is to curtail worldwide
14 employment of children under age 15 by—

15 (A) eliminating the role of the United States in
16 providing a market for foreign products made by un-
17 derage children; and

18 (B) encouraging other nations to join in a ban
19 on trade in such products.

20 (3) It is the policy of the United States—

21 (A) to discourage actively the employment of
22 children under age 15 in the production of goods for
23 export or domestic consumption;

24 (B) to strengthen and supplement international
25 trading rules with a view to renouncing the use of

1 underage children in production as a means of com-
2 peting in international trade;

3 (C) to amend United States law to prohibit the
4 entry into commerce of products resulting from the
5 labor of underage children; and

6 (D) to offer assistance to foreign countries to
7 improve the enforcement of national laws prohibiting
8 the employment of children under age 15 and to al-
9 leviate the underlying poverty that is often the cause
10 of the commercial exploitation of children under age
11 15.

12 (b) PROPOSAL FOR WORLDWIDE TRADE BAN.—In
13 pursuit of the policy set forth in this section, the President
14 is urged to propose, as soon as possible, to the United
15 Nations Economic and Social Rights Committee that the
16 Convention for the Rights of the Child, which is to be sub-
17 mitted to the General Assembly of the United Nations,
18 include a worldwide ban on trade in products of child
19 labor.

20 (c) IDENTIFICATION OF FOREIGN COUNTRIES PER-
21 MITTING USE OF CHILD LABOR.—(1) The Secretary of
22 Labor shall undertake periodic reviews (and the first such
23 review shall be undertaken within 180 days after the date
24 of enactment of this Act) to identify any foreign country
25 that—

1 (A) has not adopted, or is not enforcing effec-
2 tively, prohibitions against the use of child labor in
3 the production of products within the country (in-
4 cluding designated zones therein); and

5 (B) has on a continuing basis exported products
6 of child labor of the country to the United States.

7 (2)(A) Any person may file a petition with the Sec-
8 retary of Labor requesting that a particular foreign coun-
9 try be identified under paragraph (1). The petition must
10 set forth the allegations in support of the request.

11 (B) Within 90 days after receiving a petition under
12 subparagraph (A), the Secretary of Labor shall—

13 (i) decide whether or not the allegations in the
14 petition warrant further action by the Secretary of
15 Labor under paragraph (1) with regard to the for-
16 eign country; and

17 (ii) notify the petitioner of the decision under
18 clause (i) and the facts and reasons supporting the
19 decision.

20 (3) Before identifying a foreign country under para-
21 graph (1), the Secretary of Labor shall—

22 (A) consult with the United States Trade Rep-
23 resentative, the Secretary of State, and the Sec-
24 retary of the Treasury regarding such an action;

1 (B) publish notice in the Federal Register stat-
2 ing that such an identification is being considered
3 and inviting the submission within a reasonable time
4 of written comment from the public; and

5 (C) take into account the information obtained
6 under subparagraphs (A) and (B).

7 (4)(A) Subject to subparagraph (B), the Secretary of
8 Labor may withdraw the identification of any foreign
9 country under paragraph (1) if information available to
10 the Secretary indicates that such action is appropriate.

11 (B) No withdrawal under subparagraph (A) may take
12 effect earlier than the 60th day after the date on which
13 the Secretary submits to the Congress a written report—

14 (i) stating that in the opinion of the Secretary
15 of Labor the foreign country concerned has adopted,
16 and is effectively enforcing, laws prohibiting the pro-
17 duction of products with child labor within the coun-
18 try (including designated zones therein); and

19 (ii) stating the facts on which such opinion is
20 based and any other reason why the Secretary of
21 Labor considers the withdrawal appropriate.

22 (C) No withdrawal under subparagraph (A) may take
23 effect unless the Secretary of Labor—

24 (i) publishes notice in the Federal Register that
25 such a withdrawal is under consideration and invit-

1 ing the submission within a reasonable time of writ-
2 ten comment from the public on such a withdrawal;
3 and

4 (ii) takes into account the information received
5 under clause (i) before preparing the report required
6 under subparagraph (B).

7 (5) The Secretary of Labor shall—

8 (A) promptly following an identification decision
9 under paragraph (1) publish in the Federal Reg-
10 ister—

11 (i) the name of each foreign country so
12 identified, and

13 (ii) the text of each decision made under
14 paragraph (2)(B)(i) and a statement of the
15 facts and reasons supporting the decision;

16 (B) promptly following a withdrawal decision
17 under paragraph (4) publish the name of each for-
18 eign country regarding which an identification is so
19 withdrawn; and

20 (C) maintain in the Federal Register a current
21 list of all foreign countries identified under para-
22 graph (1).

23 (6) In furtherance of paragraph (1), the Secretary
24 of Labor shall transmit to the Congress, within 180 days
25 after the date of enactment of this Act, and not later than

1 March 1 of each subsequent year, a full and complete re-
2 port with respect to the national laws and practices of for-
3 eign countries pertaining to the commercial exploitation
4 of children. In preparing such a report, the Secretary shall
5 consult with those officials listed in paragraph (3)(A).
6 Also, the Secretary shall use all available information re-
7 garding the commercial exploitation of children, including
8 information made available by the International Labor Or-
9 ganization, international trade union secretariats, trade
10 unions, children's advocacy organizations, religious
11 groups, and human rights organizations. Each report shall
12 include entries on all foreign countries, shall describe
13 which countries condone the commercial exploitation of
14 children by law or in practice, and shall describe which
15 countries by law and in practice effectively discourage the
16 commercial exploitation of children, including the domestic
17 mechanisms for the enforcement of laws and penalties in-
18 tended to deter the commercial exploitation of children.
19 Wherever possible, each report shall also identify those in-
20 dustries within particular foreign countries in which there
21 is demonstrable evidence of commercial exploitation of
22 children.

23 (d) RESTRICTIONS ON ENTRY OF CERTAIN ARTI-
24 CLES.—(1)(A) Except as provided in subparagraph (B),
25 during the effective identification period for a foreign

1 country the Secretary of the Treasury may not permit the
2 entry of any manufactured article that is a product of that
3 country.

4 (B) Subparagraph (A) does not apply to the entry
5 of a manufactured article—

6 (i) for which a certification that meets the re-
7 quirements of paragraph (2) is provided;

8 (ii) that is entered under any subheading in
9 subchapter IV or VI of chapter 98 (relating to per-
10 sonal exemptions) of the Harmonized Tariff Sched-
11 ule of the United States; or

12 (iii) that was exported from the foreign country
13 and was en route to the United States before the
14 first day of the effective identification period for
15 such country.

16 (2)(A) The Secretary of the Treasury shall prescribe
17 the form and content of documentation, for submission in
18 connection with the entry of a manufactured article, that
19 satisfies the Secretary of the Treasury that the importer
20 of the article has undertaken reasonable steps to ensure,
21 to the extent practicable, that the article is not a product
22 of child labor.

23 (B) The documentation required by the Secretary of
24 the Treasury under subparagraph (A) shall include writ-
25 ten evidence that the agreement setting forth the terms

1 and conditions of the acquisition or provision of the im-
2 ported article includes the condition that the article not
3 be a product of child labor.

4 (e) PROHIBITIONS; PENALTIES.—(1) It is unlawful—

5 (A) during the effective identification period ap-
6 plicable to a foreign country, to attempt to enter any
7 manufactured article that is a product of that coun-
8 try if the entry is prohibited under subsection
9 (d)(1)(A); or

10 (B) to violate any regulation prescribed under
11 subsection (f).

12 (2) Any person who commits any unlawful act set
13 forth in paragraph (1) is liable for a civil penalty of not
14 to exceed \$25,000.

15 (3) In addition to being liable for a civil penalty under
16 paragraph (2), any person who intentionally commits any
17 unlawful act set forth in paragraph (1) is, upon conviction,
18 liable for a fine of not less than \$10,000 and not more
19 than \$35,000, or imprisonment for 1 year, or both.

20 (4) The violations set forth in paragraph (1) shall
21 be treated as violations of the customs laws for purposes
22 of applying the enforcement provisions of the Tariff Act
23 of 1930, including—

24 (A) the search, seizure, and forfeiture provi-
25 sions;

1 (B) section 592 (relating to penalties for entry
2 by fraud, gross negligence, or negligence); and

3 (C) section 619 (relating to compensation to in-
4 formers).

5 (f) REGULATIONS.—The Secretary shall prescribe
6 regulations that are necessary or appropriate to carry out
7 this section.

8 (g) SPECIAL RULES; DEFINITIONS.—For purposes of
9 this section, the following apply:

10 (1) A manufactured article shall be treated as
11 being a product of child labor if the article—

12 (A) was fabricated, assembled, or proc-
13 essed, in whole or part,

14 (B) contains any part that was fabricated,
15 assembled, or processed, in whole or part, or

16 (C) was mined, quarried, pumped, or oth-
17 erwise extracted,

18 by one or more children who engaged in the fabrica-
19 tion, assembly, processing, or extraction—

20 (i) in exchange for remuneration (regard-
21 less to whom paid), subsistence, goods or serv-
22 ices, or any combination of the foregoing;

23 (ii) under circumstances tantamount to in-
24 voluntary servitude; or

1 (iii) under exposure to toxic substances or
2 working conditions otherwise posing serious
3 health hazards.

4 (2) The term “child” means an individual who
5 has not attained age 15.

6 (3) The term “effective identification period”
7 means, with respect to a foreign country, the period
8 that—

9 (A) begins on the date of that issue of the
10 Federal Register in which the identification of
11 the country is published under subsection
12 (c)(5)(A); and

13 (B) terminates on the date of that issue of
14 the Federal Register in which the withdrawal of
15 the identification referred to in clause (i) is
16 published under subsection (c)(5)(B).

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

20 (5) The term “foreign country” includes any
21 foreign instrumentality. Any possession or territory
22 of a foreign country that is administered separately
23 for customs purposes shall be treated as a separate
24 foreign country.

1 (6) The term “manufactured article” means
2 any good that is fabricated, assembled, or processed.
3 The term also includes any mineral resource (includ-
4 ing any mineral fuel) that is entered in a crude
5 state. Any mineral resource that at entry has been
6 subjected to only washing, crushing, grinding, pow-
7 dering, levigation, sifting, screening, or concentra-
8 tion by flotation, magnetic separation, or other me-
9 chanical or physical processes shall be treated as
10 having been processed for the purposes of this sec-
11 tion.

12 **SEC. 404. SLAVE LABOR.**

13 (a) IN GENERAL.—Section 307 of the Tariff Act of
14 1930 (19 U.S.C. 1307) is amended to read as follows:

15 **“SEC. 307. PROHIBITION ON IMPORTATION OR TRANSPOR-**
16 **TATION OF PROHIBITED PRODUCTS.**

17 “(a) FINDINGS AND POLICY.—(1) The Congress
18 finds that—

19 “(A) some states in the international commu-
20 nity employ various forms of convict labor, forced
21 labor, indentured labor, and involuntary labor;

22 “(B) these forms of labor are used for several
23 purposes, including political coercion, education or
24 punishment, economic development, labor discipline,
25 or racial, social, national, or religious discrimination;

1 “(C) goods, wares, articles, and resources pro-
2 duced or extracted by these forms of labor are ex-
3 ported, directly or indirectly, to other states in the
4 international community, including the United
5 States;

6 “(D) the use of forced or compulsory labor con-
7 stitutes disrespect for basic human rights and fun-
8 damental freedoms, as set forth in the Universal
9 Declaration of Human Rights, the Charter of the
10 United Nations, and other international covenants;

11 “(E) the Universal Declaration of Human
12 Rights recognizes the ‘right to work, to free choice
13 of employment, to just and favorable conditions of
14 work’ and prohibits slavery and the slave trade ‘in
15 all their forms’;

16 “(F) the United States, as a sovereign state in
17 the international community, has pledged itself to
18 protect and defend human rights within its territory
19 and to protect and promote human rights, including
20 the rights of individuals, to be free from forced labor
21 and involuntary servitude, throughout the world; and

22 “(G) this commitment to human rights, gen-
23 erally, and to the termination of forced labor and in-
24 voluntary servitude, specifically, is consistent with
25 the basic principles on which the United States was

1 founded, as embodied in such documents as the Dec-
2 laration of Independence and the Bill of Rights, with
3 the prohibition against slavery in the Thirteenth
4 Amendment, and with the historical traditions of the
5 United States as a humanitarian nation; and

6 “(H) the Senate demonstrated the commitment
7 of the United States to the termination of forced
8 labor and involuntary servitude on May 14, 1991,
9 when the Senate gave its advice and consent to the
10 ratification of the Convention Concerning the Aboli-
11 tion of Forced Labor (Convention No. 105), adopted
12 by the International Labor Conference (40th ses-
13 sion) at Geneva, Switzerland, on June 25, 1957.

14 “(2) It is the policy of the United States to—

15 “(A) take measures, to the maximum extent
16 practicable, to protect the rights of individuals to be
17 free from forced labor and involuntary servitude;

18 “(B) enable the citizens of the United States to
19 be free from unknowingly supporting or subsidizing
20 the policies of states in the international community
21 which employ forced labor and involuntary servitude;
22 and

23 “(C) deny United States economic support, by
24 consumer purchase, investment, lending, or other-

1 wise, to states in the international community which
2 use forced labor.

3 “(b) PROHIBITION ON IMPORTATION OR TRANSPOR-
4 TATION.—(1)(A) Except as provided in subparagraph (B),
5 no prohibited product may be imported into the United
6 States nor transported in interstate commerce.

7 “(B) The provisions of subparagraph (A) shall not
8 apply to items vital to national security.

9 “(2) No United States national or any other person
10 subject to the jurisdiction of the United States may invest
11 in, or make loans to, a foreign joint venture involving the
12 use of forced labor.

13 “(3) The Secretary of the Treasury shall prescribe
14 such regulations as may be necessary for the enforcement
15 of this subsection.

16 “(4) For purposes of this subsection—

17 “(A) the term ‘forced labor’ means all work or
18 service which is exacted from any person under the
19 menace of any penalty for its nonperformance and
20 for which the worker does not offer himself volun-
21 tarily;

22 “(B) the term ‘prohibited product’ means any
23 goods, wares, articles, merchandise, natural re-
24 sources, and services produced, mined, extracted,

1 manufactured, or provided wholly or in part in any
2 foreign country by forced labor; and

3 “(C) the term ‘United States national’ means—

4 “(i) a natural person who is a citizen of
5 the United States; and

6 “(ii) a corporation or other legal entity
7 which is organized under the laws of the United
8 States or of any State, the District of Colum-
9 bia, the Commonwealth of Puerto Rico, or the
10 Commonwealth of the Northern Mariana Is-
11 lands, if natural persons who are citizens of the
12 United States own, directly or indirectly, 50
13 percent or more of the outstanding capital stock
14 or other beneficial interest of such corporation
15 or entity.

16 “(c) PENALTIES.—(1) With respect to any violation
17 of subsection (b)(1) or (2), an order under this section
18 shall require the person or entity to pay a civil penalty
19 of—

20 “(A) \$10,000 for one violation;

21 “(B) \$100,000 in the case of a person or entity
22 previously subject to one order under this section; or

23 “(C) \$1,000,000 in the case of a person or en-
24 tity previously subject to more than one order under
25 this section.

1 “(2)(A) Before imposing an order described in para-
2 graph (1) against a person or entity for a violation of sub-
3 section (b)(2), the Secretary of the Treasury shall provide
4 the person or entity with notice and, upon request made
5 within a reasonable time (of not less than 30 days, as es-
6 tablished by the Secretary of the Treasury) of the date
7 of the notice, a hearing respecting the violation.

8 “(B) Any hearing so requested shall be conducted be-
9 fore an administrative law judge. The hearing shall be con-
10 ducted in accordance with the requirements of section 554
11 of title 5, United States Code. The hearing shall be held
12 at the nearest practicable place to the place where the per-
13 son or entity resides or of the place where the alleged vio-
14 lation occurred. If no hearing is so requested, the Sec-
15 retary of the Treasury’s imposition of the order shall con-
16 stitute a final and unappealable order.

17 “(C) If the administrative law judge determines, upon
18 the preponderance of the evidence received, that a person
19 or entity named in the complaint has violated subsection
20 (b)(1) or (2), the administrative law judge shall state his
21 findings of fact and issue and cause to be served on such
22 person or entity an order described in paragraph (1).

23 “(3) The decision and order of an administrative law
24 judge shall become the final agency decision and order of
25 the Secretary of the Treasury unless, within 30 days, the

1 Secretary of the Treasury modifies or vacates the decision
2 and order, in which case the decision and order of the Sec-
3 retary of the Treasury shall become a final order under
4 this subsection. The Secretary of the Treasury may not
5 delegate his authority under this paragraph.

6 “(4) A person or entity adversely affected by a final
7 order respecting an assessment may, within 45 days after
8 the date the final order is issued, file a petition in the
9 Court of Appeals for the appropriate circuit for review of
10 the order.

11 “(5) If a person or entity fails to comply with a final
12 order issued under this subsection against the person or
13 entity, the Attorney General shall file a suit to seek com-
14 pliance with the order in any appropriate circuit court of
15 the United States. In any such suit, the validity and ap-
16 propriateness of the final order shall not be subject to re-
17 view.

18 “(d) ENFORCEMENT BY PRIVATE PERSONS.—(1)
19 The prohibitions contained in subsection (b) (1) and (2)
20 may be enforced by civil actions in appropriate United
21 States district courts without regard to the amount in con-
22 troversy and in appropriate State or local courts of general
23 jurisdiction. A civil action shall be commenced within 1
24 year after plaintiff obtains knowledge of the alleged viola-
25 tion of subsection (b)(1) has occurred, or reasonably

1 should have obtained knowledge, except that the court
2 shall continue such civil case brought pursuant to this sec-
3 tion from time to time before bringing it to trial if an
4 administrative hearing pursuant to subsection (c)(2) has
5 commenced and is being diligently conducted so as to
6 reach an expeditious conclusion.

7 “(2)(A) Except as provided in paragraph (3)—

8 “(i) any person to whom any prohibited product
9 has been offered for purchase or in reasonable likeli-
10 hood will be offered for purchase, or

11 “(ii) any public interest group or human rights
12 organization,

13 may commence a civil suit on behalf of that person, group,
14 or organization—

15 “(I) to enjoin any person, including the United
16 States and any other governmental instrumentality
17 or agency (to the extent permitted by the Eleventh
18 Amendment to the Constitution), who is alleged to
19 be in violation of any provision of this section or reg-
20 ulation issued under the authority of this section;

21 “(II) to compel the Secretary of the Treasury
22 to enforce any prohibitions specified in subsection
23 (b) (1) or (2) through an order for penalties under
24 subsection (c); or

1 “(III) to compel the Secretary of the Treasury
2 to perform any act or duty under subsection (b) (1)
3 or (2) which is not discretionary with the Secretary
4 and which the Secretary has failed to carry out.

5 “(B) The district court shall have jurisdiction, with-
6 out regard to the amount in controversy or the citizenship
7 of the parties, to enforce any such provision or regulation,
8 or to order the Secretary to perform such act or duty,
9 as the case may be.

10 “(3) No action may be commenced under paragraph
11 (2)(A)—

12 “(A) if 60 days have not elapsed after written
13 notice of the violation has been given to the Sec-
14 retary of the Treasury, and to any alleged violator
15 of this section or any regulation issued under this
16 section;

17 “(B) if the Secretary of the Treasury has com-
18 menced an action to impose a penalty pursuant to
19 subsection (c); or

20 “(C) if the United States has commenced and
21 is diligently prosecuting a criminal action in a court
22 of the United States or State to address a violation
23 of any such provision or regulations.

24 “(e) TREBLE DAMAGES.—Any person in competition
25 with a person importing or transporting items, or invest-

1 ing or loaning funds, in violation of subsection (b) (1) or
2 (2), who is injured as a result of such violation, may bring
3 an action in a United States district court and shall re-
4 cover three-fold the amount of the damages sustained by
5 such violation.”.

6 (b) REPEALS.—Sections 1761 and 1762 of title 18,
7 United States Code, are repealed.

8 **SEC. 405. TEXTILE AGREEMENT WITH CHINA.**

9 (a) FINDINGS.—The Congress finds that—

10 (1) the Chinese people have bravely dem-
11 onstrated their peaceful commitment to democracy
12 and human rights and, in so doing, have won the
13 world’s respect and admiration;

14 (2) the Chinese Government has arrested more
15 than one thousand students and other civilians in
16 the aftermath of the brutal June 3, 1989, military
17 assault on Tienanmen Square;

18 (3) international human rights monitoring orga-
19 nizations such as Amnesty International and Asia
20 Watch have documented instances of arbitrary ar-
21 rests, torture, and beatings by the Chinese police
22 and military on a daily basis;

23 (4) the Chinese Government has reinstated
24 the death sentence as punishment for political dis-
25 sent;

1 (5) the Chinese Government has reestablished
2 telephone hotlines and other local communications
3 networks for the express purpose of identifying and
4 imprisoning political dissidents throughout the coun-
5 try;

6 (6) Chinese officials have uniformly denied that
7 any abuses of human rights or activities to suppress
8 the Chinese people's expression of their desire for
9 democratic government have occurred since the mas-
10 sacre in Tienanmen Square; and

11 (7) despite the outrageous brutality of elements
12 of the Chinese Army in the massacre of unarmed,
13 peaceful protesters, the Chinese leadership, including
14 Communist Party leaders Deng Xiaoping and Li
15 Peng, has publicly commended the actions of the
16 Chinese Army.

17 (b) SENSE OF THE CONGRESS.—In light of the find-
18 ings set forth in subsection (a), it is the sense of the Con-
19 gress that the President should terminate the bilateral tex-
20 tile agreement between the United States and the People's
21 Republic of China, prohibit further imports of textiles and
22 apparel from the People's Republic of China, and redis-
23 tribute to Mexico and Caribbean Basin Initiative bene-
24 ficiary countries the textile and apparel quota entitlements
25 of the People's Republic of China.

1 **SEC. 406. LIMITS ON AUTOMOBILE IMPORTS FROM JAPAN.**

2 The President shall negotiate limits on automobile
3 imports from Japan that are equivalent to the limits set
4 by the European Community with respect to automobiles
5 imported into its member countries from Japan.

6 **TITLE V—NEGOTIATING AUTHORITY**

7 **SEC. 501. NEGOTIATION OF AGREEMENTS REGARDING TAR-**
8 **IFF BARRIERS.**

9 (a) IN GENERAL.—Section 1102(a) of the Omnibus
10 Trade and Competitiveness Act of 1988 (19 U.S.C.
11 2902(a)) is amended to read as follows:

12 “(a) AGREEMENT REGARDING TARIFF BARRIERS.—
13 Whenever the President determines that one or more ex-
14 isting duties or other import restrictions of any foreign
15 country or the United States are unduly burdening and
16 restricting the foreign trade of the United States and the
17 purposes, policies, and objectives of this title will be pro-
18 moted thereby, the President before June 1, 1993, may
19 enter into trade agreements with foreign countries.”.

20 (b) CONFORMING AMENDMENT.—Section 1105(a)(2)
21 of the Omnibus Trade and Competitiveness Act of 1988
22 (19 U.S.C. 2904(a)(2)) is amended by striking “proclama-
23 tion or” each place it appears.

1 **SEC. 502. REPEAL OF FAST TRACK PROCEDURES.**

2 (a) REPEAL OF PROCEDURES IN TRADE ACT OF
3 1974.—Sections 151 through 154 of the Trade Act of
4 1974 (19 U.S.C. 2191–2194) are repealed.

5 (b) REPEAL OF PROVISIONS IN OMNIBUS TRADE AND
6 COMPETITIVENESS ACT OF 1988.—(1) Subsections (b),
7 (c), (d), and (e) of section 1103 of the Omnibus Trade
8 and Competitiveness Act of 1988 (19 U.S.C. 2903) are
9 repealed.

10 (2) Paragraph (4) of section 1102(c) of the Omnibus
11 Trade and Competitiveness Act of 1988 (19 U.S.C.
12 2902(c)) is repealed.

13 (3) Paragraph (4) of section 1107(a) of the Omnibus
14 Trade and Competitiveness Act of 1988 (19 U.S.C.
15 2906(a)) is repealed.

16 **SEC. 503. NATIONAL ECONOMIC COUNCIL.**

17 (a) ESTABLISHMENT.—There is established in the
18 Executive Office of the President a council to be known
19 as the National Economic Council (hereafter in this sec-
20 tion referred to as the “Council”).

21 (b) MEMBERSHIP OF THE COUNCIL.—(1) The Coun-
22 cil shall be composed of—

23 (A) the President;

24 (B) the Vice President;

25 (C) the Secretary of State;

26 (D) the Secretary of the Treasury;

- 1 (E) the Secretary of Defense;
2 (F) the Secretary of Agriculture;
3 (G) the Secretary of Commerce;
4 (H) the Secretary of Labor;
5 (I) the United States Trade Representative;
6 and
7 (J) any other appropriate Federal official ap-
8 pointed by the President to serve on the Council.

9 (2) The President shall preside over meetings of the
10 Council. In the President's absence, the President may
11 designate a member of the Council to preside in the Presi-
12 dent's place.

13 (c) FUNCTIONS OF THE COUNCIL.—The Council shall
14 advise the President with respect to the integration of na-
15 tional and international policies relating to economics and
16 trade so as to enable the President and the departments
17 and agencies of the Federal Government to cooperate
18 more effectively.

19 (d) EMPLOYEES OF THE COUNCIL.—The Council
20 shall have a staff to be headed by an Executive Secretary
21 who shall be appointed by the President. The Executive
22 Secretary, subject to the direction of the Council and in
23 accordance with the provisions of title 5, United States
24 Code, may appoint and fix the compensation of such per-
25 sonnel as may be necessary to perform such duties as may

1 be prescribed by the Council in connection with the per-
2 formance of its functions.

3 (e) RECOMMENDATIONS AND REPORTS.—The Coun-
4 cil shall, from time to time, make such recommendations
5 and such other reports to the President as the Council
6 considers to be appropriate or as the President may re-
7 quire.

8 **SEC. 504. APPLICABILITY OF NATIONAL ENVIRONMENTAL**
9 **POLICY ACT.**

10 Section 102(2)(C) of the National Environmental
11 Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is amended by
12 inserting “(including bilateral and multilateral negotia-
13 tions with other countries on trade or other matters)” im-
14 mediately after “human environment”.

15 **SEC. 505. REPRESENTATION ON ADVISORY COMMITTEES.**

16 (a) ADVISORY COMMITTEE FOR TRADE POLICY AND
17 NEGOTIATIONS.—Section 135(b)(1) of the Trade Act of
18 1974 (19 U.S.C. 2155(b)(1)) is amended by inserting “en-
19 vironmental interests, health and safety interests,” imme-
20 diately after “retailers,”.

21 (b) GENERAL POLICY ADVISORY COMMITTEES.—
22 Section 135(c)(1) of the Trade Act of 1974 (19 U.S.C.
23 2155(c)(1)) is amended by inserting “environmental,
24 consumer, health and safety,” immediately after “de-
25 fense,” each place it appears.

1 (c) SECTORAL AND FUNCTIONAL ADVISORY COMMIT-
2 TEES.—Section 135(c)(2) of the Trade Act of 1974 (19
3 U.S.C. 2155(c)(2)) is amended by inserting “environ-
4 mental, consumer, health and safety,” immediately after
5 “agricultural.”

6 **TITLE VI—MISCELLANEOUS PROVISIONS**

7 **SEC. 601. SCOFFLAW PENALTIES FOR MULTIPLE CUSTOMS**

8 **LAW OFFENDERS.**

9 (a) ORDER BY SECRETARY OF THE TREASURY.—(1)
10 The Secretary of the Treasury shall by order prohibit any
11 person who is a multiple customs law offender from—

12 (A) introducing, or attempting to introduce,
13 foreign goods into the customs territory of the Unit-
14 ed States; and

15 (B) engaging, or attempting to engage, any
16 other person for the purpose of introducing, on be-
17 half of the multiple customs law offender, foreign
18 goods into such customs territory.

19 If the multiple customs law officer is a firm, corporation,
20 or other legal entity, the order shall apply to all officers
21 and principals of the entity. The order shall also apply
22 to any employee or agent of the entity if that employee
23 or agent was directly involved in the violations of the cus-
24 toms laws concerned.

1 (2) The prohibition contained in the order issued
2 under paragraph (1) shall apply during the period which
3 begins on the 60th day after the date on which the order
4 is issued and ends on the 3rd anniversary of such 60th
5 day.

6 (b) NOTIFICATIONS BY AGENCIES.—Each Federal
7 agency shall notify the Secretary of the Treasury of all
8 final convictions and assessments made incident to the en-
9 forcement of the customs laws under the jurisdiction of
10 such agency.

11 (c) PENALTIES.—Whoever violates, or knowingly aids
12 or abets the violation of, an order issued by the Secretary
13 of the Treasury under this section shall be fined not more
14 than \$250,000 or imprisoned not more than 10 years, or
15 both.

16 (d) RULEMAKING.—The Secretary of the Treasury
17 shall prescribe rules to carry out this section, including
18 rules governing the procedures to be used in issuance of
19 orders under subsection (a). Such rules shall also include
20 a list of the customs laws.

21 (e) DEFINITIONS.—For purposes of this section, the
22 term—

23 (1) “customs laws” means any Federal law pro-
24 viding a criminal or civil penalty for an act, or fail-
25 ure to act, regarding an introduction of, or the at-

1 tempt to introduce, foreign goods into the customs
2 territory of the United States, including sections 496
3 and 1001 (but only with respect to customs mat-
4 ters), and any section of chapter 17 of title 18,
5 United States Code, and section 592 of the Tariff
6 Act of 1930 (19 U.S.C. 1592); and

7 (2) “multiple customs law offender” means a
8 person that, during any period of seven consecutive
9 years after the date of enactment of this Act, was
10 either convicted of, or assessed a civil penalty for,
11 three separate violations of one or more customs
12 laws finally determined to involve fraud or criminal
13 culpability.

14 **SEC. 602. AUTHORITY TO ESTABLISH MANUFACTURING**
15 **SUBZONES.**

16 The Foreign Trade Zones Act (19 U.S.C. 81a et seq.)
17 is amended by adding at the end the following new section:

18 “SEC. 22. (a) After the date of enactment of this sec-
19 tion, the Board shall not authorize the establishment of
20 a subzone for manufacturing unless the Board finds,
21 based on clear and convincing evidence, that the establish-
22 ment of such a subzone will result in—

23 “(1) significant net public benefits, taking into
24 account significant adverse effects;

1 “(2) additional substantial exports from the
2 United States;

3 “(3) the encouragement of activity related to
4 import displacement or substitution;

5 “(4) the generation or sustaining of employ-
6 ment and investment in the United States;

7 “(5) no negative effect on a remedial action or
8 program instituted by the United States to counter
9 an international unfair trade practice; and

10 “(6) no material harm to an existing industry
11 in the United States.

12 “(b) Decisions by the Board with respect to the es-
13 tablishment of a subzone described in subsection (a) shall
14 be made by the Board members in their personal capac-
15 ities, and authority to make such decisions shall not be
16 delegated except in extraordinary circumstances.”.

17 **SEC. 603. GENERALIZED SYSTEM OF PREFERENCES.**

18 Section 503(c)(1)(G) of the Trade Act of 1974 (19
19 U.S.C. 2463(c)(1)(G)) is amended by striking “President”
20 and inserting in lieu thereof “International Trade Com-
21 mission”.

22 **SEC. 604. COMPETITIVENESS IMPACT STATEMENTS.**

23 Section 5421(a) of the Omnibus Trade and Competi-
24 tiveness Act of 1988 (2 U.S.C. 194b(a)) is amended by
25 striking “which may affect the ability of United States

1 firms to compete in domestic and international com-
2 merce”.

3 **SEC. 605. CONGRESSIONAL DISAPPROVAL RESOLUTION.**

4 Subsection (f) of section 232 of the Trade Expansion
5 Act of 1962 (19 U.S.C. 1862) is repealed.

6 **SEC. 606. REPRESENTATION OR ADVISING OF FOREIGN**
7 **PERSONS.**

8 (a) FARA DEFINITIONS.—(1) Section 1(c) of the
9 Foreign Agents Registration Act of 1938 (22 U.S.C.
10 611(c)) is amended—

11 (A) by striking “‘agent of a foreign” and in-
12 serting in lieu thereof “‘representative of a foreign”;

13 (B) by striking “an agent of a foreign” and in-
14 serting in lieu thereof “a representative of a for-
15 eign”; and

16 (C) by adding at the end the following new sen-
17 tence: “For purposes of clause (1), a foreign prin-
18 cipal shall be considered to control a person in major
19 part if the foreign principal holds 50 percent or
20 more equitable ownership in such person.”.

21 (2) Section 1(j) of the Foreign Agents Registration
22 Act of 1938 (22 U.S.C. 611(j)) is amended by striking
23 “propaganda” and inserting in lieu thereof “promotional
24 material”.

1 (3)(A) Section 1(d) of the Foreign Agents Registra-
2 tion Act of 1938 (22 U.S.C. 611(d)) is amended by strik-
3 ing “agent” each place it appears and inserting in lieu
4 thereof “representative”.

5 (B) Section 1(o) of the Foreign Agents Registration
6 Act of 1938 (22 U.S.C. 611(o)) is amended by striking
7 “propaganda” and inserting in lieu thereof “promotional
8 material”.

9 (C) Section (2)(a) and (f) of the Foreign Agents Reg-
10 istration Act of 1938 (22 U.S.C. 612(a) and (f)) is amend-
11 ed by striking “an agent” each place it appears and insert-
12 ing in lieu thereof “a representative”.

13 (D) Section 2 of the Foreign Agents Registration Act
14 of 1938 (22 U.S.C. 612), as amended by subparagraph
15 (C) of this paragraph, is further amended by striking
16 “agent” each place it appears and inserting in lieu thereof
17 “representative”.

18 (E) Section 3 of the Foreign Agents Registration Act
19 of 1938 (22 U.S.C. 613) is amended—

20 (i) by striking “agents” and inserting in lieu
21 thereof “representatives”; and

22 (ii) in subsection (f)—

23 (I) by striking “an agent” and inserting in
24 lieu thereof “a representative”; and

1 (II) by striking “any agent” and inserting
2 in lieu thereof “any representative”.

3 (F) Section 4 of the Foreign Agents Registration Act
4 of 1938 (22 U.S.C. 614) is amended—

5 (i) by striking “an agent” each place it appears
6 and inserting in lieu thereof “a representative”;

7 (ii) by striking “propaganda” each place it ap-
8 pears and inserting in lieu thereof “promotional ma-
9 terial”;

10 (iii) by striking “such agent” each place it ap-
11 pears and inserting in lieu thereof “such representa-
12 tive”;

13 (iv) by striking “agents” and inserting in lieu
14 thereof “representatives”; and

15 (v) by striking “any agent” and inserting in
16 lieu thereof “any representative”.

17 (G) Section 5 of the Foreign Agents Registration Act
18 of 1938 (22 U.S.C. 615) is amended—

19 (i) by striking “Every agent” and inserting in
20 lieu thereof “Every representative”;

21 (ii) by striking “an agent” and inserting in lieu
22 thereof “a representative”; and

23 (iii) by striking “every agent” and inserting in
24 lieu thereof “every representative”.

1 (H) Section 6 of the Foreign Agents Registration Act
2 of 1938 (22 U.S.C. 616) is amended—

3 (i) by striking “propaganda” each place it ap-
4 pears and inserting in lieu thereof “promotional ma-
5 terial”; and

6 (ii) by striking “agent” and inserting in lieu
7 thereof “representative”.

8 (I) Section 7 of the Foreign Agents Registration Act
9 of 1938 (22 U.S.C. 617) is amended—

10 (i) by striking “an agent” each place it appears
11 and inserting in lieu thereof “a representative”; and

12 (ii) by striking “such agent” each place it ap-
13 pears and inserting in lieu thereof “such representa-
14 tive”.

15 (J) Section 8 of the Foreign Agents Registration Act
16 of 1938 (22 U.S.C. 618) is amended—

17 (i) by striking “propaganda” and inserting in
18 lieu thereof “promotional material”;

19 (ii) by striking “an agent” each place it appears
20 and inserting in lieu thereof “any representative”;

21 (iii) by striking “any agent” each place it ap-
22 pears and inserting in lieu thereof “any representa-
23 tive”; and

24 (iv) by striking “such agent” and inserting in
25 lieu thereof “such representative”.

1 (K) Section 11 of the Foreign Agents Registration
2 Act of 1938 (22 U.S.C. 621) is amended by striking
3 “propaganda” and inserting in lieu thereof “promotional
4 material”.

5 (b) EXEMPTIONS.—(1) Section 3(d) of the Foreign
6 Agents Registration Act of 1938 (22 U.S.C. 613(d)) is
7 amended by inserting immediately before the semicolon at
8 the end the following proviso: “: Provided, That any per-
9 son relying on this subsection shall notify the Attorney
10 General of such reliance in such manner and form as the
11 Attorney General may prescribe by regulation”.

12 (2) Section 3(g) of the Foreign Agents Registration
13 Act of 1938 (22 U.S.C. 613(g)) is amended by striking
14 “or any agency” and all that follows except the period at
15 the end.

16 (3) Section 1(q) of the Foreign Agents of Registra-
17 tion Act of 1938 (22 U.S.C. 611(q)) is amended—

18 (A) by striking “and” at the end of clause (ii)
19 of the proviso; and

20 (B) by inserting immediately before the period
21 at the end the following: “, and (iv) such activities
22 do not involve the representation of the interests of
23 the foreign principal before any agency or official of
24 the Government of the United States other than pro-
25 viding information in response to requests by such

1 agency or official or as a necessary part of a formal
2 judicial or administrative proceeding, including the
3 initiation of such a proceeding”.

4 (c) CIVIL PENALTIES; SUBPOENA POWER.—Section
5 8 of the Foreign Agents Registration Act of 1938 (22
6 U.S.C. 618) is amended by adding at the end the following
7 new subsection:

8 “(i)(1) Any person who is determined, after notice
9 and opportunity for an administrative hearing—

10 “(A) to have failed to file when such filing is
11 required, a registration statement under section 2(a)
12 or a supplement thereto under section 2(b),

13 “(B) to have omitted a material fact required to
14 be stated therein, or

15 “(C) to have made a false statement with re-
16 spect to such a material fact,

17 shall be required to pay a civil penalty in an amount not
18 less than \$2,000 or more than \$5,000 for each violation
19 committed. In determining the amount of the penalty, the
20 Attorney General shall give due consideration to the na-
21 ture and duration of the violation.

22 “(2)(A) Whenever the Attorney General has reason
23 to believe that any person may be in possession, custody,
24 or control of any documentary material relevant to an in-
25 vestigation regarding any violation of paragraph (1) or of

1 section 5, the Attorney General may, before bringing any
2 civil or criminal proceeding thereon, issue in writing, and
3 cause to be served upon such person, a civil investigative
4 demand requiring such person to produce such material
5 for examination.

6 “(B) Civil investigative demands issued under this
7 paragraph shall be subject to the applicable provisions of
8 section 1968 of title 18, United States Code.”.

9 (d) ANNUAL REPORT.—Section 11 of the Foreign
10 Agents Registration Act of 1938 (22 U.S.C. 621) is
11 amended by striking “shall, from time to time, make a
12 report” and inserting in lieu thereof “shall report annu-
13 ally”.

14 (e) SEPARATE SECTION OF CRIMINAL DIVISION, DE-
15 PARTMENT OF JUSTICE.—There is established within the
16 Criminal Division of the Department of Justice a separate
17 section which shall enforce the provisions of the Foreign
18 Agents Registration Act of 1938 and chapter 11 of title
19 18, United States Code, as amended by this section, and
20 the provisions of all other laws relating to lobbying activi-
21 ties in the United States.

22 (f) AMENDMENTS TO CHAPTER 11 OF TITLE 18
23 UNITED STATES CODE.—(1)(A) Chapter 11 of title 18,
24 United States Code, is amended by inserting immediately
25 after section 207 the following new section:

1 **“§ 207a. Limitation on the representation or advising**
2 **of foreign persons by certain former Fed-**
3 **eral officers and employees and members**
4 **of the uniformed services**

5 “(a)(1) Except as provided in subsection (d), any per-
6 son who serves as an officer or employee, or a member
7 of a uniformed service, described in subsection (c), may
8 not, during the period specified in paragraph (2), know-
9 ingly act as an agent or attorney for or otherwise rep-
10 resent or advise for compensation—

11 “(A) a government of a foreign country or a
12 foreign political party;

13 “(B) a person outside of the United States, un-
14 less such person is an individual who is a citizen of
15 the United States; or

16 “(C) a partnership, association, corporation, or-
17 ganization, or other combination of persons orga-
18 nized under the laws of or having its principal place
19 of business in a foreign country,

20 if the representation or advice relates directly to a matter
21 in which the United States is a party or has a direct and
22 substantial interest. For purposes of this paragraph, the
23 term ‘compensation’ means any payment, gift, benefit, re-
24 ward, favor, or gratuity which is provided, directly or indi-
25 rectly, for services rendered.

26 “(2) The period referred to in paragraph (1)—

1 “(A) in the case of a person who is an officer
2 or employee described under subsection (c)(1), (2),
3 or (3), is the five-year period after that person’s
4 service as such officer or employee has ceased; and

5 “(B) in the case of a person who is an officer
6 or employee described under subsection (c) (4) or
7 (5), is the two-year period after that person’s service
8 as such officer or employee has ceased.

9 “(b) Any person described in subsection (c) who vio-
10 lates subsection (a) shall be punished as provided in sec-
11 tion 216 of the title.

12 “(c) The prohibitions set forth in subsection (a) apply
13 to—

14 “(1) the President of the United States;

15 “(2) the Vice President of the United States;

16 “(3) an individual who serves in a position in
17 levels I and II of the Executive Schedule as listed
18 in sections 5312 and 5313 of title 5, United States
19 Code;

20 “(4) an individual who—

21 “(A) is appointed by the President under
22 section 105(a)(2)(A) of title 3;

23 “(B) is appointed by the Vice President
24 under section 106(a)(1)(A) of title 3;

1 “(C) is not described in paragraph (3) or
2 subparagraph (A) or (B) and serves in a posi-
3 tion in level I, level II, level III, level IV, or
4 level V of the Executive Schedule; or

5 “(D) is a member of a uniformed service
6 in a pay grade of 0–7 or higher and is serving
7 on active duty; and

8 “(5) each Member of Congress.

9 “(d) The prohibitions set forth in subsection (a) shall
10 not apply to a person described under subsection (c) to
11 the extent the person is engaging only in—

12 “(A) the soliciting or collecting of funds and
13 contributions within the United States to be used
14 only for medical aid and assistance, or for food and
15 clothing to relieve human suffering, if such solicita-
16 tion or collection of funds and contributions is in ac-
17 cordance with applicable law;

18 “(B) activities in furtherance of bona fide reli-
19 gious, charitable, scholastic, academic, or scientific
20 pursuits or of the fine arts; or

21 “(C) activities in furtherance of the purposes of
22 an international organization of which the United
23 States is a member.

24 “(e)(1) For purposes of subsection (c)(4)(D), the
25 term ‘uniformed service’ means the Army, Navy, Air

1 Force, Marine Corps, Coast Guard, National Oceanic and
2 Atmospheric Administration, and the Public Health Serv-
3 ice.

4 “(2) For purposes of this section, the service of a
5 member or former member of a uniformed service shall
6 be considered to have ceased upon such member’s dis-
7 charge or release from active duty.”.

8 (B) The table of sections at the beginning of chapter
9 11 of title 18, United States Code, is amended by inserting
10 immediately after the item relating to section 207 the fol-
11 lowing new item:

“207a. Limitation on the representation or advising of foreign persons by cer-
tain former Federal officers and employees and members of the
uniformed services.”.

12 (2) Section 216 of title 18, United States Code, is
13 amended by inserting “207a,” immediately after “207,”
14 each place it appears.

15 (3)(A) Subject to subparagraph (B), this subsection
16 and the amendments made by this subsection take effect
17 January 1, 1993.

18 (B) The amendments made by this subsection do not
19 apply to a person whose service as an officer or employee
20 to which such amendments apply terminated before the
21 effective date of such amendments.

22 (C) Subparagraph (B) does not preclude the applica-
23 tion of the amendments made by this subsection to a per-
24 son with respect to service as an officer or employee by

1 that person on or after the effective date of such amend-
2 ments.

3 **SEC. 607. MARKET DISRUPTION.**

4 (a) IMPLEMENTATION OF AFFIRMATIVE DETERMINA-
5 TION.—Section 406(b) of the Trade Act of 1974 (19
6 U.S.C. 2436(b)) is amended to read as follows:

7 “(b) With respect to any affirmative determination
8 of the Commission under subsection (a), the President
9 shall implement the Commission’s recommendations for
10 action in response to such determination.”.

11 (b) REPEALS.—Subsections (c) and (d) of section
12 406 of the Trade Act of 1974 (19 U.S.C. 2436) are re-
13 pealed, and subsection (e) of such section 406 is redesignig-
14 nated as subsection (c).

15 **SEC. 608. REPORTS AND INVESTIGATIONS OF INTER-**
16 **NATIONAL TRADE COMMISSION.**

17 Section 332(g) of the Tariff Act of 1930 (19 U.S.C.
18 1332(g)) is amended—

19 (1) by inserting “, Committee on Energy and
20 Commerce, Committee on Banking, Finance and
21 Urban Affairs, and Committee on Foreign Affairs”
22 immediately after “Ways and Means”; and

23 (2) by inserting “, Committee on Commerce,
24 Science, and Transportation, Committee on Bank-

1 ing, Housing, and Urban Affairs, and Committee on
2 Foreign Relations” immediately after “Finance”.

3 **SEC. 609. PAYMENT OF CERTAIN CUSTOMS DUTIES.**

4 (a) TRANSACTION VALUE OF IMPORTED MERCHAN-
5 DISE.—(1) Section 402(b)(1) of the Tariff Act of 1930
6 (19 U.S.C. 1401a(b)(1)) is amended—

7 (A) in subparagraph (D), by striking “and”;

8 (B) in subparagraph (E), by striking the period
9 and inserting in lieu thereof a semicolon;

10 (C) by adding at the end the following:

11 “(F) the cost of transporting the merchandise
12 to the port of entry in the United States; and

13 “(G) the cost of insuring the merchandise prior
14 to entry into the United States.”; and

15 (D) by striking “(A) through (E)” and insert-
16 ing in lieu thereof “(A) through (G)”.

17 (2) Section 402(b)(4)(A) of the Tariff Act of 1930
18 (19 U.S.C. 1401a(b)(4)(A)) is amended by striking “ex-
19 clusive of” and inserting in lieu thereof “including”.

20 (b) DEDUCTIVE VALUE.—Section 402(d)(3)(A) of
21 the Tariff Act of 1930 (19 U.S.C. 1401a(d)(3)(A)) is
22 amended—

23 (1) by striking clause (ii); and

24 (2) by redesignating clauses (iii) through (v) as
25 clauses (ii) through (iv), respectively.

1 (c) COMPUTED VALUE.—Section 402(e)(1) of the
2 Tariff Act of 1930 (19 U.S.C. 1401a(e)(1)) is amended—

3 (1) in subparagraph (C), by striking “and”;

4 (2) in subparagraph (D), by striking the period
5 and inserting in lieu thereof a semicolon; and

6 (3) by adding at the end the following:

7 “(E) the costs of transporting the merchandise
8 to the port of entry in the United States; and

9 “(F) the cost of insuring the merchandise prior
10 to entry into the United States.”.

○

S 90 IS—2

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