

109TH CONGRESS
2^D SESSION

H. R. 5529

To amend United States trade laws to address more effectively import crises,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2006

Mr. ENGLISH of Pennsylvania (for himself and Ms. HART) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend United States trade laws to address more
effectively import crises, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Trade Law Reform Act of 2006”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO TITLE VII OF THE TARIFF ACT OF
1930

- Sec. 101. Captive production.
- Sec. 102. Price.
- Sec. 103. Vulnerability of industry; emulation.
- Sec. 104. Causal relationship between imports and injury.
- Sec. 105. Prevention of circumvention.
- Sec. 106. Perishable agricultural products.
- Sec. 107. Export price and constructed export price.
- Sec. 108. Drawback adjustment in antidumping cases.
- Sec. 109. Expedited remedy where persistent dumping is present.
- Sec. 110. Countervailable subsidy.
- Sec. 111. New shipper review.
- Sec. 112. Valuing freight for inputs in nonmarket economy country anti-dumping calculations.
- Sec. 113. Revocation of nonmarket economy country status.
- Sec. 114. Effective date.

TITLE II—SAFEGUARD AMENDMENTS

- Sec. 201. Amendments to chapter 1 of title II of the Trade Act of 1974.

TITLE III—INTERNATIONAL TRADE NEGOTIATIONS

- Sec. 301. Negotiating objectives regarding trade remedy laws.
- Sec. 302. Consultations and assessments regarding trade Agreements.
- Sec. 303. Effective date.

TITLE IV—CONGRESSIONAL ADVISORY COMMISSION ON WTO DISPUTE SETTLEMENT

- Sec. 401. Short title.
- Sec. 402. Congressional findings and purpose.
- Sec. 403. Establishment of Commission.
- Sec. 404. Duties of the Commission.
- Sec. 405. Powers of the Commission.
- Sec. 406. Report by United States Trade Representative.
- Sec. 407. Definitions.
- Sec. 408. Effective date.

TITLE V—STEEL IMPORT LICENSING AND MONITORING

- Sec. 501. Maintenance and expansion of steel import licensing and monitoring program.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Construction.
- Sec. 602. Application to goods from Canada and Mexico.
- Sec. 603. Participation in WTO panel proceedings.

1 **TITLE I—AMENDMENTS TO**
2 **TITLE VII OF THE TARIFF ACT**
3 **OF 1930**

4 **SEC. 101. CAPTIVE PRODUCTION.**

5 Section 771(7)(C)(iv) of the Tariff Act of 1930 (19
6 U.S.C. 1677(7)(C)(iv)) is amended to read as follows:

7 “(iv) CAPTIVE PRODUCTION.—If do-
8 mestic producers transfer internally, in-
9 cluding to affiliated persons as defined in
10 paragraph (33), significant production of
11 the domestic like product for the produc-
12 tion of a downstream article and sell sig-
13 nificant production of the domestic like
14 product in the merchant market, then the
15 Commission, in determining market share
16 and the factors affecting financial perform-
17 ance set forth in clause (iii), shall focus
18 primarily on the merchant market for the
19 domestic like product.”.

20 **SEC. 102. PRICE.**

21 Section 771(7)(C)(ii) of the Tariff Act of 1930 (19
22 U.S.C. 1677(7)(C)(ii)) is amended by adding at the end
23 the following flush sentence:

24 “The Commission shall not conclude
25 that imports of the subject merchandise do

1 not have a significant effect on prices
2 merely because of the volume of imports of
3 the subject merchandise.”.

4 **SEC. 103. VULNERABILITY OF INDUSTRY; CUMULATION.**

5 (a) VULNERABILITY.—Section 771(7)(C)(iii) of the
6 Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iii)) is amended
7 in the last sentence by striking the period at the end and
8 inserting “, including whether the industry is vulnerable
9 to the effects of imports of the subject merchandise.”.

10 (b) CUMULATION.—Section 771(7)(G)(i) of the Tar-
11 iff Act of 1930 (19 U.S.C. 1677(7)(G)(i)) is amended to
12 read as follows:

13 “(i) IN GENERAL.—For purposes of
14 clauses (i) and (ii) of subparagraph (C),
15 and subject to clause (ii), the Commission
16 shall cumulatively assess the volume and
17 effect of imports of the subject merchan-
18 dise from all countries subject to petitions
19 filed under section 702(b) or 732(b), or
20 subject to investigations initiated under
21 702(a) or 732(a), if such petitions were
22 filed, or such investigations were initiated,
23 within 90 days before the date on which
24 the Commission is required to make its
25 final injury determination, and if such im-

1 ports compete with each other and with
2 the domestic like product in the United
3 States market.”.

4 **SEC. 104. CAUSAL RELATIONSHIP BETWEEN IMPORTS AND**
5 **INJURY.**

6 Section 771(7)(E)(ii) of the Tariff Act of 1930 (19
7 U.S.C. 1677(7)(E)(ii)) is amended by adding at the end
8 the following: “The Commission need not determine the
9 significance of imports of the subject merchandise relative
10 to other economic factors.”.

11 **SEC. 105. PREVENTION OF CIRCUMVENTION.**

12 Section 781(c) of the Tariff Act of 1930 (19 U.S.C.
13 1677j(e)) is amended by adding at the end the following
14 new paragraph:

15 “(3) SPECIAL RULE.—The administering au-
16 thority shall apply paragraph (1) with respect to al-
17 tered merchandise excluded from the merchandise
18 description used in an outstanding order or finding,
19 if such application is not inconsistent with the af-
20 firmative determination of the Commission on which
21 the order or finding is based.”.

22 **SEC. 106. PERISHABLE AGRICULTURAL PRODUCTS.**

23 (a) DEFINITION OF INDUSTRIES.—Section 771(4)(A)
24 of the Tariff Act of 1930 (19 U.S.C. 1677(4)(A)) is
25 amended by adding at the end the following: “If the Com-

1 mission determines that an agricultural product has a
2 short shelf life and is a perishable product, the Commis-
3 sion shall treat the producers of the product in a defined
4 period or season as the domestic industry. If the sub-
5 heading under the Harmonized Tariff Schedules of the
6 United States for an agricultural product has a 6- or 8-
7 digit classification based on the period of time during the
8 calendar year in which the product is harvested or im-
9 ported, such periods of time constitute a defined period
10 or season for purposes of this paragraph.”.

11 (b) DETERMINATION OF INJURY.—Section
12 771(7)(D) of the Tariff Act of 1930 (19 U.S.C.
13 1677(7)(D)) is amended by adding at the end the fol-
14 lowing new clauses:

15 “(iii) In the case of an agricultural in-
16 dustry involving a perishable product with
17 a short shelf life, if a request for seasonal
18 evaluation has been made by the peti-
19 tioners, the Commission shall consider the
20 factors in subparagraph (C) on a seasonal
21 basis during the period identified as rel-
22 evant.

23 “(iv) In the case of agricultural prod-
24 ucts, partially picked or unpicked crops
25 and abandoned acreage may be considered

1 in lieu of other measures of capacity and
2 capacity utilization.

3 “(v) The impact of other factors, such
4 as weather, on agricultural production and
5 producers shall not be weighed against the
6 contribution of the imported subject mer-
7 chandise to the condition of the domestic
8 industry.”.

9 **SEC. 107. EXPORT PRICE AND CONSTRUCTED EXPORT**
10 **PRICE.**

11 Section 772(c)(2)(A) of the Tariff Act of 1930 (19
12 U.S.C. 1677a(c)(2)(A)) is amended by inserting after “du-
13 ties” the following: “(including any antidumping duties,
14 any countervailing duties, and those temporary duties that
15 are proclaimed to provide import relief)”.

16 **SEC. 108. DRAWBACK ADJUSTMENT IN ANTIDUMPING**
17 **CASES.**

18 Section 772(c)(1)(B) of the Tariff Act of 1930 (19
19 U.S.C. 1677a(c)(1)(B)) is amended by inserting after
20 “United States,” the following: “but only to the extent
21 necessary to offset import duties that have been paid on
22 inputs used in the production of subject merchandise sold
23 in the home market,”.

1 **SEC. 109. EXPEDITED REMEDY WHERE PERSISTENT DUMP-**
2 **ING IS PRESENT.**

3 Section 732(a)(2) of the Tariff Act of 1930 (19
4 U.S.C. 1673a(a)(2)) is amended—

5 (1) by striking subparagraph (A) and inserting
6 the following:

7 “(A) INITIATION OF EXPEDITED INVES-
8 TIGATION.—An expedited antidumping duty in-
9 vestigation shall be initiated with respect to a
10 particular class or kind of merchandise that is
11 subject to an existing antidumping order within
12 20 days of the request of an interested party
13 described in subparagraph (C), (D), (E), (F),
14 or (G) of section 771(9), if the administering
15 authority determines, from information avail-
16 able to it, that imports of such class or kind of
17 merchandise have increased materially from an
18 additional supplier country, as defined in sub-
19 paragraph (C), during a period of 90 days or
20 during a longer period as determined by the ad-
21 ministering authority to be appropriate. The re-
22 quest shall allege and present supporting infor-
23 mation that such imports are occurring. The
24 administering authority, in making a deter-
25 mination under this subparagraph, shall con-
26 sider the public record of its investigation of

1 imports of merchandise subject to the existing
2 antidumping order.”;

3 (2) by striking subparagraph (B) and inserting
4 the following:

5 “(B) INCREASED MATERIALLY.—The ad-
6 ministering authority shall consider imports of
7 merchandise from an additional supplier coun-
8 try to have increased materially if such imports
9 have increased by 15 percent or more over the
10 amount of such imports during a period of com-
11 parable duration preceding initiation of the
12 antidumping investigation of imports of mer-
13 chandise subject to the existing antidumping
14 order.”; and

15 (3) by striking subparagraph (D) and inserting
16 the following:

17 “(D) PROCEDURES AND INJURY DETER-
18 MINATIONS FOR EXPEDITED INVESTIGA-
19 TIONS.—

20 “(i) The provisions of subsections
21 (b)(3), (c)(4), (d), and (e) of this section,
22 section 733 (b), (d), and (e), section 734
23 (a), (b), (c), (d), (e), (f), (i), (k), and (l),
24 and section 735 (a), (c), (d), and (e) shall
25 apply to expedited investigations under this

1 paragraph, except that the administering
2 authority shall issue a preliminary deter-
3 mination within 90 days of receiving a re-
4 quest for an investigation under subpara-
5 graph (A).

6 “(ii) Not later than 45 days after the
7 date on which the request under subpara-
8 graph (A) is received by the administering
9 authority, the Commission shall determine
10 if there is a reasonable indication of mate-
11 rial injury or threat of material injury as
12 prescribed in section 733(a)(1).

13 “(iii) If the Commission makes an af-
14 firmative determination that there is a rea-
15 sonable indication of material injury and
16 the administering authority makes an af-
17 firmative final determination, the Commis-
18 sion shall make a final determination as
19 prescribed in section 735(b)(1) before the
20 later of—

21 “(I) the 120th day after the day
22 on which the administering authority
23 makes its affirmative preliminary de-
24 termination under this subparagraph,
25 or

1 “(II) the 45th day after the day
2 on which the administering authority
3 makes its affirmative final determina-
4 tion under section 735(a).

5 “(iv) The Commission shall make a
6 determination under this subparagraph
7 from reasonably available information (in-
8 cluding public information on the adminis-
9 trative record of its investigation of im-
10 ports of merchandise subject to the exist-
11 ing antidumping order).

12 “(v) An affirmative final determina-
13 tion shall not be made unless the Commis-
14 sion determines pursuant to the factors de-
15 scribed in sections 735(b)(1) and 771(7)
16 that an industry in the United States is
17 materially injured, or threatened with ma-
18 terial injury, by reason of imports of the
19 subject merchandise and that imports of
20 the subject merchandise are not neg-
21 ligible.”.

22 **SEC. 110. COUNTERAVAILABLE SUBSIDY.**

23 (a) DEFINITION OF COUNTERAVAILABLE SUBSIDY.—
24 Section 771(5)(E) of the Tariff Act of 1930 (19 U.S.C.
25 1677(5)(E)), as amended by this Act, is further amended

1 by adding at the end the following: “If there is a reason-
2 able indication that a financial contribution by the provi-
3 sion of goods or services has distorted prices for those
4 goods or services in the country that is subject to the in-
5 vestigation or review, or if data regarding such prices are
6 otherwise unavailable, then the administering authority
7 shall measure adequacy of remuneration by reference to
8 data regarding prices for the same or a similar good or
9 service from outside the country that is subject to the in-
10 vestigation or review. The administering authority shall
11 adjust such data to the extent practicable to reflect pre-
12 vailing market conditions in that country. If there is a rea-
13 sonable indication that prices within a political subdivi-
14 sion, dependent territory, or possession of a foreign coun-
15 try are distorted, or data are not available, then the ad-
16 ministering authority shall measure adequacy of remu-
17 nation in that political subdivision, dependent territory,
18 or possession by reference to data from the most com-
19 parable area or region in which prices are not distorted,
20 regardless of whether it is in the same country.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to any determination under sec-
23 tion 705 or 751 of the Tariff Act of 1930 (19 U.S.C.
24 1671d, 1675) that is made on or after January 1, 2002,
25 including published determinations for which judicial or

1 binational panel review has been initiated or completed
2 pursuant to section 516A of that Act (19 U.S.C. 1516a).
3 To the extent that the amendment made by subsection (a)
4 may be relevant to any such determination that has al-
5 ready been made, the administering authority shall amend
6 the determination and associated countervailing duty
7 order to bring them into compliance with the amendment
8 made by subsection (a), and shall undertake new adminis-
9 trative proceedings, if necessary, to do so.

10 **SEC. 111. NEW SHIPPER REVIEW.**

11 (a) **SUSPENSION OF THE AVAILABILITY OF BONDS**
12 **TO NEW SHIPPERS.**—Clause (iii) of section 751(a)(2)(B)
13 of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii))
14 shall not be effective during the 3-year period beginning
15 on the date of the enactment of this Act.

16 (b) **REPORT ON THE IMPACT OF THE SUSPENSION.**—
17 Not later than 2 years after the date of the enactment
18 of this Act, the Secretary of the Treasury, in consultation
19 with the Secretary of Commerce, the United States Trade
20 Representative, and the Secretary of Homeland Security,
21 shall submit to the Committee on Finance of the Senate
22 and the Committee on Ways and Means of the House of
23 Representatives a report containing—

24 (1) recommendations on whether the suspension
25 of the effectiveness of section 751(a)(2)(B)(iii) of

1 the Tariff Act of 1930 should be extended beyond
2 the date provided in subsection (a) of this section;
3 and

4 (2) assessments of the effectiveness of any ad-
5 ministrative measures that have been implemented
6 to address the difficulties giving rise to the suspen-
7 sion under subsection (a) of this section, including—

8 (A) problems in assuring the collection of
9 antidumping duties on imports from new ship-
10 pers; and

11 (B) burdens imposed on legitimate trade
12 and commerce by the suspension of availability
13 of bonds to new shippers by reason of the sus-
14 pension under subsection (a).

15 (c) REPORT ON COLLECTION PROBLEMS AND ANAL-
16 YSIS OF PROPOSED SOLUTIONS.—

17 (1) REPORT.—Not later than 90 days after the
18 date of the enactment of this Act, the Secretary of
19 the Treasury, in consultation with the Commissioner
20 of the Bureau of Customs and Border Protection
21 and the Secretary of Commerce, shall submit to the
22 Committee on Ways and Means of the House of
23 Representatives and the Committee on Finance of
24 the Senate a report describing the major problems
25 experienced in the collection of duties, including

1 fraudulent activities intended to avoid payment of
2 duties, with an estimate of the total amount of un-
3 collected duties for the previous fiscal year and a
4 breakdown across product lines describing the rea-
5 sons duties were uncollected.

6 (2) RECOMMENDATIONS.—The report shall
7 make recommendations on additional actions to ad-
8 dress remaining problems related to duty collections
9 and, for each recommendation, provide an analysis
10 of how the recommendation would address the spe-
11 cific problem or problems cited and the impact that
12 implementing the recommendation would have on
13 international trade and commerce (including any ad-
14 ditional costs imposed on United States businesses
15 and whether the implementation of the revision is
16 likely to violate any international trade obligations).

17 **SEC. 112. VALUING FREIGHT FOR INPUTS IN NONMARKET**
18 **ECONOMY COUNTRY ANTIDUMPING CAL-**
19 **CULATIONS.**

20 Section 773(c)(3) of the Tariff Act of 1930 (19
21 U.S.C. 1677b(c)(3)) is amended—

22 (1) in subparagraph (C) by striking “and” at
23 the end;

24 (2) in subparagraph (D) by striking the period
25 at the end and inserting “, and”; and

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

2 “(E) transportation costs based upon the
3 actual freight distances required to transport
4 material inputs from the unaffiliated supplier or
5 unaffiliated suppliers, or from the first unaffili-
6 ated supplier where the input is obtained from
7 an affiliate, to the producer or exporter of the
8 foreign like product.”.

9 **SEC. 113. REVOCATION OF NONMARKET ECONOMY COUN-**
10 **TRY STATUS.**

11 (a) AMENDMENT OF DEFINITION OF “NONMARKET
12 ECONOMY COUNTRY”.—Section 771(18)(C)(i) of the Tar-
13 iff Act of 1930 (19 U.S.C. 1877(18)(C)(i)) is amended
14 by striking “until revoked by the administering authority”
15 and inserting “until revoked by a resolution enacted con-
16 sistent with section 113 of the Trade Law Reform Act
17 of 2006”.

18 (b) NOTIFICATION BY PRESIDENT.—Whenever the
19 administering authority makes a final determination
20 under section 771(18)(C)(i) of the Tariff Act of 1930 (19
21 U.S.C. 1877(18)(C)(i)) to revoke the determination that
22 a foreign country is a nonmarket economy country, the
23 President shall notify the Committee on Ways and Means
24 of the House of Representatives and the Committee on

1 Finance of the Senate of that determination within 10
2 days after its publication in the Federal Register.

3 (c) RULES OF HOUSE OF REPRESENTATIVES AND
4 SENATE.—Subsections (c) through (i) of this section are
5 enacted by the Congress—

6 (1) as an exercise of the rulemaking power of
7 the House of Representatives and the Senate, re-
8 spectively, and as such they are deemed a part of
9 the rules of each House, respectively, but applicable
10 only with respect to the procedure to be followed in
11 that House in the case of approval resolutions de-
12 scribed in subsection (d) of this section; and they su-
13 persede other rules only to the extent that they are
14 inconsistent therewith; and

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

20 (d) DEFINITION.—For purposes of this section, the
21 term “approval resolution” means only a joint resolution
22 of the two Houses of the Congress, the matter after the
23 resolving clause of which is as follows: “That the Congress
24 approves the change of non-market economy status with
25 respect to the products of _____ transmitted by the

1 President to the Congress on _____.”, the first
2 blank space being filled in with the applicable country, and
3 the second blank space being filled with the appropriate
4 date.

5 (e) INTRODUCTION.—When a notification submitted
6 under subsection (b) is transmitted to the House of Rep-
7 resentatives and the Senate, an approval resolution with
8 respect to such agreement shall be introduced (by request)
9 in the House by the majority leader of the House, for him-
10 self, or by Members of the House designated by the major-
11 ity leader of the House; and shall be introduced (by re-
12 quest) in the Senate by the majority leader of the Senate,
13 for himself, or by Members of the Senate designated by
14 the majority leader of the Senate.

15 (f) AMENDMENTS PROHIBITED.—No amendment to
16 an approval resolution shall be in order in either the
17 House of Representatives or the Senate; and no motion
18 to suspend the application of this subsection shall be in
19 order in either House, nor shall it be in order in either
20 House for the Presiding Officer to entertain a request to
21 suspend the application of this subsection by unanimous
22 consent.

23 (g) PERIOD FOR COMMITTEE AND FLOOR CONSIDER-
24 ATION.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), if the committee or committees of either
3 House to which an approval resolution has been re-
4 ferred have not reported it at the close of the 45th
5 day after its introduction, such committee or com-
6 mittees shall be automatically discharged from fur-
7 ther consideration of the bill or resolution and it
8 shall be placed on the appropriate calendar. A vote
9 on final passage of the bill or resolution shall be
10 taken in each House on or before the close of the
11 15th day after the bill or resolution is reported by
12 the committee or committees of that House to which
13 it was referred, or after such committee or commit-
14 tees have been discharged from further consideration
15 of the bill or resolution. If prior to the passage by
16 one House of an approval resolution of that House,
17 that House receives the same approval resolution
18 from the other House, then—

19 (A) the procedure in that House shall be
20 the same as if no or approval resolution had
21 been received from the other House, but

22 (B) the vote on final passage shall be on
23 the approval resolution of the other House.

24 (2) COMPUTATION OF DAYS.—For purposes of
25 paragraphs (1) and (2), in computing a number of

1 days in either House, there shall be excluded any
2 day on which that House is not in session.

3 (h) FLOOR CONSIDERATION IN THE HOUSE.—

4 (1) MOTION PRIVILEGED.—A motion in the
5 House of Representatives to proceed to the consider-
6 ation of an approval resolution shall be highly privi-
7 leged and not debatable. An amendment to the mo-
8 tion shall not be in order, nor shall it be in order
9 to move to reconsider the vote by which the motion
10 is agreed to or disagreed to.

11 (2) DEBATE LIMITED.—Debate in the House of
12 Representatives on an approval resolution shall be
13 limited to not more than 20 hours, which shall be
14 divided equally between those favoring and those op-
15 posing the bill or resolution. A motion further to
16 limit debate shall not be debatable. It shall not be
17 in order to move to recommit an approval resolution
18 or to move to reconsider the vote by which an ap-
19 proval resolution is agreed to or disagreed to.

20 (3) MOTIONS TO POSTPONE.—Motions to post-
21 pone, made in the House of Representatives with re-
22 spect to the consideration of an approval resolution,
23 and motions to proceed to the consideration of other
24 business, shall be decided without debate.

1 (4) APPEALS.—All appeals from the decisions
2 of the Chair relating to the application of the Rules
3 of the House of Representatives to the procedure re-
4 lating to an approval resolution shall be decided
5 without debate.

6 (5) OTHER RULES.—Except to the extent spe-
7 cifically provided in the preceding provisions of this
8 subsection, consideration of an approval resolution
9 shall be governed by the Rules of the House of Rep-
10 resentatives applicable to other bills and resolutions
11 in similar circumstances.

12 (i) FLOOR CONSIDERATION IN THE SENATE.—

13 (1) MOTION PRIVILEGED.—A motion in the
14 Senate to proceed to the consideration of an ap-
15 proval resolution shall be privileged and not debat-
16 able. An amendment to the motion shall not be in
17 order, nor shall it be in order to move to reconsider
18 the vote by which the motion is agreed to or dis-
19 agreed to.

20 (2) DEBATE LIMITED.—Debate in the Senate
21 on an approval resolution, and all debatable motions
22 and appeals in connection therewith, shall be limited
23 to not more than 20 hours. The time shall be equally
24 divided between, and controlled by, the majority
25 leader and the minority leader or their designees.

1 (3) CONTROL OF DEBATE.—Debate in the Sen-
2 ate on any debatable motion or appeal in connection
3 with an implementing bill or approval resolution
4 shall be limited to not more than 1 hour, to be
5 equally divided between, and controlled by, the
6 mover and the manager of the bill or resolution, ex-
7 cept that in the event the manager of the bill or res-
8 olution is in favor of any such motion or appeal, the
9 time in opposition thereto, shall be controlled by the
10 minority leader or his designee. Such leaders, or ei-
11 ther of them, may, from time under their control on
12 the passage of an or approval resolution, allot addi-
13 tional time to any Senator during the consideration
14 of any debatable motion or appeal.

15 (4) OTHER MOTIONS.—A motion in the Senate
16 to further limit debate is not debatable. A motion to
17 recommit an approval resolution is not in order.

18 **SEC. 114. EFFECTIVE DATE.**

19 Except as otherwise specifically provided by this title,
20 the amendments made by this title shall apply with respect
21 to determinations made under title VII of the Tariff Act
22 of 1930 that—

23 (1) are made with respect to investigations ini-
24 tiated or petitions filed on or after the date of the
25 enactment of this Act; or

1 (2) have not become final as of such date of en-
2 actment.

3 **TITLE II—SAFEGUARD**
4 **AMENDMENTS**

5 **SEC. 201. AMENDMENTS TO CHAPTER 1 OF TITLE II OF THE**
6 **TRADE ACT OF 1974.**

7 (a) TEST FOR POSITIVE ADJUSTMENTS TO IMPORT
8 COMPETITION.—Section 201(a) of the Trade Act of 1974
9 (19 U.S.C. 2251(a)) is amended by striking “be a sub-
10 stantial cause of serious injury, or the threat thereof,” and
11 inserting “cause or threaten to cause serious injury”.

12 (b) INVESTIGATIONS AND DETERMINATIONS.—Sec-
13 tion 202 of such Act (19 U.S.C. 2252) is amended—

14 (1) in subsection (b)(1)(A), by striking “be a
15 substantial cause of serious injury, or the threat
16 thereof,” and inserting “cause or threaten to cause
17 serious injury”;

18 (2) by amending subsection (b)(1)(B) to read
19 as follows:

20 “(B) For purposes of this section, the term
21 ‘cause’ refers to a cause that contributes signifi-
22 cantly to serious injury, or the threat thereof, to the
23 domestic industry but need not be equal to or great-
24 er than any other cause.”;

25 (3) in subsection (c)—

1 (A) by amending paragraph (1)(A) to read
2 as follows:

3 “(A) with respect to serious injury—

4 “(i) change in the level of sales, pro-
5 duction, productivity, capacity utilization,
6 profits and losses, and employment;

7 “(ii) the significant idling of produc-
8 tive facilities in the domestic industry;

9 “(iii) the inability of a significant
10 number of firms to carry out domestic pro-
11 duction operations at a reasonable level of
12 profit; and

13 “(iv) significant unemployment or
14 underemployment within the domestic in-
15 dustry;”;

16 (B) in paragraph (1)(B)—

17 (i) in clause (iii) by striking “; and”
18 and inserting “, and”; and

19 (ii) by inserting after clause (iii) the
20 following:

21 “(iv) foreign production capacity, for-
22 eign inventories, the level of demand in
23 third country markets, and the availability
24 of other export markets to absorb any ad-
25 ditional exports; and”;

1 (C) by amending paragraph (1)(C) to read
2 as follows:

3 “(C) with respect to cause—

4 “(i) the rate, amount, and timing of
5 the increase in imports of the product con-
6 cerned in absolute and relative terms, in-
7 cluding whether there has been a substan-
8 tial increase in imports over a short period
9 of time; and

10 “(ii) the share of the domestic market
11 taken by increased imports.”;

12 (D) by redesignating paragraphs (3)
13 through (6) as paragraphs (5) through (8), re-
14 spectively;

15 (E) by striking paragraph (2) and insert-
16 ing the following:

17 “(2) In making determinations under para-
18 graph (1)(A) and (B), if domestic producers inter-
19 nally transfer, including to affiliated persons as de-
20 fined in section 771(33) of the Tariff Act of 1930,
21 significant production of the article like or directly
22 competitive with the imported article for the produc-
23 tion of a downstream article and sell significant pro-
24 duction of the article like or directly competitive
25 with the imported article in the merchant market,

1 then the Commission, in determining market share
2 and the factors affecting financial performance set
3 forth in paragraph (1)(A) and (B), shall focus pri-
4 marily on the merchant market for the article like
5 or directly competitive with the imported article.

6 “(3) In making determinations under sub-
7 section (b), the Commission shall—

8 “(A) consider the condition of the domestic
9 industry over the course of the relevant busi-
10 ness cycle, but may not aggregate the causes of
11 declining demand associated with a recession or
12 economic downturn in the United States econ-
13 omy into a single cause of serious injury or
14 threat of injury; and

15 “(B) examine factors other than imports
16 which may cause or threaten to cause serious
17 injury to the domestic industry.

18 The Commission shall include the results of its ex-
19 amination under subparagraph (B) in the report
20 submitted by the Commission to the President under
21 subsection (e).

22 “(4) In making determinations under sub-
23 section (b), the Commission shall consider whether
24 any change in the volume of imports that has oc-
25 curred since a petition under subsection (a) was filed

1 or a request under subsection (b) was made is re-
2 lated to the pendency of the investigation, and if so,
3 the Commission may reduce the weight accorded to
4 the data for the period after the petition under sub-
5 section (a) was filed or the request under subsection
6 (b) was made in making its determination of serious
7 injury, or the threat thereof.”; and

8 (F) in paragraph (5), as so redesignated—

9 (i) by striking “and (B)” and insert-
10 ing “, (B), and (C)”;

11 (ii) by striking “be a substantial cause
12 of serious injury, or the threat thereof,”
13 and inserting “cause or threaten to cause
14 serious injury”;

15 (4) in subsection (d)—

16 (A) in paragraph (1)(A)(ii), by striking
17 “be, or likely to be a substantial cause of seri-
18 ous injury, or the threat thereof,” and inserting
19 “cause, or be likely to cause, or threaten to
20 cause, or be likely to threaten to cause, serious
21 injury”;

22 (B) in paragraph (1)(C), in the matter fol-
23 lowing clause (ii), by striking “a substantial
24 cause of serious injury, or the threat thereof,”

1 and inserting “causing or threatening to cause
2 serious injury”;

3 (C) by amending paragraph (2)(A) to read
4 as follows:

5 “(2)(A) When a petition filed under subsection
6 (a) or a request filed under subsection (b) alleges
7 that critical circumstances exist and requests that
8 provisional relief be provided under this subsection
9 with respect to imports of the article identified in
10 the petition or request, the Commission shall, not
11 later than 45 days after the petition or request is
12 filed, determine, on the basis of available informa-
13 tion, whether—

14 “(i) there is clear evidence that increased
15 imports (either actual or relative to domestic
16 production) of the article are causing or threat-
17 ening to cause serious injury to the domestic in-
18 dustry producing an article like or directly com-
19 petitive with the imported article; and

20 “(ii) delay in taking action under this
21 chapter would cause damage to that industry
22 that would be difficult to repair.

23 “In making the evaluation under clause (ii), the
24 Commission should consider, among other factors
25 that it considers relevant, the timing and volume of

1 the imports, including whether there has been a sub-
2 stantial increase in imports over a short period of
3 time, and any other circumstances indicating that
4 delay in taking action under this chapter would
5 cause damage to the industry that would be difficult
6 to repair.”; and

7 (D) in paragraph (2)(D), by striking “30”
8 and inserting “20”.

9 (c) PRESIDENTIAL DETERMINATIONS.—

10 (1) ACTION BY PRESIDENT.—Section 203(a) of
11 the Trade Act of 1974 (19 U.S.C. 2253(a)) is
12 amended—

13 (A) in paragraph (1)(A), by striking “and
14 provide greater economic and social benefits
15 than costs” and inserting “and will not have an
16 adverse impact on the United States clearly
17 greater than the benefits of such action”;

18 (B) in paragraph (2)(F), by striking “com-
19 pensation;” at the end of clause (iii) and insert-
20 ing the following: “compensation, except that
21 the President shall give substantially greater
22 weight to the factors set out in clause (i) than
23 to those set out in clauses (ii) and (iii);”; and

24 (C) by amending paragraph (2)(I) to read
25 as follows:

1 “(I) the potential for harm to the national
2 security of the United States; and”.

3 (2) IMPLEMENTATION OF ACTION REC-
4 COMMENDED BY COMMISSION.—(A) Section 203(c) of
5 the Trade Act of 1974 (19 U.S.C. 2253(c)) is
6 amended by striking “90” and inserting “60”.

7 (B) Section 152(c)(1) of the Trade Act of 1974
8 (19 U.S.C. 2192(c)(1)) is amended by striking “not
9 counting any day which is excluded under section
10 154(b),” and inserting “counting all calendar days
11 in the case of a resolution described in subsection
12 (a)(1)(A), and not counting any day which is ex-
13 cluded under section 154(b) in the case of a resolu-
14 tion described in subsection (a)(1)(B),”.

15 (d) CONFORMING AMENDMENTS.—

16 (1) Section 203(e)(6)(B) of the Trade Act of
17 1974 (19 U.S.C. 2253(e)(6)(B)) is amended by
18 striking “substantially”.

19 (2) Section 264(c) of the Trade Act of 1974
20 (19 U.S.C. 2354(c)) is amended by striking “a sub-
21 stantial cause of serious injury or threat thereof”
22 and inserting “causing or threatening to cause seri-
23 ous injury”.

24 (3) Section 154(b) of the Trade Act of 1974
25 (19 U.S.C. 2194(b)) is amended by striking the

1 matter that precedes paragraph (1) and inserting
2 the following:

3 “(b) The 60-day period referred to in section 203(c)
4 and the 90-day period referred to in section 407(e)(2)
5 shall be computed by excluding—”.

6 **TITLE III—INTERNATIONAL**
7 **TRADE NEGOTIATIONS**

8 **SEC. 301. NEGOTIATING OBJECTIVES REGARDING TRADE**
9 **REMEDY LAWS.**

10 Section 2102(b)(14) of the Trade Act of 2002 (19
11 U.S.C. 3801(b)) is amended by adding at the end the fol-
12 lowing flush sentence:

13 “In order to carry out subparagraph (A), the
14 United States Trade Representative should refuse to
15 agree to any proposal, whether in the context of a
16 trade agreement entered into under the auspices of
17 the World Trade Organization, or a free trade agree-
18 ment with another country or group of countries,
19 that would, either individually or in combination
20 with other proposals, weaken existing United States
21 trade remedy laws contained in title VII of the Tar-
22 iff Act of 1930 or chapter 1 of title II of the Trade
23 Act of 1974, including any proposal that would
24 make obtaining relief under these provisions more

1 difficult, uncertain, or costly for domestic industries
2 to achieve or maintain over time.”.

3 **SEC. 302. CONSULTATIONS AND ASSESSMENTS REGARDING**
4 **TRADE AGREEMENTS.**

5 Section 2104(d)(3)(A) of the Trade Act of 2002 (19
6 U.S.C. 3804(d)(3)(A)) is amended—

7 (1) in clause (i), by striking “and” after the
8 semicolon;

9 (2) in clause (ii), by striking the period and in-
10 serting a semicolon; and

11 (3) by adding after clause (ii) the following:

12 “(iii) with respect to each specific pro-
13 posal that could require amendments to
14 title VII of the Tariff Act of 1930 or chap-
15 ter 1 of title II of the Trade Act of 1974,
16 whether and to what extent the proposal
17 would, either individually or in combination
18 with other proposals, make obtaining relief
19 under these provisions more difficult, un-
20 certain, or costly for domestic industries to
21 achieve or maintain over time; and

22 “(iv) for each specific proposal that
23 the President reports would not (whether
24 individually or in combination with other
25 proposals) make obtaining relief under title

1 VII of the Tariff Act of 1930 or chapter
2 1 of title II of the Trade Act of 1974 more
3 difficult, uncertain, or costly for domestic
4 industries to achieve or maintain over
5 time, a detailed explanation providing the
6 basis for this conclusion.”.

7 **SEC. 303. EFFECTIVE DATE.**

8 The amendments made by this title take effect on the
9 date of the enactment of this Act.

10 **TITLE IV—CONGRESSIONAL AD-**
11 **VISORY COMMISSION ON WTO**
12 **DISPUTE SETTLEMENT**

13 **SEC. 401. SHORT TITLE.**

14 This title may be cited as the “Congressional Advi-
15 sory Commission on WTO Dispute Settlement Act”.

16 **SEC. 402. CONGRESSIONAL FINDINGS AND PURPOSE.**

17 (a) FINDINGS.—The Congress finds the following:

18 (1) The United States joined the World Trade
19 Organization as an original member with the goal of
20 creating an improved global trading system and pro-
21 viding expanded economic opportunities for United
22 States firms and workers.

23 (2) The dispute settlement rules of the WTO
24 were created to enhance the likelihood that govern-
25 ments will observe their WTO obligations.

1 (3) These dispute settlement rules help ensure
2 that the United States can reap the full benefits of
3 its participation in the WTO.

4 (4) Successful operation of the WTO dispute
5 settlement system was critical to congressional ap-
6 proval of the Uruguay Round Agreements and is
7 critical to continued support by the United States
8 for the WTO. In particular, it is imperative that dis-
9 pute settlement panels and the Appellate Body—

10 (A) operate with fairness and in an impar-
11 tial manner;

12 (B) strictly observe the terms of reference
13 and any applicable standard of review set forth
14 in the Uruguay Round Agreements; and

15 (C) not add to the obligations, or diminish
16 the rights, of WTO members under the Uru-
17 guay Round Agreements in violation of Articles
18 3.2 and 19.2 of the Dispute Settlement Under-
19 standing.

20 (5) An increasing number of reports by dispute
21 settlement panels and the Appellate Body have
22 raised serious concerns within the Congress about
23 the ability of the WTO dispute settlement system to
24 operate in accordance with paragraph (4).

1 (6) In particular, several reports of dispute set-
2 tlement panels and the Appellate Body have added
3 to the obligations and diminished the rights of WTO
4 members, particularly under the Agreement on Im-
5 plementation of Article VI of the General Agreement
6 on Tariffs and Trade 1994, the Agreement on Sub-
7 sidies and Countervailing Measures, and the Agree-
8 ment on Safeguards.

9 (7) In order to come into compliance with re-
10 ports of dispute settlement panels and the Appellate
11 Body that have been adopted by the Dispute Settle-
12 ment Body, the Congress may need to amend or re-
13 peal statutes of the United States. In such cases, the
14 Congress must have a high degree of confidence that
15 the reports are in accordance with paragraph (4).

16 (8) The Congress needs impartial, objective,
17 and juridical advice to determine the appropriate re-
18 sponse to reports of dispute settlement panels and
19 the Appellate Body.

20 (9) The United States remains committed to
21 the multilateral, rules-based trading system.

22 (b) PURPOSE.—It is the purpose of this title to pro-
23 vide for the establishment of the Congressional Advisory
24 Commission on WTO Dispute Settlement to provide objec-
25 tive and impartial advice to the Congress on the operation

1 of the dispute settlement system of the World Trade Orga-
2 nization.

3 **SEC. 403. ESTABLISHMENT OF COMMISSION.**

4 (a) ESTABLISHMENT.—There is established a com-
5 mission to be known as the Congressional Advisory Com-
6 mission on WTO Dispute Settlement (in this title referred
7 to as the “Commission”).

8 (b) MEMBERSHIP.—

9 (1) COMPOSITION.—The Commission shall be
10 composed of 5 members, all of whom shall be judges
11 or former judges of the Federal judicial circuits and
12 shall be appointed by the Speaker of the House of
13 Representatives and the President pro tempore of
14 the Senate after considering the recommendations of
15 the Chairman and ranking member of the Com-
16 mittee on Finance of the Senate and the Chairman
17 and ranking member of the Committee on Ways and
18 Means of the House of Representatives. Commis-
19 sioners shall be chosen without regard to political af-
20 filiation and solely on the basis of each Commis-
21 sioner’s fitness to perform the duties of a Commis-
22 sioner.

23 (2) DATE.—The appointments of the initial
24 members of the Commission shall be made not later

1 than 90 days after the date of the enactment of this
2 Act.

3 (c) PERIOD OF APPOINTMENT; VACANCIES.—

4 (1) IN GENERAL.—Members of the Commission
5 shall each be appointed for a term of 5 years, except
6 that of the members first appointed, 3 members
7 shall be appointed for terms of 3 years.

8 (2) VACANCIES.—

9 (A) IN GENERAL.—Any vacancy on the
10 Commission shall not affect its powers, but
11 shall be filled in the same manner as the origi-
12 nal appointment was made and shall be subject
13 to the same conditions as the original appoint-
14 ment.

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

18 (d) INITIAL MEETING.—Not later than 30 days after
19 the date on which all members of the Commission have
20 been appointed, the Commission shall hold its first meet-
21 ing.

22 (e) MEETINGS.—The Commission shall meet at the
23 call of the Chairperson.

1 (f) QUORUM.—A majority of the members of the
2 Commission shall constitute a quorum, but a lesser num-
3 ber of members may hold hearings.

4 (g) CHAIRPERSON AND VICE CHAIRPERSON.—The
5 Commission shall select a Chairperson and Vice Chair-
6 person from among its members.

7 (h) FUNDING.—Members of the Commission shall be
8 allowed travel expenses, including per diem in lieu of sub-
9 sistence at rates authorized for employees of agencies
10 under subchapter I of chapter 57 of title 5, United States
11 Code, while away from their homes or regular places of
12 business in the performance of services for the Commis-
13 sion.

14 **SEC. 404. DUTIES OF THE COMMISSION.**

15 (a) ADVISING CONGRESS ON THE OPERATION OF
16 THE WTO DISPUTE SETTLEMENT SYSTEM.—

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

19 (A) all adverse reports of dispute settle-
20 ment panels and the Appellate Body which
21 are—

22 (i) adopted by the Dispute Settlement
23 Body; and

1 (ii) the result of a proceeding initiated
2 against the United States by a WTO mem-
3 ber; and

4 (B) upon the request of the Committee on
5 Ways and Means of the House of Representa-
6 tives or the Committee on Finance of the Sen-
7 ate—

8 (i) any adverse report of a dispute
9 settlement panel or the Appellate Body—

10 (I) which is adopted by the Dis-
11 pute Settlement Body; and

12 (II) in which the United States is
13 a complaining party; or

14 (ii) any other finding which is con-
15 tained in a report of a dispute settlement
16 panel or the Appellate Body that is adopt-
17 ed by the Dispute Settlement Body.

18 (2) SCOPE OF REVIEW.—The Commission shall
19 advise the Congress in connection with each adverse
20 finding or other finding under paragraph (1) (B)
21 only whether—

22 (A) the dispute settlement panel or the Ap-
23 pellate Body, as the case may be—

24 (i) exceeded its authority or its terms
25 of reference;

1 (ii) added to the obligations, or dimin-
2 ished the rights, of the United States
3 under the Uruguay Round Agreement
4 which is the subject of the finding;

5 (iii) acted arbitrarily or capriciously,
6 engaged in misconduct, or demonstrably
7 departed from the procedures specified for
8 panels and the Appellate Body in the ap-
9 plicable Uruguay Round Agreement; and

10 (iv) deviated from the applicable
11 standard of review, including in anti-
12 dumping, countervailing duty, and other
13 unfair trade remedy cases, the standard of
14 review set forth in Article 17.6 of the
15 Agreement on Implementation of Article
16 VI of the General Agreement on Tariffs
17 and Trade 1994; and

18 (B) the finding is consistent with the origi-
19 nal understanding by the United States of the
20 Uruguay Round Agreement that is the subject
21 of the finding as explained in the statement of
22 administrative action approved under section
23 101(a) of the Uruguay Round Agreements Act
24 (19 U.S.C. 3511(a)).

1 (3) NO DEFERENCE.—Applying the standards
2 set forth in paragraph (2) does not require deference
3 to findings of law made by the dispute settlement
4 panel or the Appellate Body, as the case may be.

5 (b) DETERMINATION; REPORT.—

6 (1) DETERMINATION.—

7 (A) IN GENERAL.—Not later than 150
8 days after the date on which the Commission
9 receives notice of a report or request under sec-
10 tion 405(b), the Commission shall make a writ-
11 ten determination with respect to the matters
12 described in paragraph (2) of subsection (a), in-
13 cluding a full analysis of the basis for its deter-
14 mination. A vote by a majority of the members
15 of the Commission shall constitute a determina-
16 tion of the Commission, although the members
17 need not agree on the basis for their vote.

18 (B) DISSENTING OR CONCURRING OPIN-
19 IONS.—Any member of the Commission who
20 disagrees with a determination of the Commis-
21 sion or who concurs in such a determination on
22 a basis different from that of the Commission
23 or other members of the Commission, may write
24 an opinion expressing such disagreement or
25 concurrence, as the case may be.

1 (2) REPORT.—The Commission shall promptly
2 report the determinations described in paragraph
3 (1)(A) to the Committee on Ways and Means of the
4 House of Representatives and the Committee on Fi-
5 nance of the Senate. The Commission shall include
6 with the report any opinions written under para-
7 graph (1)(B) with respect to the determination.

8 (c) AVAILABILITY TO THE PUBLIC.—Each report of
9 the Commission under subsection (b)(2), together with the
10 opinions included with the report, shall be made available
11 to the public.

12 **SEC. 405. POWERS OF THE COMMISSION.**

13 (a) HEARINGS.—The Commission may hold a public
14 hearing to solicit views concerning a report of a dispute
15 settlement panel or the Appellate Body described in sec-
16 tion 404(a)(1), if the Commission considers such hearing
17 to be necessary to carry out the purpose of this title. The
18 Commission shall provide reasonable notice of a hearing
19 held pursuant to this subsection.

20 (b) INFORMATION FROM INTERESTED PARTIES AND
21 FEDERAL AGENCIES.—

22 (1) NOTICE TO COMMISSION.—

23 (A) UNDER SECTION 404(a)(1)(A).—The
24 Trade Representative shall advise the Commis-
25 sion not later than 5 business days after the

1 date the Dispute Settlement Body adopts a re-
2 port of a panel or the Appellate Body that is
3 to be reviewed by the Commission under section
4 404(a)(1)(A).

5 (B) UNDER SECTION 404(a)(1)(B).—The
6 Committee on Ways and Means or the Com-
7 mittee on Finance, as the case may be, may
8 make and notify the Commission of a request
9 under section 404(a)(1)(B) not later than 1
10 year after the Dispute Settlement Body adopts
11 the report that is the subject of the request.

12 (C) REPORTS ADOPTED PRIOR TO AP-
13 POINTMENT OF COMMISSION.—With respect to
14 any report to which section 404(a)(1)(B) ap-
15 plies and that is adopted before the date on
16 which the first members of the Commission are
17 appointed under section 403(b)(2), the Com-
18 mittee on Ways and Means or the Committee
19 on Finance, as the case may be, may make and
20 notify the Commission of a request under sec-
21 tion 404(a)(1)(B) with respect to that report
22 not later than 1 year after the date on which
23 the first members of the Commission are ap-
24 pointed under section 403(b)(2).

1 (2) SUBMISSIONS AND REQUESTS FOR INFOR-
2 MATION.—

3 (A) IN GENERAL.—The Commission shall
4 promptly publish in the Federal Register notice
5 of the notice received under paragraph (1) from
6 the Trade Representative, the Committee on
7 Ways and Means, or the Committee on Fi-
8 nance, as the case may be, along with notice of
9 an opportunity for interested parties to submit
10 written comments to the Commission. The
11 Commission shall make comments submitted
12 pursuant to the preceding sentence available to
13 the public.

14 (B) INFORMATION FROM FEDERAL AGEN-
15 CIES AND DEPARTMENTS.—The Commission
16 may also secure directly from any Federal de-
17 partment or agency such information as the
18 Commission considers necessary to carry out
19 the provisions of this title. Upon the request of
20 the chairperson of the Commission, the head of
21 such department or agency shall furnish the in-
22 formation requested to the Commission in a
23 timely manner.

24 (3) ACCESS TO PANEL AND APPELLATE BODY
25 DOCUMENTS.—

1 (A) IN GENERAL.—The Trade Representa-
2 tive shall make available to the Commission all
3 submissions and relevant documents relating to
4 a report of a panel or the Appellate Body de-
5 scribed in section 404(a)(1), including any in-
6 formation contained in such submissions identi-
7 fied by the provider of the information as pro-
8 prietary information or information designated
9 as confidential by a foreign government.

10 (B) PUBLIC ACCESS.—Any document
11 which the Trade Representative submits to the
12 Commission shall be available to the public, ex-
13 cept information which is identified as propri-
14 etary or confidential or the disclosure of which
15 would otherwise violate the rules of the WTO.

16 (c) ASSISTANCE FROM FEDERAL AGENCIES; CON-
17 FIDENTIALITY.—

18 (1) ADMINISTRATIVE ASSISTANCE.—Any agency
19 or department of the United States that is des-
20 ignated by the President shall provide administrative
21 services, funds, facilities, staff, or other support
22 services to the Commission to assist the Commission
23 with the performance of the Commission’s functions.

24 (2) CONFIDENTIALITY.—The Commission shall
25 protect from disclosure any document or information

1 submitted to it by a department or agency of the
2 United States which the agency or department re-
3 quests be kept confidential. The Commission shall
4 not be considered to be an agency for purposes of
5 section 552 of title 5, United States Code.

6 **SEC. 406. REPORT BY UNITED STATES TRADE REPRESENTA-**
7 **TIVE.**

8 (a) IN GENERAL.—Not later than 90 days after the
9 third instance in which the Commission, under section
10 402(a)(2), advises Congress in the affirmative with respect
11 to one or more actions specified in section 402(a)(2)(A),
12 the United States Trade Representative shall submit to
13 the congressional committees specified in subsection (c) a
14 report detailing a course of action for reforming the WTO
15 dispute settlement process so as to ensure that dispute set-
16 tlement panels and the Appellate Body do not take actions
17 specified in section 402(a)(2)(A).

18 (b) FOLLOW-UP REPORTS.—Once the United States
19 Trade Representative submits to the congressional com-
20 mittees a report under subsection (a), the United States
21 Trade Representative shall thereafter submit to those
22 committees, not less frequently than once every six
23 months, a report detailing the progress made with respect
24 to reforming the WTO dispute settlement process (as de-
25 scribed in subsection (a)).

1 (c) SPECIFIED COMMITTEES.—The committees re-
2 ferred to in subsection (a) are the Committee on Ways
3 and Means of the House of Representatives and the Com-
4 mittee on Finance of the Senate.

5 **SEC. 407. DEFINITIONS.**

6 In this title:

7 (1) ADVERSE FINDING.—The term “adverse
8 finding” means—

9 (A) in a proceeding of a panel or the Ap-
10 pellate Body that is initiated against the United
11 States, a finding by the panel or the Appellate
12 Body that any law or regulation of, or applica-
13 tion thereof by, the United States, or any State,
14 is inconsistent with the obligations of the
15 United States under a Uruguay Round Agree-
16 ment (or nullifies or impairs benefits accruing
17 to a WTO member under such an Agreement);
18 or

19 (B) in a proceeding of a panel or the Ap-
20 pellate Body in which the United States is a
21 complaining party, any finding by the panel or
22 the Appellate Body that a measure of the party
23 complained against is not inconsistent with that
24 party’s obligations under a Uruguay Round
25 Agreement (or does not nullify or impair bene-

1 fits accruing to the United States under such
2 an Agreement).

3 (2) APPELLATE BODY.—The term “Appellate
4 Body” means the Appellate Body established by the
5 Dispute Settlement Body pursuant to Article 17.1 of
6 the Dispute Settlement Understanding.

7 (3) DISPUTE SETTLEMENT BODY.—The term
8 “Dispute Settlement Body” means the Dispute Set-
9 tlement Body established pursuant to the Dispute
10 Settlement Understanding.

11 (4) DISPUTE SETTLEMENT PANEL; PANEL.—
12 The terms “dispute settlement panel” and “panel”
13 mean a panel established pursuant to Article 6 of
14 the Dispute Settlement Understanding.

15 (5) DISPUTE SETTLEMENT UNDERSTANDING.—
16 The term “Dispute Settlement Understanding”
17 means the Understanding on Rules and Procedures
18 Governing the Settlement of Disputes referred to in
19 section 101(d)(16) of the Uruguay Round Agree-
20 ments Act (19 U.S.C. 3511(d)(16)).

21 (6) TERMS OF REFERENCE.—The term “terms
22 of reference” has the meaning given such term in
23 the Dispute Settlement Understanding.

1 (7) TRADE REPRESENTATIVE.—The term
2 “Trade Representative” means the United States
3 Trade Representative.

4 (8) URUGUAY ROUND AGREEMENT.—The term
5 “Uruguay Round Agreement” means any of the
6 Agreements described in section 101(d) of the Uru-
7 guay Round Agreements Act.

8 (9) UNITED STATES PERSON.—The term
9 “United States person” means—

10 (A) a United States citizen or an alien ad-
11 mitted for permanent residence into the United
12 States; and

13 (B) a corporation, partnership, or other
14 legal entity organized under the laws of the
15 United States or of any State, the District of
16 Columbia, or any commonwealth, territory, or
17 possession of the United States.

18 (10) WORLD TRADE ORGANIZATION; WTO.—The
19 terms “World Trade Organization” and “WTO”
20 mean the organization established pursuant to the
21 WTO Agreement.

22 (11) WTO AGREEMENT.—The term “WTO
23 Agreement” means the Agreement Establishing the
24 World Trade Organization entered into on April 15,
25 1994.

1 (12) WTO MEMBER.—The term “WTO mem-
2 ber” has the meaning given that term in section
3 2(10) of the Uruguay Round Agreements Act (19
4 U.S.C. 3501(10)).

5 **SEC. 408. EFFECTIVE DATE.**

6 This title shall take effect on the date of the enact-
7 ment of this Act.

8 **TITLE V—STEEL IMPORT**
9 **LICENSING AND MONITORING**

10 **SEC. 501. MAINTENANCE AND EXPANSION OF STEEL IM-**
11 **PORT LICENSING AND MONITORING PRO-**
12 **GRAM.**

13 (a) MAINTENANCE OF PROGRAM.—The steel import
14 licensing and monitoring program established by the Sec-
15 retary of the Treasury and the Secretary of Commerce
16 pursuant to the Memorandum signed by the President on
17 March 5, 2002 (67 Fed. Reg. 10593 through 10597) (pur-
18 suant to the authority of the President under section
19 203(g) of the Trade Act of 1974), shall, notwithstanding
20 any other action taken by the President under section 203
21 of the Trade Act of 1974 concerning the steel products
22 described in the Memorandum, remain in effect and be
23 established by the Secretary of Commerce as a permanent
24 program.

25 (b) EXPANSION OF PROGRAM.—

1 (1) IN GENERAL.—In carrying out the program
2 in accordance with subsection (a), the Secretary of
3 the Treasury and the Secretary of Commerce shall
4 expand the program to include all iron and steel,
5 and all articles of iron or steel, described in para-
6 graph (2). The import and licensing data made
7 available to the public as part of this program shall
8 be released based upon classifications at the tenth
9 digit level of the Harmonized Tariff Schedule of the
10 United States.

11 (2) IRON AND STEEL DESCRIBED.—The iron
12 and steel, and articles of iron or steel, referred to in
13 subparagraph (A) are the iron and steel, and articles
14 of iron or steel, contained in the following headings
15 and subheadings of the Harmonized Tariff Schedule
16 of the United States:

17 (A) Each of the headings 7206 through
18 7229 (relating to mill products).

19 (B) Each of the headings 7301 through
20 7307 (relating to rails, structurals, pipe and
21 tubes, and fittings and flanges).

22 (C) Heading 7308 (relating to fabricated
23 structurals).

24 (D) Subheading 7310.10.00 (relating to
25 barrels and drums).

1 (E) Heading 7312 (relating to strand and
2 rope).

3 (F) Heading 7313.00.00 (relating to
4 barbed and fence wire).

5 (G) Headings 7314, 7315, and 7317.00
6 (relating to fabricated wire).

7 (H) Heading 7318 (relating to industrial
8 fasteners).

9 (I) Heading 7326 (relating to fence posts).

10 (c) ADDITIONAL AUTHORITY.—The Secretary of the
11 Treasury and the Secretary of Commerce are hereby au-
12 thorized and directed to take such actions as are nec-
13 essary—

14 (1) to maintain the program described in sub-
15 section (a) in accordance with such subsection; and

16 (2) to expand, as necessary and appropriate,
17 such program in accordance with subsection (b).

18 **TITLE VI—MISCELLANEOUS** 19 **PROVISIONS**

20 **SEC. 601. CONSTRUCTION.**

21 The amendments made by this Act shall not be con-
22 strued to create any inference with respect to the interpre-
23 tation of the provisions of law amended by this Act as
24 such provisions were in effect before the enactment of this
25 Act.

1 **SEC. 602. APPLICATION TO GOODS FROM CANADA AND**
2 **MEXICO.**

3 Pursuant to section 1902 of the North American
4 Free Trade Agreement and section 408 of the North
5 American Free Trade Agreement Implementation Act, the
6 amendments made by this Act shall apply to goods from
7 Canada and Mexico.

8 **SEC. 603. PARTICIPATION IN WTO PANEL PROCEEDINGS.**

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

12 (1) to enforce United States rights under a
13 multilateral trade agreement, or

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

16 a private United States person that is supportive of the
17 United States Government's position before the panel or
18 Appellate Body and that has a direct economic interest
19 in the panel's or Appellate Body's resolution of the mat-
20 ters in dispute shall be permitted to participate in con-
21 sultations and panel proceedings. The Trade Representa-
22 tive shall issue regulations, consistent with subsections (b)
23 and (c), ensuring full and effective participation by any
24 such private person.

25 (b) ACCESS TO INFORMATION.—The United States
26 Trade Representative shall make available to persons de-

1 scribed in subsection (a) all information presented to or
2 otherwise obtained by the Trade Representative in connec-
3 tion with a WTO dispute settlement proceeding. The
4 United States Trade Representative shall promulgate reg-
5 ulations implementing a protective order system to protect
6 information designated by the submitting member as con-
7 fidential.

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

11 (1) consult in advance with such person regard-
12 ing the content of written submissions from the
13 United States to the WTO panel concerned or to the
14 other member countries involved;

15 (2) include, if appropriate, such person or its
16 appropriate representative as an advisory member of
17 the delegation in sessions of the dispute settlement
18 panel;

19 (3) allow such special delegation member, if
20 such member would bring special knowledge to the
21 proceeding, to appear before the panel, directly or
22 through counsel, under the supervision of responsible
23 United States Government officials; and

24 (4) in proceedings involving confidential infor-
25 mation, allow the appearance of such person only

1 through counsel as a member of the special delega-
2 tion.

3 (d) DEFINITIONS.—In this section:

4 (1) APPELLATE BODY.—The term “Appellate
5 Body” means the Appellate Body established under
6 Article 17.1 of the Dispute Settlement Under-
7 standing.

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

12 (3) DISPUTE SETTLEMENT UNDERSTANDING.—
13 The term “Dispute Settlement Understanding”
14 means the Understanding on Rules and Procedures
15 Governing the Settlement of Disputes referred to in
16 section 101(d)(16) of the Uruguay Round Agree-
17 ments Act.

18 (4) UNITED STATES PERSON.—The term
19 “United States person” means—

20 (A) a United States citizen or an alien ad-
21 mitted for permanent residence into the United
22 States; and

23 (B) a corporation, partnership, or other
24 legal entity organized under the laws of the
25 United States or of any State, the District of

1 Columbia, or any commonwealth, territory, or
2 possession of the United States.

3 (5) WTO.—The term “WTO” means the orga-
4 nization established pursuant to the WTO Agree-
5 ment.

6 (6) WTO AGREEMENT.—The term “WTO
7 Agreement” means the Agreement Establishing the
8 World Trade Organization entered into on April 15,
9 1994.

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