

104TH CONGRESS
1ST SESSION

H. R. 2325

To establish a Department of Trade.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 1995

Mr. ROTH (for himself, Mr. BEREUTER, Mrs. JOHNSON of Connecticut, Mr. HOUGHTON, and Mr. MANZULLO) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, International Relations, Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a Department of Trade.

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 “Department of Trade
5 Establishment Act”.

1 **SEC. 2. TABLE OF CONTENTS.**

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

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

TITLE I—GENERAL PROVISIONS

Sec. 101. Definitions.

TITLE II—DEPARTMENT OF TRADE

Subtitle A—Establishment

- Sec. 201. Establishment of Department.
- Sec. 202. Functions of the Secretary.
- Sec. 203. Bureau of Export Promotion.
- Sec. 204. Bureau of Trade Policy.
- Sec. 205. Bureau of Trade Administration.
- Sec. 206. Deputy Secretary.
- Sec. 207. Under Secretaries.
- Sec. 208. Assistant Secretaries.
- Sec. 209. General Counsel.
- Sec. 210. Inspector General.

Subtitle B—Transfers to the Department

- Sec. 221. Transfers from the Department of Commerce.
- Sec. 222. Export-Import Bank.
- Sec. 223. Overseas Private Investment Corporation.
- Sec. 224. Trade and Development Agency.
- Sec. 225. Consolidation of export promotion activities.

Subtitle C—Administrative Provisions

- Sec. 231. Personnel provisions.
- Sec. 232. Delegation and assignment.
- Sec. 233. Succession.
- Sec. 234. Reorganization.
- Sec. 235. Rules.
- Sec. 236. Working capital fund.
- Sec. 237. Funds transfer.
- Sec. 238. Contracts, grants, and cooperative agreements.
- Sec. 239. Publications.
- Sec. 240. Use of facilities.
- Sec. 241. Field offices.
- Sec. 242. Gifts and bequests.
- Sec. 243. Seal of Department.
- Sec. 244. Annual report.

Subtitle D—Related Agencies

- Sec. 251. Interagency Trade Organization.
- Sec. 252. National Security Council.
- Sec. 253. International Monetary Fund.

Subtitle E—Conforming Provisions

Sec. 261. Amendments to other laws.

TITLE III—TRANSITIONAL, SAVINGS, AND CONFORMING
PROVISIONS

Sec. 301. Transfer and allocations of appropriations and personnel.

Sec. 302. Incidental transfers.

Sec. 303. Effect on personnel.

Sec. 304. Savings provisions.

Sec. 305. Separability.

Sec. 306. Reference.

Sec. 307. Transition.

Sec. 308. Additional conforming amendments.

TITLE IV—MISCELLANEOUS

Sec. 401. Effective date.

Sec. 402. Interim appointments.

Sec. 403. Personnel and funding reductions resulting from reorganization.

Sec. 404. Authorization of appropriations.

Sec. 405. Limitation on annual expenditures for continued functions.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. DEFINITIONS.**

3 As used in this Act, unless otherwise provided or indi-
4 cated by the context—

5 (1) the term “Department” means the Depart-
6 ment of Trade;

7 (2) the term “Secretary” means the Secretary
8 of Trade;

9 (3) the term “function” means any duty, obli-
10 gation, power, authority, responsibility, right, privi-
11 lege, activity, or program;

12 (4) the term “administrative and support func-
13 tions” means legal functions, investigative functions,
14 budget preparation and analysis functions, adminis-
15 trative functions, public information functions, and
16 congressional relations functions carried out by a

1 Federal agency, and such other support services as
2 may be determined by the head of such agency;

3 (5) the term “executive department” has the
4 meaning given to the term “Executive department”
5 by section 101 of title 5, United States Code;

6 (6) the term “Federal agency” has the meaning
7 given to the term “agency” by section 551(1) of
8 such title; and

9 (7) the term “office” includes any office, ad-
10 ministration, agency, institute, unit, organizational
11 entity, or component thereof.

12 **TITLE II—DEPARTMENT OF** 13 **TRADE**

14 **Subtitle A—Establishment**

15 **SEC. 201. ESTABLISHMENT OF DEPARTMENT.**

16 There is established an executive department to be
17 known as the Department of Trade. The Department shall
18 be administered by a Secretary of Trade, who shall be ap-
19 pointed by the President, by and with the advice and con-
20 sent of the Senate.

21 **SEC. 202. FUNCTIONS OF THE SECRETARY.**

22 (a) FUNCTIONS.—In addition to the functions trans-
23 ferred to the Secretary by this Act, such other functions
24 as the President may assign or delegate to the Secretary,
25 and such other functions as the Secretary may, after the

1 effective date of this Act, be required to carry out by law,
2 the Secretary shall—

3 (1) serve as the principal advisor to the Presi-
4 dent on international trade policy and advise the
5 President on the impact of other policies of the
6 United States Government on international trade;

7 (2) exercise primary responsibility, with the ad-
8 vice of the interagency organization established
9 under section 242 of the Trade Expansion Act of
10 1962, for developing and implementing international
11 trade policy, including commodity matters and, to
12 the extent related to international trade policy, di-
13 rect investment matters and, in exercising such re-
14 sponsibility, advance and implement the goals of the
15 United States to—

16 (A) strengthen the ability of the United
17 States to compete in international markets, and

18 (B) expand United States exports through
19 aggressive promotion and marketing of United
20 States products and services as the primary
21 mandate of the Department;

22 (3) exercise lead responsibility for the establish-
23 ment of a national export strategy, including policies
24 designed to implement such strategy;

1 (4) act as the principal spokesperson of the
2 President on international trade;

3 (5) advise the President and Congress with re-
4 spect to nontariff barriers to international trade,
5 international commodity agreements, and other mat-
6 ters which are related to the trade agreements pro-
7 grams;

8 (6) with the advice of the interagency organiza-
9 tion established under section 242 of the Trade Ex-
10 pansion Act of 1962, issue policy guidance to other
11 Federal agencies on international trade, commodity,
12 and direct investment functions, including any mat-
13 ter considered under the auspices of the World
14 Trade Organization, to the extent necessary to as-
15 sure the coordination of international trade policy;

16 (7) analyze economic trends and developments
17 in order to understand and foster the conditions that
18 enhance productivity, growth, and competitiveness;

19 (8) report directly to the President and the
20 Congress—

21 (A) on the administration of, and matters
22 pertaining to, the trade agreements program
23 under Omnibus Trade and Competitiveness Act
24 of 1988, the Trade Act of 1974, the Trade Ex-
25 pansion Act of 1962, section 350 of the Tariff

1 Act of 1930, and any other provision of law en-
2 acted after this Act; and

3 (B) with respect to other important issues
4 pertaining to international trade; and

5 (9) serve as the principal advisor to the Presi-
6 dent on government policies designed to contribute
7 to enhancing the ability of United States industry
8 and services to compete in international markets.

9 (b) UNFAIR TRADE PRACTICES.—(1) In carrying out
10 functions with respect to unfair trade practices, the Sec-
11 retary shall—

12 (A) coordinate the application of interagency re-
13 sources to specific unfair trade practice cases;

14 (B) identify, and refer to the appropriate Fed-
15 eral department or agency for consideration with re-
16 spect to action, each act, policy, or practice referred
17 to in the report required under section 181(b) of the
18 Trade Act of 1974, or otherwise known to the
19 United States Trade Representative on the basis of
20 other available information, that may be an unfair
21 trade practice that either—

22 (i) is considered to be inconsistent with the
23 provisions of any trade agreement and has a
24 significant adverse impact on United States
25 commerce, or

1 (ii) has a significant adverse impact on do-
2 mestic firms or industries that are either too
3 small or financially weak to initiate proceedings
4 under the trade laws;

5 (C) identify practices having a significant ad-
6 verse impact on United States commerce that the at-
7 tainment of United States negotiating objectives
8 would eliminate; and

9 (D) identify, on a biennial basis, those United
10 States Government policies and practices that, if en-
11 gaged in by a foreign government, might constitute
12 unfair trade practices under United States law.

13 (2) For purposes of carrying out paragraph (1), the
14 Secretary shall be assisted by an interagency unfair trade
15 practices advisory committee composed of the Secretary,
16 who shall chair the committee, and senior representatives
17 of the following agencies, appointed by the respective
18 heads of those agencies:

19 (A) The Bureau of Economics and Business Af-
20 fairs of the Department of State.

21 (B) The United States and Foreign Commercial
22 Service of the Department of Trade.

23 (C) The Foreign Agricultural Service of the De-
24 partment of Agriculture.

1 The Secretary may also request the advice of the United
2 States International Trade Commission regarding the car-
3 rying out of paragraph (1).

4 (3) For purposes of this subsection, the term “unfair
5 trade practice” means any act, policy, or practice that—

6 (A) may be a subsidy with respect to which
7 countervailing duties may be imposed under subtitle
8 A of title VII of the Tariff Act of 1930;

9 (B) may result in the sale or likely sale of for-
10 eign merchandise with respect to which antidumping
11 duties may be imposed under subtitle B of title VII
12 of the Tariff Act of 1930;

13 (C) may be either an unfair method of competi-
14 tion, or an unfair act in the importation of articles
15 into the United States, that is unlawful under sec-
16 tion 337 of the Tariff Act of 1930; or

17 (D) may be an act, policy, or practice of a kind
18 with respect to which action may be taken under
19 title III of the Trade Act of 1974.

20 (c) INTERAGENCY ORGANIZATION.—The Secretary
21 shall be the Chairperson of the interagency organization
22 established under section 242 of the Trade Expansion Act
23 of 1962.

1 (d) NATIONAL SECURITY COUNCIL.—The Secretary
2 shall be a member of the National Security Council and
3 the National Economic Council.

4 (e) ADVISORY COUNCIL.—The Secretary shall be
5 Deputy Chairman of the National Advisory Council on
6 International Monetary and Financial Policies established
7 under Executive Order 11269, issued February 14, 1966.

8 (f) AGRICULTURE.—The Secretary shall consult with
9 the Secretary of Agriculture or the designee of the Sec-
10 retary of Agriculture on all matters which potentially in-
11 volve international trade in agricultural products.

12 (g) TPCC.—The Secretary shall be Chairperson of
13 the Trade Promotion Coordinating Committee.

14 **SEC. 203. BUREAU OF EXPORT PROMOTION.**

15 (a) ESTABLISHMENT.—There is established within
16 the Department, the Bureau of Export Promotion. The
17 Bureau of Export Promotion shall be administered by the
18 Under Secretary for Export Promotion who shall be ap-
19 pointed by the President, by and with the advice and con-
20 sent of the Senate. The Secretary, through the Under Sec-
21 retary for Export Promotion, shall perform all functions
22 (other than administrative and support functions) trans-
23 ferred to the Secretary under sections 221(3)(A), 222,
24 223, and 224. The Bureau of Export Promotion shall be

1 the agency of the Government primarily responsible for
2 the promotion of exports.

3 (b) AGENCIES WITHIN BUREAU.—The United States
4 and Foreign Commercial Service is established in the Bu-
5 reau of Export Promotion. The Commercial Service shall
6 be administered by an Assistant Secretary, who shall serve
7 as Director General of the United States and Foreign
8 Service, and who shall be appointed by the President, by
9 and with the advice and consent of the Senate. The Com-
10 mercial Service shall perform the functions of the United
11 States and Foreign Commercial Service transferred under
12 section 221(3)(A).

13 **SEC. 204. BUREAU OF TRADE POLICY.**

14 There is established within the Department the Bu-
15 reau of Trade Policy. The Bureau of Trade Policy shall
16 be administered by the Under Secretary for Trade Policy
17 who shall be appointed by the President, by and with the
18 advice and consent of the Senate. The Secretary, through
19 the Under Secretary for Trade Policy, shall perform all
20 functions (other than administrative and support func-
21 tions) transferred to the Secretary under section
22 221(3)(B). The Under Secretary for Trade Policy shall
23 advise the Secretary on international trade and economic
24 policy and provide assistance to the United States Trade

1 Representative in multilateral and bilateral trade negotia-
2 tions.

3 **SEC. 205. BUREAU OF TRADE ADMINISTRATION.**

4 (a) ESTABLISHMENT.—There is established within
5 the Department the Bureau of Trade Administration. The
6 Bureau of Trade Administration shall be administered by
7 the Under Secretary for Trade Administration who shall
8 be appointed by the President, by and with the advice and
9 consent of the Senate. The Secretary, through the Under
10 Secretary of the Bureau of Trade Administration, shall
11 perform all functions (other than administrative and sup-
12 port functions) transferred to the Secretary under section
13 221(3)(C). The Bureau of Trade Administration shall be
14 responsible for overseeing and enforcing all trade laws and
15 agreements of which the United States is a party.

16 (b) AGENCIES WITHIN BUREAU.—(1) There is estab-
17 lished within the Bureau of Trade Administration the—

18 (A) Export Administration; and

19 (B) Import Administration.

20 (2) Each administration established under paragraph
21 (1) (A) and (B) shall be administered by an Assistant Sec-
22 retary who shall be appointed by the President, by and
23 with the consent of the Senate.

1 **SEC. 206. DEPUTY SECRETARY.**

2 (a) APPOINTMENT.—There shall be in the Depart-
3 ment a Deputy Secretary of Trade, who shall be appointed
4 by the President, by and with the advice and consent of
5 the Senate.

6 (b) FUNCTIONS.—The Deputy Secretary shall act for
7 and exercise the functions of the Secretary during the ab-
8 sence or disability of the Secretary or in the event the of-
9 fice of Secretary becomes vacant. The Deputy Secretary
10 shall act for and exercise the functions of the Secretary
11 until the absence or disability of the Secretary no longer
12 exists or a successor to the Secretary has been appointed
13 by the President and confirmed by the Senate.

14 **SEC. 207. UNDER SECRETARIES.**

15 (a) APPOINTMENT.—There shall be in the Depart-
16 ment three Under Secretaries of Trade, who shall be ap-
17 pointed by the President, by and with the advice and con-
18 sent of the Senate.

19 (b) FUNCTIONS.—Each Under Secretary of Trade
20 shall perform such functions as the Secretary may pre-
21 scribe.

22 **SEC. 208. ASSISTANT SECRETARIES.**

23 (a) APPOINTMENT.—There shall be in the Depart-
24 ment 6 Assistant Secretaries of Trade, who shall be ap-
25 pointed by the President, by and with the advice and con-
26 sent of the Senate.

1 (b) FUNCTIONS.—Each Assistant Secretary of Trade
2 shall perform such functions as the Secretary may pre-
3 scribe.

4 **SEC. 209. GENERAL COUNSEL.**

5 There shall be in the Department a General Counsel,
6 who shall be appointed by the President, by and with the
7 advice and consent of the Senate. The General Counsel
8 shall provide legal assistance to the Secretary concerning
9 the activities, programs, and policies of the Department.

10 **SEC. 210. INSPECTOR GENERAL.**

11 There shall be in the Department an Inspector Gen-
12 eral who shall be appointed in accordance with the Inspec-
13 tor General Act of 1978, as amended by section 471(b)
14 of this Act.

15 **Subtitle B—Transfers to the**
16 **Department**

17 **SEC. 221. TRANSFERS FROM THE DEPARTMENT OF COM-**
18 **MERCE.**

19 There are transferred to the Secretary—

20 (1) trade-related functions of the Secretary of
21 Commerce;

22 (2) trade-related functions of the Department
23 of Commerce;

1 (3) all functions of, and all functions performed
2 under the direction of, the following officers and em-
3 ployees of the Department of Commerce:

4 (A) the Under Secretary of Commerce for
5 International Trade, the Director General of
6 the United States and Foreign Commercial
7 Service, the Under Secretary of Commerce for
8 Travel and Tourism, and the Assistant Sec-
9 retary of Commerce for Tourism Marketing;

10 (B) the Assistant Secretary of Commerce
11 for International Economic Policy, and the As-
12 sistant Secretary of Commerce for Trade Devel-
13 opment; and

14 (C) the Under Secretary for Export Ad-
15 ministration and the Assistant Secretary for
16 Import Administration; and

17 (4) those functions of the United States Trade
18 Representative performed under sections 181 and
19 182 and title III of the Trade Act of 1974.

20 **SEC. 222. EXPORT-IMPORT BANK.**

21 (a) BOARD OF DIRECTORS.—Section 3(c)(1) of the
22 Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(1))
23 is amended to read as follows:

24 “(c)(1) There shall be a Board of Directors of the
25 Bank consisting of the Secretary of Trade (who shall serve

1 as Chairman), the President of the Export-Import Bank
2 of the United States (who shall serve as Vice Chairman),
3 the first Vice President, and 2 additional persons ap-
4 pointed by the President of the United States, by and with
5 the advice and consent of the Senate.”.

6 (b) ASSISTANCE OF UNITED STATES AND FOREIGN
7 COMMERCIAL SERVICE.—Section 2301(h) of the Omnibus
8 Trade and Competitiveness Act of 1988 (15 U.S.C.
9 4721(h)) is amended to read as follows:

10 “(h) ASSISTANCE TO EXPORT-IMPORT BANK.—The
11 Commercial Service shall provide, at its district offices in
12 the United States, such services as the Under Secretary
13 of Trade for Export Promotion determines necessary to
14 assist the Export-Import Bank of the United States in
15 carrying out the lending, loan guarantee, insurance, and
16 other activities of the Bank.”.

17 **SEC. 223. OVERSEAS PRIVATE INVESTMENT CORPORATION.**

18 (a) POLICY GUIDANCE.—Section 231 of the Foreign
19 Assistance Act of 1961 (22 U.S.C. 2191) is amended in
20 the first paragraph—

21 (1) by striking “To mobilize” and inserting “To
22 increase exports to, and to mobilize”;

23 (2) by striking “of less developed” and insert-
24 ing “of, less developed”;

1 (3) by inserting “trade policy and” after “com-
2 plementing the”; and

3 (4) by inserting “and the Secretary of Trade”
4 after “Secretary of State”.

5 (b) BOARD OF DIRECTORS.—The second and third
6 sentences of section 233(b) of the Foreign Assistance Act
7 of 1961 (22 U.S.C. 2193(b)) are amended to read as fol-
8 lows: “The Secretary of Trade shall be the Chairman of
9 the Board. The Administrator of the Agency for Inter-
10 national Development (who shall serve as Vice Chairman)
11 and the United States Trade Representative shall serve
12 on the Board.”.

13 **SEC. 224. TRADE AND DEVELOPMENT AGENCY.**

14 There are transferred to the Secretary all functions
15 of the Director of the Trade and Development Agency.
16 There are transferred to the Department all functions of
17 the Trade and Development Agency.

18 **SEC. 225. CONSOLIDATION OF EXPORT PROMOTION ACTIVI-**
19 **TIES.**

20 (a) SUBMISSION OF PLAN.—Within 180 days after
21 the date of the enactment of this Act, the President shall
22 transmit to the Congress a comprehensive plan to consoli-
23 date Federal nonagricultural export promotion activities
24 and to transfer those functions to the Department. The
25 plan shall provide for—

1 (1) the elimination of the overlap and duplica-
2 tion among all Federal nonagricultural export pro-
3 motion activities;

4 (2) a unified budget for Federal nonagricultural
5 export promotion activities which eliminates funding
6 for the areas of overlap and duplication identified
7 under paragraph (1); and

8 (3) a long-term agenda for developing coopera-
9 tion between State and Federal programs and activi-
10 ties designed to stimulate or assist United States
11 businesses in exporting nonagricultural goods or
12 services that are products of the United States, in-
13 cluding sharing of facilities, costs, and cost-sharing
14 between Federal and State export market research
15 data.

16 (b) PLAN ELEMENTS.—The plan under subsection
17 (a) shall—

18 (1) place all Federal nonagricultural export pro-
19 motion activities within the Department;

20 (2) provide clear authority for the Secretary of
21 Trade to use the expertise and assistance of other
22 United States Government agencies;

23 (3) achieve an overall 25 percent reduction in
24 the amount of funding for all Federal non-

1 agricultural export promotion activities within 2
2 years after the enactment of this Act;

3 (4) provide for the transfer to the Department
4 of Trade of any statistical or analytical functions of
5 the Department of Commerce or any other Federal
6 department or agency that are necessary for the De-
7 partment of Trade to carry out its functions; and

8 (5) include any functions of the Department of
9 Commerce not transferred by this Act the transfer
10 of which to the Department of Trade would be nec-
11 essary to the competitiveness of the United States in
12 international trade.

13 (c) DEFINITION.—As used in this section, the term
14 “Federal nonagricultural export promotion activities”—

15 (1) means all programs or activities of any de-
16 partment or agency of the Federal Government (in-
17 cluding, but not limited to, departments and agen-
18 cies with representatives on the Trade Promotion
19 Coordinating Committee established under section
20 2312 of the Export Enhancement Act of 1988 (15
21 U.S.C. 4727)) that are designed to stimulate or as-
22 sist United States businesses in exporting non-
23 agricultural goods or services that are products of
24 the United States, including trade missions; and

1 (2) does not include programs or activities of
2 the Export-Import Bank of the United States and
3 the Overseas Private Investment Corporation.

4 **Subtitle C—Administrative**
5 **Provisions**

6 **SEC. 231. PERSONNEL PROVISIONS.**

7 (a) APPOINTMENT.—The Secretary may appoint and
8 fix the compensation of such officers and employees, in-
9 cluding investigators, attorneys, and administrative law
10 judges, as may be necessary to carry out the functions
11 of the Secretary and the Department. Except as otherwise
12 provided by law, such officers and employees shall be ap-
13 pointed in accordance with the civil service laws and their
14 compensation fixed in accordance with title 5, United
15 States Code.

16 (b) POSITIONS ABOVE GS-15.—(1) At the request
17 of the Secretary, the Director of the Office of Personnel
18 Management shall, under section 5108 of title 5, United
19 States Code, provide for the establishment in a grade level
20 above GS-15 of the General Service, and in the Senior
21 Executive Service, of a number of positions in the Depart-
22 ment equal to the number of positions in that grade level
23 which were used primarily for the performance of func-
24 tions and offices transferred by this Act and which were

1 assigned and filled on the day before the effective date
2 of this Act.

3 (2) Appointments to positions provided for under this
4 subsection may be made without regard to the provisions
5 of section 3324 of title 5, United States Code, if the indi-
6 vidual appointed in such position is an individual who is
7 transferred in connection with the transfer of functions
8 and offices under this Act and, on the day before the effec-
9 tive date of this Act, holds a position and has duties com-
10 parable to those of the position to which appointed under
11 this subsection.

12 (3) The authority under this subsection with respect
13 to any position established at a grade level above GS-15
14 shall terminate when the person first appointed to fill such
15 position ceases to hold such position.

16 (4) For purposes of section 414(a)(3)(A) of the Civil
17 Service Reform Act of 1978, an individual appointed
18 under this subsection shall be deemed to occupy the same
19 position as the individual occupied on the day before the
20 effective date of this Act.

21 (c) EXPERTS AND CONSULTANTS.—The Secretary
22 may obtain the services of experts and consultants in ac-
23 cordance with section 3109 of title 5, United States Code,
24 and compensate such experts and consultants for each day
25 (including traveltime) at rates not in excess of the maxi-

1 mum rate of pay for a position at a grade level above GS-
2 15 of the General Schedule under section 5332 of such
3 title. The Secretary may pay experts and consultants who
4 are serving away from their homes or regular place of
5 business travel expenses and per diem in lieu of subsist-
6 ence at rates authorized by sections 5702 and 5703 of
7 such title for persons in Government service employed
8 intermittently.

9 (d) VOLUNTARY SERVICES.—(1)(A) The Secretary is
10 authorized to accept voluntary and uncompensated serv-
11 ices without regard to the provisions of section 1342 of
12 title 31, United States Code, if such services will not be
13 used to displace Federal employees employed on a full-
14 time, part-time, or seasonal basis.

15 (B) The Secretary is authorized to accept volunteer
16 service in accordance with the provisions of section 3111
17 of title 5, United States Code.

18 (2) The Secretary is authorized to provide for inci-
19 dental expenses, including but not limited to transpor-
20 tation, lodging, and subsistence for individuals who pro-
21 vide voluntary services under subparagraph (A) or (B) of
22 paragraph (1).

23 (3) An individual who provides voluntary services
24 under paragraph (1)(A) shall not be considered a Federal
25 employee for any purpose other than for purposes of chap-

1 ter 81 of title 5, United States Code, relating to com-
2 pensation for work injuries, and chapter 171 of title 28,
3 United States Code, relating to tort claims.

4 (e) FOREIGN SERVICE POSITIONS.—In order to as-
5 sure United States representation in trade matters at a
6 level commensurate with the level of representation main-
7 tained by industrial nations which are major trade com-
8 petitors of the United States, the Secretary of State shall
9 classify certain positions at Foreign Service posts as com-
10 mercial minister positions and shall assign members of the
11 Foreign Service performing functions of the Department
12 of Trade, with the concurrence of the Secretary of Trade,
13 to such positions in nations which are major trade com-
14 petitors of the United States. The Secretary of State shall
15 obtain and use the recommendations of the Secretary of
16 Trade with respect to the number of positions to be so
17 classified under this subsection.

18 **SEC. 232. DELEGATION AND ASSIGNMENT.**

19 Except where otherwise expressly prohibited by law
20 or otherwise provided by this Act, the Secretary may dele-
21 gate any of the functions transferred to the Secretary by
22 this Act and any function transferred or granted to the
23 Secretary after the effective date of this Act to such offi-
24 cers and employees of the Department as the Secretary
25 may designate, and may authorize successive redelegations

1 of such functions as may be necessary or appropriate. No
2 delegation of functions by the Secretary under this section
3 or under any other provision of this Act shall relieve the
4 Secretary of responsibility for the administration of such
5 functions.

6 **SEC. 233. SUCCESSION.**

7 (a) ORDER OF SUCCESSION.—Subject to the author-
8 ity of the President, and except as provided in section
9 206(b), the Secretary shall prescribe the order by which
10 officers of the Department who are appointed by the
11 President, by and with the advice and consent of the Sen-
12 ate, shall act for, and perform the functions of, the Sec-
13 retary or any other officer of the Department appointed
14 by the President, by and with the advice and consent of
15 the Senate, during the absence or disability of the Sec-
16 retary or such other officer, or in the event of a vacancy
17 in the office of the Secretary or such other officer.

18 (b) CONTINUATION OF SERVICE OF ACTING OFFI-
19 CERS.—Notwithstanding any other provision of law, and
20 unless the President directs otherwise, an individual acting
21 for the Secretary or another officer of the Department
22 pursuant to subsection (a) shall continue to serve in that
23 capacity until the absence or disability of the Secretary
24 or such other officer no longer exists or a successor to

1 the Secretary or such other officer has been appointed by
2 the President and confirmed by the Senate.

3 **SEC. 234. REORGANIZATION.**

4 (a) IN GENERAL.—Subject to subsection (b), the Sec-
5 retary is authorized to allocate or reallocate functions
6 among the officers of the Department, and to establish,
7 consolidate, alter, or discontinue such organizational
8 entities in the Department as may be necessary or
9 appropriate.

10 (b) PRIOR NOTIFICATION OF CONGRESSIONAL COM-
11 MITTEES.—Except as provided in subsection (c), the Sec-
12 retary may establish, consolidate, alter, or discontinue any
13 organizational entity in the Department or allocate or re-
14 allocate any function of an officer or employee of the De-
15 partment upon the expiration of a period of 60 days after
16 the receipt by the Committee on Finance and the Commit-
17 tee on Governmental Affairs of the Senate and the Speak-
18 er of the House of Representatives of notice by the Sec-
19 retary containing a full and complete statement of the ac-
20 tion proposed to be taken pursuant to this section and the
21 facts and circumstances relied upon in support of such
22 proposed action.

23 **SEC. 235. RULES.**

24 The Secretary is authorized to prescribe, in accord-
25 ance with the provisions of chapters 5 and 6 of title 5,

1 United States Code, such rules and regulations as the Sec-
2 retary determines necessary or appropriate to administer
3 and manage the functions of the Secretary or the Depart-
4 ment.

5 **SEC. 236. WORKING CAPITAL FUND.**

6 (a) ESTABLISHMENT AND PURPOSE.—The Secretary
7 is authorized to establish for the Department a working
8 capital fund, to be available without fiscal year limitation,
9 for expenses necessary for the maintenance and operation
10 of such common administrative services as the Secretary
11 shall find to be desirable in the interest of economy and
12 efficiency, including—

13 (1) a central supply service for stationery and
14 other supplies and equipment for which adequate
15 stocks may be maintained to meet in whole or in
16 part the requirements of the Department and its
17 components;

18 (2) central messenger, mail, and telephone serv-
19 ice and other communications services;

20 (3) office space, central services for document
21 reproduction and for graphics and visual aids;

22 (4) a central library service; and

23 (5) such other services as may be approved by
24 the Director of the Office of Management and
25 Budget.

1 (b) OPERATION OF THE FUND.—The capital of the
2 fund shall consist of any appropriations made for the pur-
3 pose of providing working capital and the fair and reason-
4 able value of such stocks of supplies, equipment, and other
5 assets and inventories on order as the Secretary may
6 transfer to the fund, less the related liabilities and unpaid
7 obligations. The fund shall be reimbursed in advance from
8 available funds of agencies and offices in the Department,
9 or from other sources, for supplies and services at rates
10 which will approximate the expense of operation, including
11 the accrual of annual leave and the depreciation of equip-
12 ment. The fund shall also be credited with receipts from
13 sale or exchange of property and receipts in payment for
14 loss or damage to property owned by the fund. There shall
15 be covered into the United States Treasury as miscellane-
16 ous receipts any surplus of the fund (all assets, liabilities,
17 and prior losses considered) above the amounts trans-
18 ferred or appropriated to establish and maintain the fund.
19 There shall be transferred to the fund the stocks of sup-
20 plies, equipment, other assets, liabilities, and unpaid obli-
21 gations relating to those services which the Secretary de-
22 termines will be performed.

23 **SEC. 237. FUNDS TRANSFER.**

24 The Secretary may, when authorized in an appropria-
25 tion Act in any fiscal year, transfer funds from one appro-

1 priation to another within the Department, except that no
2 appropriation for any fiscal year shall be either increased
3 or decreased by more than 10 per centum and no such
4 transfer shall result in increasing any such appropriation
5 above the amount authorized to be appropriated therefor.

6 **SEC. 238. CONTRACTS, GRANTS, AND COOPERATIVE AGREE-**
7 **MENTS.**

8 (a) IN GENERAL.—Subject to the provisions of the
9 Federal Property and Administrative Services Act of
10 1949, the Secretary may make, enter into, and perform
11 such contracts, leases, cooperative agreements, grants, or
12 other similar transactions with public agencies, private or-
13 ganizations, and persons, and make payments (in lump
14 sum or installments, and by way of advance or reimburse-
15 ment, and, in the case of any grant, with necessary adjust-
16 ments on account of overpayments and underpayments)
17 as the Secretary considers necessary or appropriate to
18 carry out the functions of the Secretary or the Depart-
19 ment.

20 (b) SUBJECT TO APPROPRIATIONS.—Notwithstand-
21 ing any other provision of this Act, the authority to enter
22 into contracts or to make payments under this subtitle
23 shall be effective only to such extent or in such amounts
24 as are provided in advance in appropriation Acts. This

1 subsection does not apply with respect to the authority
2 granted under section 242.

3 **SEC. 239. PUBLICATIONS.**

4 Subject to such procedures of the Director of the Of-
5 fice of Management and Budget may prescribe, the Sec-
6 retary may disseminate in the form of reports or publica-
7 tions such information as the Secretary considers appro-
8 priate.

9 **SEC. 240. USE OF FACILITIES.**

10 (a) USE BY SECRETARY.—With their consent, the
11 Secretary, with or without reimbursement, may use the
12 research, services, equipment, and facilities of—

13 (1) an individual,

14 (2) any public or private nonprofit agency or
15 organization, including any agency or instrumentality
16 of the United States or of any State, the District
17 of Columbia, the Commonwealth of Puerto Rico, or
18 any territory or possession of the United States,

19 (3) any political subdivision of any State, the
20 District of Columbia, the Commonwealth of Puerto
21 Rico, or any territory or possession of the United
22 States, or

23 (4) any foreign government,

24 in carrying out any function of the Secretary or the De-
25 partment.

1 (b) USE OF DEPARTMENT FACILITIES BY OTHER
2 ENTITIES.—The Secretary, under terms, at rates, and for
3 periods that the Secretary considers to be in the public
4 interest, may permit the use by public and private agen-
5 cies, corporations, associations or other organizations, or
6 by individuals, of any real property, or any facility, struc-
7 ture or other improvement thereon, under the custody of
8 the Secretary. The Secretary may require permittees
9 under this section to maintain or recondition, at their own
10 expense, the real property, facilities, structures, and im-
11 provements used by such permittees.

12 **SEC. 241. FIELD OFFICES.**

13 (a) IN GENERAL.—Subject to subsection (b), the Sec-
14 retary may establish, alter, consolidate, maintain, or dis-
15 continue State, regional, district, local, or other field of-
16 fices as the Secretary finds necessary or appropriate to
17 perform any function of the Secretary or the Department.

18 (b) PRIOR NOTIFICATION OF CONGRESSIONAL COM-
19 MITTEES.—The Secretary may establish, alter, consoli-
20 date, maintain, or discontinue State, regional, district,
21 local, or other field offices under subsection (a) upon the
22 expiration of a period of 60 days after the receipt by the
23 Committee on Finance and the Committee on Govern-
24 mental Affairs of the Senate and the Speaker of the House
25 of Representatives of notice by the Secretary containing

1 a full and complete statement of the action proposed to
2 be taken pursuant to this section and the facts and cir-
3 cumstances relied upon in support of such proposed ac-
4 tion.

5 **SEC. 242. GIFTS AND BEQUESTS.**

6 (a) IN GENERAL.—The Secretary is authorized to ac-
7 cept, hold, administer, and utilize gifts and bequests of
8 property, both real and personal, for the purpose of aiding
9 or facilitating the work of the Department. Gifts and be-
10 quests of money and the proceeds from sales of other prop-
11 erty received as gifts or bequests shall be deposited in the
12 United States Treasury in a separate fund and shall be
13 disbursed on order of the Secretary. Property accepted
14 pursuant to this subsection, and the proceeds thereof,
15 shall be used as nearly as possible in accordance with the
16 terms of the gift or bequest.

17 (b) TAX TREATMENT.—For the purpose of Federal
18 income, estate, and gift taxes, and State taxes, property
19 accepted under subsection (a) shall be considered a gift
20 or bequest to or for use of the United States.

21 (c) INVESTMENT.—Upon the request of the Sec-
22 retary, the Secretary of the Treasury may invest and rein-
23 vest in securities of the United States or in securities
24 guaranteed as to principal and interest by the United
25 States any moneys contained in the fund provided for in

1 subsection (a). Income accruing from such securities, and
2 from any other property held by the Secretary pursuant
3 to subsection (a), shall be deposited to the credit of the
4 fund, and shall be disbursed upon order of the Secretary.

5 **SEC. 243. SEAL OF DEPARTMENT.**

6 The Secretary shall cause a seal of office to be made
7 for the Department of such design as the Secretary shall
8 approve. Judicial notice shall be taken of such seal.

9 **SEC. 244. ANNUAL REPORT.**

10 The Secretary shall, as soon as practicable after the
11 end of each fiscal year, prepare and transmit a written
12 report to the President for transmission to the Congress
13 on the activities of the Department during such fiscal
14 year.

15 **Subtitle D—Related Agencies**

16 **SEC. 251. INTERAGENCY TRADE ORGANIZATION.**

17 Section 242(a) of the Trade Expansion Act of 1962
18 (19 U.S.C. 1872(a)) is amended—

19 (1) in paragraph (2)(B) by striking “Trade
20 Representative” and inserting “Secretary of Trade”;
21 and

22 (2) by amending paragraph (3) to read as fol-
23 lows:

24 “(3)(A) The interagency organization estab-
25 lished under subsection (a) shall be composed of—

1 “(i) the Secretary of Trade, who shall be
2 Chairperson,

3 “(ii) the Trade Representative,

4 “(iii) the Secretary of Agriculture,

5 “(iv) the Secretary of the Treasury,

6 “(v) the Secretary of Labor,

7 “(vi) the Secretary of State, and

8 “(vii) the representatives of such other de-
9 partments and agencies as the Secretary of
10 Trade shall designate.

11 “(B) The Secretary of Trade may invite rep-
12 resentatives from other agencies, as appropriate, to
13 attend particular meetings if subject matters of spe-
14 cific functional interest to such agencies are under
15 consideration. It shall meet at such times and with
16 respect to such matters as the President or the
17 Chairperson shall direct.”.

18 **SEC. 252. NATIONAL SECURITY COUNCIL.**

19 The fourth paragraph of section 101(a) of the Na-
20 tional Security Act of 1947 (50 U.S.C. 402(a)) is
21 amended—

22 (1) by redesignating clauses (5), (6), and (7) as
23 clauses (6), (7), and (8), respectively; and

24 (2) by inserting after clause (4) the following
25 new clause:

1 “(5) the Secretary of Trade;”.

2 **SEC. 253. INTERNATIONAL MONETARY FUND.**

3 Section 3 of the Bretton Woods Agreement Act is
4 amended by adding at the end thereof the following new
5 subsection:

6 “(e) The United States executive director of the Fund
7 shall consult with the Secretary of Trade with respect to
8 matters under consideration by the Fund which relate to
9 trade.”.

10 **Subtitle E—Conforming Provisions**

11 **SEC. 261. AMENDMENTS TO OTHER LAWS.**

12 (a) AMENDMENTS RELATING TO EXPORT PRO-
13 MOTION.—(1) Section 2312(d) of the Export Enhance-
14 ment Act of 1988 (15 U.S.C. 4727(d)) is amended—

15 (A) in paragraph (1)(A) by striking “Com-
16 merce” and inserting “Trade”; and

17 (B) in paragraph (2) by striking “Commerce”
18 and inserting “Trade”.

19 (2) Section 2313 of the Export Enhancement Act of
20 1988 (15 U.S.C. 4728) is amended—

21 (A) in subsection (b)—

22 (i) in paragraph (1) by striking “Coordina-
23 tion” and inserting “Coordinating”; and

24 (ii) in paragraph (3) by striking “Com-
25 merce” and inserting “Trade”; and

1 (B) in subsection (c) by striking “Commerce”
2 and inserting “Trade”.

3 (3) Section 2301 of the Export Enhancement Act of
4 1988 (15 U.S.C. 4721) is amended in subsections (b)(9)
5 and (f) by striking “Program” and inserting “Agency”.

6 (b) OTHER AMENDMENTS.—The following provisions
7 of law are amended:

8 (1) Section 19(d)(1) of title 3, United States
9 Code, is amended by inserting “Secretary of Trade,”
10 before “Secretary of Labor”.

11 (2) Section 101 of title 5, United States Code,
12 is amended by adding at the end the following:

13 “The Department of Trade.”.

14 (3) Section 5312 of such title 5 is amended by
15 adding at the end the following:

16 “Secretary of Trade.”.

17 (4) Section 5313 of title 5, United States Code,
18 is amended by adding at the end the following:

19 “Deputy Secretary, Department of Trade.”.

20 (5) Section 5314 of such title 5 is amended by
21 adding at the end the following:

22 “Under Secretaries of Trade (3).

23 “Deputy Secretary of Trade.”.

24 (6) Section 5315 of such title 5 is amended by
25 adding at the end thereof the following:

1 “Assistant Secretaries of Trade (6).

2 “General Counsel, Department of Trade.

3 “President of the Export-Import Bank of the
4 United States.

5 “President of the Overseas Private Investment
6 Corporation.”.

7 (7) Section 5316 of such title 5 is amended by
8 adding at the end thereof the following:

9 “Inspector General, Department of Trade.”.

10 (8) The Inspector General Act of 1978 is
11 amended—

12 (A) in subsection 9(a)(1)—

13 (i) by redesignating subparagraphs

14 (C) through (H) as subparagraphs (B)

15 through (G), respectively; and

16 (ii) by inserting before subparagraph

17 (I) the following:

18 “(H) of the Department of Trade, all functions
19 of the Inspector General of the Department of Com-
20 merce and the Office of the Inspector General of the
21 Department of Commerce relating to the functions
22 transferred to the Secretary of Trade by section 431
23 of the Department of Commerce Dismantling and
24 Department of Trade Establishment Act;”;

1 (B) by inserting “Trade,” after “Interior,”
2 each place it appears in section 11.

3 (9) Section 141 of the Trade Act of 1974 (19
4 U.S.C. 2171) is amended—

5 (A) in subsection (c)—

6 (i) in paragraph (1)—

7 (I) by striking subparagraphs
8 (A), (B), (D), (E), (F), (G), and (I)
9 and redesignating subparagraphs (C),
10 (H), and (J) as subparagraphs (A),
11 (B), and (C), respectively;

12 (II) in subparagraph (B), as so
13 redesignated, by striking “subpara-
14 graphs (C) and (F)” and inserting
15 “subparagraph (A)”; and

16 (III) in subparagraph (C), as so
17 redesignated, by striking “in addi-
18 tion” and all that follows through
19 “1988.”;

20 (ii) by redesignating paragraphs (2)
21 through (4) as paragraphs (3) through (5),
22 respectively; and

23 (iii) by inserting after paragraph (1)
24 the following:

1 “(2) The United States Trade Representative shall
2 carry out the functions under paragraph (1) under the pol-
3 icy guidance of the Secretary of Trade.”; and

4 (iv) in subparagraph (A) of paragraph
5 (3) (as so redesignated), by striking “the
6 senior representative on” and inserting “a
7 member of”; and

8 (B) by striking subsection (d) and redesign-
9 ating subsections (e) through (g) as sub-
10 sections (d) through (f), respectively.

11 (10) The Foreign Service Act of 1980 is
12 amended by striking paragraph (3) of section 202(a)
13 (22 U.S.C. 3922(a)) and inserting the following:

14 “(3) The Secretary of Trade may use the For-
15 eign Service personnel system in accordance with
16 this title—

17 “(A) with respect to the personnel per-
18 forming functions—

19 “(i) which were transferred to the De-
20 partment of Commerce from the Depart-
21 ment of State by Reorganization Plan No.
22 3 of 1979; and

23 “(ii) which were subsequently trans-
24 ferred to the Secretary of Trade by section
25 221 of the Department of Commerce Dis-

1 mantling and Department of Trade Estab-
2 lishment Act; and

3 “(B) with respect to other personnel of the
4 Department of Trade to the extent the Presi-
5 dent determines to be necessary in order to en-
6 able the Department of Trade to carry out
7 functions which require service abroad.”.

8 (11)(A) Section 201 of the International Travel
9 Act of 1961 (22 U.S.C. 2122) is amended by strik-
10 ing “Commerce” and inserting “Trade”.

11 (B) Section 202(a)(13) of such Act (22 U.S.C.
12 2123(a)(13)) is amended by striking “Commerce”
13 and inserting “Trade”.

14 (C) Section 301 of such Act (22 U.S.C. 2124)
15 is amended to read as follows:

16 “SEC. 301. All duties and responsibilities of the Sec-
17 retary under this Act shall be exercised directly by the
18 Secretary or by the Secretary through the Assistant Sec-
19 retary of Trade for the United States and Foreign Com-
20 mercial Service.”.

21 (D) Section 302(b)(1) of such Act (22 U.S.C.
22 2124a(b)(1)) is amended—

23 (i) by striking “Commerce” in subpara-
24 graph (A) and inserting “Trade”;

1 (ii) by striking “Under Secretary” and in-
2 serting “Assistant Secretary of Trade” in sub-
3 paragraph (B); and

4 (iii) by striking subparagraph (D) and insert-
5 ing the following:

6 “(D) an individual designated by the Secretary
7 of Trade from the Department of Trade;”.

8 (E) Section 303(f) of such Act (22 U.S.C.
9 2124b(f)) is amended by striking “and shall advise
10 the Assistant Secretary of Trade for the United
11 States and Foreign Commercial Service with respect
12 to the preparation of the marketing plan under sec-
13 tion 202(a)(15)”.

14 **TITLE III—TRANSITIONAL, SAV-**
15 **INGS, AND CONFORMING**
16 **PROVISIONS**

17 **SEC. 301. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
18 **TIONS AND PERSONNEL.**

19 Except as otherwise provided in this Act, the person-
20 nel employed in connection with, and the assets, liabilities,
21 contracts, property, records, and unexpended balances of
22 appropriations, authorizations, allocations, and other
23 funds employed, used, held, arising from, available to, or
24 to be made available in connection with the functions and
25 offices transferred by this Act, subject to section 1531 of

1 title 31, United States Code, shall be transferred to the
2 head of the Federal agency to which such functions or of-
3 fices are transferred by this Act. Unexpended funds trans-
4 ferred pursuant to this section shall be used only for the
5 purposes for which the funds were originally authorized
6 and appropriated.

7 **SEC. 302. INCIDENTAL TRANSFERS.**

8 (a) IN GENERAL.—The Director of the Office of
9 Management and Budget, at such time or times as the
10 Director shall provide, is authorized to make such deter-
11 minations as may be necessary with regard to the func-
12 tions and offices transferred by this Act, and to make such
13 additional incidental dispositions of personnel, assets, li-
14 abilities, grants, contracts, property, records, and unex-
15 pended balances of appropriations, authorizations, alloca-
16 tions, and other funds held, used, arising from, available
17 to, or to be made available in connection with such func-
18 tions and offices, as may be necessary to carry out the
19 provisions of this Act. The Director shall provide for the
20 termination of the affairs of all entities terminated by this
21 Act and for such further measures and dispositions as may
22 be necessary to effectuate the purposes of this Act.

23 (b) TRANSFERS RELATING TO SES.—After consulta-
24 tion with the Director of the Office of Personnel Manage-
25 ment, the Director of the Office of Management and

1 Budget is authorized, at such times as the Director of the
2 Office of Management and Budget may provide, to make
3 such determinations as may be necessary with regard to
4 the transfer of positions within the Senior Executive Serv-
5 ice in connection with the functions and offices transferred
6 by this Act.

7 **SEC. 303. EFFECT ON PERSONNEL.**

8 (a) IN GENERAL.—Except as otherwise provided by
9 this Act, the transfer pursuant to this Act of full-time per-
10 sonnel (except special Government employees) and part-
11 time personnel holding permanent positions shall not
12 cause any such employee to be separated or reduced in
13 grade or compensation for 1 year after the date of transfer
14 of such employee under this Act.

15 (b) EXECUTIVE SCHEDULE POSITIONS.—Any person
16 who, on the day preceding the effective date of this Act,
17 held a position compensated in accordance with the Execu-
18 tive Schedule prescribed in chapter 53 of title 5, United
19 States Code, and who, without a break in service, is ap-
20 pointed in a Federal agency to which functions are trans-
21 ferred by this Act to a position having duties comparable
22 to the duties performed immediately preceding such ap-
23 pointment shall continue to be compensated in such new
24 position at not less than the rate provided for such pre-

1 vious position, for the duration of the service of such per-
2 son in such new position.

3 (c) TERMINATIONS.—Except for members of the For-
4 eign Service, positions whose incumbents are appointed by
5 the President, by and with the advice and consent of the
6 Senate, the functions of which are transferred by this Act,
7 shall terminate on the effective date of this Act.

8 **SEC. 304. SAVINGS PROVISIONS.**

9 (a) CONTINUATION OF EFFECT OF LEGAL DOCU-
10 MENTS.—All orders, determinations, rules, regulations,
11 permits, agreements, grants, contracts, certificates, li-
12 censes, registrations, privileges, and other administrative
13 actions—

14 (1) which have been issued, made, granted, or
15 allowed to become effective by the President, any
16 Federal agency or official thereof, or by a court of
17 competent jurisdiction, in the performance of func-
18 tions which are transferred under this Act, and

19 (2) which are in effect at the time this Act
20 takes effect, or were final before the effective date
21 of this Act and are to become effective on or after
22 the effective date of this Act,

23 shall continue in effect according to their terms until
24 modified, terminated, superseded, set aside, or revoked in
25 accordance with law by the President, the head of the Fed-

1 eral agency to which such functions are transferred under
2 this Act or other authorized official, a court of competent
3 jurisdiction, or by operation of law.

4 (b) PROCEEDINGS NOT AFFECTED.—(1) The provi-
5 sions of this Act shall not affect any proceedings, includ-
6 ing notices of proposed rule making, or any application
7 for any license, permit, certificate, or financial assistance
8 pending on the effective date of this Act before the De-
9 partment of Commerce or the Office of the United States
10 Trade Representative, or any office thereof with respect
11 to functions transferred by this Act; but such proceedings
12 or applications, to the extent that they relate to functions
13 transferred, shall be continued. Orders shall be issued in
14 such proceedings, appeals shall be taken therefrom, and
15 payments shall be made under such orders, as if this Act
16 had not been enacted; and orders issued in any such pro-
17 ceedings shall continue in effect until modified, termi-
18 nated, superseded, or revoked by the head of the Federal
19 agency to which such functions are transferred by this
20 Act, by a court of competent jurisdiction, or by operation
21 of law. Nothing in this subsection prohibits the discontinu-
22 ance or modification of any such proceeding under the
23 same terms and conditions and to the same extent that
24 such proceeding could have been discontinued or modified
25 if this Act had not been enacted.

1 (2) The Secretary of Commerce, the United States
2 Trade Representative, and the head of each Federal agen-
3 cy to which functions are transferred by this Act are au-
4 thorized to issue regulations providing for the orderly
5 transfer of proceedings continued under paragraph (1).

6 (c) SUITS NOT AFFECTED.—Except as provided in
7 subsection (e)—

8 (1) the provisions of this Act do not affect ac-
9 tions commenced prior to the effective date of this
10 Act, and

11 (2) in all such actions, proceedings shall be had,
12 appeals taken, and judgments rendered in the same
13 manner and effect as if this Act had not been en-
14 acted.

15 (d) NONABATEMENT OF ACTIONS.—No action or
16 other proceeding commenced by or against any officer in
17 his official capacity as an officer of the Department of
18 Commerce or the Office of United States Trade Rep-
19 resentative with respect to functions transferred by this
20 Act shall abate by reason of the enactment of this Act.
21 No cause of action by or against the Department of Com-
22 merce or the Office of United States Trade Representative
23 with respect to functions transferred by this Act, or by
24 or against any officer thereof in his official capacity, shall
25 abate by reason of the enactment of this Act. Causes of

1 action and actions with respect to a function or office
2 transferred by this Act, or other proceedings may be as-
3 serted by or against the United States or an official of
4 the Federal agency to which such function or office is
5 transferred by this Act, as may be appropriate, and, in
6 an action pending when this Act takes effect, the court
7 may at any time, on its own motion or that of any party,
8 enter an order which will give effect to the provisions of
9 this subsection.

10 (e) OFFICERS AS PARTIES TO ACTIONS.—If, before
11 the date on which this Act takes effect, the Department
12 of Commerce or the Office of the United States Trade
13 Representative, or any officer thereof in his official capac-
14 ity, is a party to an action, and under this Act any func-
15 tion of such Department, Office, or officer is transferred
16 to a Federal agency, then such action shall be continued
17 with the head of such agency substituted or added as a
18 party.

19 (f) JUDICIAL REVIEW.—Orders and actions of the
20 head of a Federal agency in the exercise of functions
21 transferred to the head of such agency by this Act shall
22 be subject to judicial review to the same extent and in
23 the same manner as if such orders and actions had been
24 by the Department of Commerce or the Office of the Unit-
25 ed States Trade Representative, or any office or officer

1 thereof, in the exercise of such functions immediately pre-
2 ceding their transfer. Any statutory requirements relating
3 to notice, hearings, action upon the record, or administra-
4 tive review that apply to any function transferred by this
5 Act shall apply to the exercise of such function by the head
6 of the Federal agency to which such function is trans-
7 ferred by this Act.

8 **SEC. 305. SEPARABILITY.**

9 If a provision of this Act or its application to any
10 person or circumstance is held invalid, neither the remain-
11 der of this Act nor the application of the provision to other
12 persons or circumstances shall be affected.

13 **SEC. 306. REFERENCE.**

14 With respect to any functions transferred by this Act
15 and exercised after the effective date of this Act, reference
16 in any other Federal law to—

17 (1) the Secretary of Commerce or the United
18 States Trade Representative; or

19 (2) the Department of Commerce or the Office
20 of the United States Trade Representative or any of-
21 ficer or office thereof,

22 shall be considered to refer to the head of the Federal
23 agency to whom such functions were transferred by this
24 Act.

1 **SEC. 307. TRANSITION.**

2 With the consent of the Secretary of Commerce or
3 the United States Trade Representative, as the case may
4 be, the head of each Federal agency to which functions
5 or offices are transferred by this Act is authorized to uti-
6 lize—

7 (1) the services of such officers, employees, and
8 other personnel of the Department of Commerce or
9 the Office of the United States Trade Representa-
10 tive, as the case may be, with respect to functions
11 or offices transferred to that agency by this Act; and

12 (2) funds appropriated to such functions or of-
13 fices for such period of time as may reasonably be
14 needed to facilitate the orderly implementation of
15 this Act.

16 **SEC. 308. ADDITIONAL CONFORMING AMENDMENTS.**

17 (a) IN GENERAL.—After consultation with the appro-
18 priate committees of the Congress and the Director of the
19 Office of Management and Budget, the head of each agen-
20 cy to which functions were transferred under this Act shall
21 prepare and submit to the Congress recommended legisla-
22 tion containing technical and conforming amendments to
23 reflect the changes made by this Act.

24 (b) TIMING OF SUBMISSIONS.—No later than 6
25 months after the effective date of this Act, each such agen-

1 cy head shall submit the recommended legislation referred
2 to under subsection (a).

3 **TITLE IV—MISCELLANEOUS**

4 **SEC. 401. EFFECTIVE DATE.**

5 (a) IN GENERAL.—This Act shall take effect 120
6 days after the date of the enactment of this Act, except
7 that—

8 (1) sections 225 and 307 shall take effect on
9 such date of enactment; and

10 (2) at any time on or after the date of enact-
11 ment of this Act—

12 (A) the officers provided for in title II may
13 be nominated and appointed, as provided in
14 such title; and

15 (B) the Secretary of Commerce, the United
16 States Trade Representative, and the head of
17 each Federal agency to which functions are
18 transferred by this Act may promulgate regula-
19 tions under section 304(b)(2).

20 (b) INTERIM COMPENSATION AND EXPENSES.—
21 Funds available to the Department of Commerce or the
22 Office of the United States Trade Representative (or any
23 official or component thereof), with respect to the func-
24 tions transferred by this Act, may be used, with approval
25 of the Director of the Office of Management and Budget,

1 to pay the compensation and expenses of an officer ap-
2 pointed under subsection (a)(2)(A) who will carry out such
3 functions until funds for that purpose are otherwise avail-
4 able.

5 **SEC. 402. INTERIM APPOINTMENTS.**

6 (a) IN GENERAL.—If 1 or more officers required by
7 this Act to be appointed by and with the advice and con-
8 sent of the Senate have not entered upon office on the
9 effective date of this Act and notwithstanding any other
10 provision of law, the President may designate any officer
11 who was appointed by and with the advice and consent
12 of the Senate, and who was such an officer on the day
13 before the effective date of this Act, to act in the office
14 until it is filled as provided by this Act.

15 (b) COMPENSATION.—Any officer acting in an office
16 pursuant to subsection (a) shall receive compensation at
17 the rate prescribed by this Act for such office.

18 **SEC. 403. PERSONNEL AND FUNDING REDUCTIONS RESULT-**
19 **ING FROM REORGANIZATION.**

20 No later than 180 days after the date of the enact-
21 ment of this Act, the Office of Management and Budget
22 shall conduct a study and submit a report to the President
23 and the Congress on personnel and funding reductions
24 which should be implemented consistent with the provi-
25 sions of this Act to reduce duplicative or unnecessary func-

1 tions. In preparing the report, the Office of Management
2 and Budget shall consult with the Secretary of Trade and
3 the head of each Federal agency affected by the provisions
4 of this Act and develop a plan for the implementation of
5 such reductions beginning the first fiscal year after the
6 effective date of this Act.

7 **SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

8 Subject to section 405, there are authorized to be ap-
9 propriated such sums as may be necessary to carry out
10 the provisions of this Act. Amounts appropriated under
11 this section shall be available until expended.

12 **SEC. 405. LIMITATION ON ANNUAL EXPENDITURES FOR**
13 **CONTINUED FUNCTIONS.**

14 Beginning in the first fiscal year that begins on or
15 after the effective date of this Act, the amount expended
16 by the United States in performing all functions which,
17 immediately before the effective date of this Act, were per-
18 formed by a department or agency of the United States
19 and are transferred by this Act to the Secretary or the
20 Department may not exceed 75 percent of the total
21 amount expended by the United States in performing all
22 such functions during fiscal year 1995.

○

HR 2325 IH—2

HR 2325 IH—3

HR 2325 IH—4

HR 2325 IH—5