The following communication has been received by the Chairmen of the Committees from the United States Trade Representative.

As members of the Committees are aware, the United States Omnibus Trade and Competitiveness Act of 1988 was signed into law on August 23, 1988. This Act, in its entirety, has been notified to the GATT by the United States under paragraph 3 of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance.

As Part 2 of Subtitle C of Title I of the Act contains a number of amendments to Title VII of the Tariff Act of 1930 (which are specific to the operation of US countervailing and anti-dumping duties law), the United States Delegation has prepared a consolidated version of Title VII of the Tariff Act of 1930 for the purpose of the present notification.

In this notification, the new provisions of the law are underscored. Language in the law which was deleted by the Omnibus Trade Act amendments has not been included. Those sections in the 1988 Act which added underscored language are identified in brackets in the right-hand margin.

Because the text contained in the following notification was prepared expressly for the purpose of facilitating the Committee's review, and therefore does not represent an official consolidation of Title VII, there may be errors of a minor nature. If we are able to identify any such errors, they will be drawn to the Committee's attention as soon as possible.
PART 2--IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 1311. REFERENCE TO TITLE VII OF THE TARIFF ACT OF 1930.
Unless otherwise provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a subtitle, section, subsection, or other provision, the reference shall be considered to be made to a subtitle, section, subsection, or other provision of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

SEC. 1312. ACTIONABLE DOMESTIC SUBSIDIES.
[Amendment to section 771(5) of the Tariff Act]

SEC. 1313. CALCULATION OF SUBSIDIES ON CERTAIN PROCESS AGRICULTURAL PRODUCTS.
[Addition of new section 771B to Tariff Act]

SEC. 1314. REVOCAION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.
[Amendment to section 701 of the Tariff Act]

SEC. 1315. TREATMENT OF INTERNATIONAL CONSORTIA.
[Amendment to section 701 of the Tariff Act]

SEC. 1316. DUMPING BY NONMARKET ECONOMY COUNTRIES.
[Amendment to section 773(c); addition of new section 771(18); and amendment to section 734 of Tariff Act]

SEC. 1317. THIRD-COUNTRY DUMPING.
(a) [Definitions]
(b) [Petitions by domestic industry for action under Article 12 of the AD Code]
(c) [Application by USTR for antidumping action on behalf of the domestic industry]
(d) [Consultations after submission of application]
(e) [Action upon refusal of Agreement country to act]

SEC. 1318. INPUT DUMPING BY RELATED PARTIES.
[Amendment to section 773(e) of the Tariff Act]

SEC. 1319. FICTITIOUS MARKETS.
[Amendment to section 773(a) of the Tariff Act]

SEC. 1320. DOWNSTREAM PRODUCT MONITORING.
[Amendment adding new 780 to the Tariff Act]

SEC. 1321. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.
[Amendment adding new section 781 to the Tariff Act]

SEC. 1322. STEEL IMPORTS.
SEC. 1323. SHORT LIFE CYCLE PRODUCTS.
(a) [Amendment adding new section 739 to Tariff Act of 1930]
(b) [Amendment to section 733 of Tariff Act of 1930]

SEC. 1324. CRITICAL CIRCUMSTANCES.
(a) [Amendments to sections 702, 703(e), and 705(b)(4) of the Tariff Act of 1930]
(b) [Amendments to sections 732, 733(e), and 735(b)(4)(A) of the Tariff Act of 1930]

SEC. 1325. EXPEDITED REVIEW AUTHORITY.
[Amendments to section 736(c) of the Tariff Act of 1930]

SEC. 1326. PROCESSED AGRICULTURAL PRODUCTS.
(a) [Amendment to section 771(4) of the Tariff Act of 1930]
(b) [Amendment to section 771(7) of the Tariff Act of 1930]
(c) [Amendment to section 771(9) of the Tariff Act of 1930]
(d) [Conforming amendments to title VII of the Tariff Act of 1930]

SEC. 1327. LEASES EQUIVALENT TO SALES.
[Amendment adding new section 771(19) to Tariff Act of 1930]

SEC. 1328. MATERIAL INJURY.
[Amendment to section 771(7) of the Tariff Act of 1930]

SEC. 1329. THREAT OF MATERIAL INJURY.
[Amendment to section 771(7)(F) of the Tariff Act of 1930]

SEC. 1330. CUMULATION.
(a) [Amendment to section 771(7)(F) of the Tariff Act of 1930]
(b) [Amendment to section 771(7)(C) of the Tariff Act of 1930]

SEC. 1331. CERTIFICATION OF SUBMISSIONS.
[Amendment to section 776 of the Tariff Act of 1930]

SEC. 1332. ACCESS TO INFORMATION.
[Amendment to section 777 of the Tariff Act of 1930]

SEC. 1333. CORRECTION OF MINISTERIAL ERRORS.
(a) [Amendments to sections 705 and 735 of the Tariff Act of 1930]
(b) [Amendment to section 751 of the Tariff Act of 1930]

SEC. 1334. DRAWBACK TREATMENT.
[Amendment to section 779 of the Tariff Act of 1930]

SEC. 1335. GOVERNMENTAL IMPORTATIONS.
[Addition of new section 771(19) to the Tariff Act of 1930]
SEC. 1336. STUDIES.

(a) Study of Market Orientation of China.—The Secretary of Commerce, in consultation with the heads of other appropriate Federal agencies, shall undertake a study regarding the new market orientation of the People's Republic of China. The study shall address, but not be limited to--

(1) the effect of the new orientation on Chinese market policies and price structure, and the relationship between domestic Chinese prices and world prices;
(2) the extent to which United States trade law practices can accommodate the increased market orientation of the Chinese economy; and
(3) the possible need for changes in United States antidumping laws as they apply to foreign countries, such as China, which are in transition to a more market-oriented economy.

The Secretary of Commerce shall submit to the Congress within 1 year after the date of enactment of this Act a report on the study required under this subsection.

(b) [USTR review of bilateral subsidy commitments]

SEC. 1337. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) Investigations and Reviews After Enactment.—The amendments made by sections 1312, 1315, 1316, 1318, 1325, 1326, 1327, 1328, 1329, 1331, and 1332 shall apply only with respect to--

(1) investigations initiated after the date of enactment of this Act, and
(2) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act.

(c) Investigations After Enactment.—The amendments made by sections 1324 and 1330 shall only apply with respect to investigations initiated after the date of enactment of this Act.

(d) Prevention of Circumvention Duties; Drawback.—The provisions of section 781 of the Tariff Act of 1930, as added by section 1321(a), and the amendments made by section 1334 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

(e) Governmental Importations; Steel.—The amendments made by sections 1321(b) and 1335 shall apply with respect to entries, and withdrawals from warehouse for consumption, that are liquidated on or after the date of enactment of this Act.

(f) Fictitious Markets.—The amendment made by section 1319 shall only apply with respect to--

(1) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act, and
(2) reviews initiated under such sections--
(A) which are pending on the date of enactment of this Act, and

(B) in which a request for revocation is pending on the date of enactment of this Act.
UNITED STATES-CANADA FREE-TRADE AGREEMENT
IMPLEMENTATION ACT OF 1988

Title IV—Binational Panel Dispute Settlement in Antidumping and Countervailing Duty Cases

SEC. 401. AMENDMENTS TO SECTION 516A OF THE TARIFF ACT OF 1930.
(a) [Amendment adding new paragraph (5) to section 516A(a) of the Tariff Act of 1930]
(b) [Amendment adding new definitional paragraphs (5)-(7) to section 516A(f) of the Tariff Act of 1930]
(c) [Amendment adding new subsection (g) to section 516A of the Tariff Act of 1930]
(d) [Amendment adding new paragraph (3) to section 516A(b) of the Tariff Act of 1930]

SEC. 402. AMENDMENTS TO TITLE 28, UNITED STATES CODE.
(a) [Amendment to 28 U.S.C. 1581(i)]
(b) [Amendment to 28 U.S.C. 2643(c)]
(c) [Amendment to 28 U.S.C. 2201(a)]
(d) [Amendment adding new section 1584 to Chapter 95 of title 28, United States Code]

SEC. 403. CONFORMING AMENDMENTS TO THE TARIFF ACT OF 1930.
(a) [Amendment to 19 U.S.C. 1502(b)]
(b) [Amendment to 19 U.S.C. 1514(b)]
(c) [Amendment adding new subsection (d) to section 777 of the Tariff Act of 1930]
(d) [Amendment adding new paragraph (18) to section 771 of the Tariff Act of 1930]

SEC. 404. AMENDMENTS TO ANTIDUMPING AND COUNTERVAILING DUTY LAW.
[Rules concerning future amendments to AD/CVD statutes]

SEC. 405. ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS REGARDING THE IMPLEMENTATION OF CHAPTERS 18 AND 19 OF THE AGREEMENT.
(a) [Procedures for appointing individuals to panels and committees]
(b) [Status of panelists]
(c) [Immunity of panelists]
(d) [Authority to issue regulations]
(e) [Establishment of U.S. Secretariat]

SEC. 406. AUTHORIZATION OF APPROPRIATIONS FOR THE SECRETARIAT, THE PANELS, AND THE COMMITTEES.
(a) [The Secretariat]
(b) [Panels and committees]

SEC. 407. TESTIMONY AND PRODUCTION OF PAPERS IN EXTRAORDINARY CHALLENGES.

SEC. 408. REQUESTS FOR REVIEW OF CANADIAN ANTIDUMPING AND COUNTERVAILING DUTY DETERMINATIONS.
SEC. 409. SUBSIDIES.
(a) [Negotiating authority]
(b) [Identification of industries facing subsidized imports]

410. TERMINATION OF AGREEMENT.
(a) [General requirements]
(b) [Transition provisions]
SEC. 303. COUNTERVAILING DUTIES.

(a) Levy of Countervailing Duties.--(1) Except in the case of an article or merchandise which is the product of a country under the Agreement (within the meaning of section 701(b) of this title), whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

(2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there are affirmative determinations by the Commission under title VII; except that such a determination shall not be required unless a determination of injury is required by the international obligations of the United States.

(b) Regulations Prescribed by Administering Authority; Imported Articles or Merchandise Which Are Not Duty Free.—The duty imposed under subsection (a) shall be imposed, under regulations prescribed by the administering authority (as defined in section 771(1)), in accordance with title VII of this Act (relating to the imposition of countervailing duties) except that, in the case of any imported article or merchandise which is not free of duty—

(1) no determination by the United States International Trade Commission under section 703(a), 704, or 705(b) shall be required,

(2) an investigation may not be suspended under section 704(c),

(3) no determination as to the presence of critical circumstances shall be made under section 703(e) or 705(a)(2) or (b)(4)(A), and

(4) any reference to determinations by the Commission, or to the suspension of an investigation under section 704(c) which are not permitted or required by this subsection shall be disregarded.


(d) Temporary provision while negotiations are in progress.--(1) It is the sense of the Congress that the President, to the extent practicable and consistent with United States interests, seek through negotiations the establishment of
internationally agreed rules and procedures governing the use of
subsidies (and other export incentives) and the application of
countervailing duties.

(2) If, after seeking information and advice from such
agencies as he may deem appropriate, the Secretary of the
Treasury determines, at any time during the four-year period
beginning on January 3, 1975, that--

(A) adequate steps have been taken to reduce substan­
tially or eliminate during such period the adverse effect of
a bounty or grant which he has determined is being paid or
bestowed with respect to any article or merchandise;

(B) there is a reasonable prospect that, under section
102 of the Trade Act of 1974, successful trade agreements
will be entered into with foreign countries or instrumen­
talities providing for the reduction or elimination of
barriers to or other distortions of international trade; and

(C) the imposition of the additional duty under this
section with respect to such article or merchandise would be
likely to seriously jeopardize the satisfactory completion
of such negotiations;

the imposition of the additional duty under this section with
respect to such article or merchandise shall not be required
during the remainder of such four-year period. This paragraph
shall not apply with respect to any case involving non-rubber
footwear pending on the date of enactment of the Trade Act of
1974 until and unless agreements which temporize imports of non-
rubber footwear become effective.

(3) The determination of the Secretary under paragraph (2)
may be revoked by him in his discretion, at any time, and any
determination made under such paragraph shall be revoked whenever
the basis supporting such determination no longer exists. The
additional duty provided under this section shall apply with
respect to any affected articles or merchandise entered, or
withdrawn from warehouse, for consumption on or after the date of
publication of any revocation under this subsection in the
Federal Register.

(4)(A) The four-year period referred to in paragraph (2) is
extended from January 2, 1979, until whichever of the following
dates first occurs:

(i) The date on which either House of Congress
defeats on a vote of final passage, in accordance with the
provisions of section 151 of the Trade Act of 1974, imple­
menting legislation with respect to a multilateral trade
agreement or agreements governing the use of subsidies.

(ii) The date of the enactment of such implementing
legislation.

(iii) September 30, 1979.

(B) Any determination made by the Secretary under this
subsection with respect to merchandise of a country which, if
title VII of the Tariff Act of 1930 were in effect, would, as
determined by the President, be a country under the Agreement
(within the meaning of section 701(b) of such Act), which is in
effect on September 29, 1979, or on the day before the date of
the enactment of the Trade Agreements Act of 1979 (whichever of
such dates first occurs), shall remain in effect until whichever of the following dates first occurs:

(i) The date on which the United States International Trade Commission makes a determination under section 104 of the Trade Agreements Act of 1979.

(ii) The date such determination is revoked under paragraph (3).

(iii) The date of adoption of a resolution of disapproval of such determination under subsection (e)(2).

(e) Reports to Congress.--(1) Whenever the Secretary makes a determination under subsection (d)(2) with respect to any article or merchandise, he shall promptly transmit to the House of Representatives and the Senate a document setting forth the determination, together with his reasons therefor.

(2) If, at any time after the document referred to in paragraph (1) is delivered to the House of Representatives and the Senate, either the House or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval under the procedures set forth in section 152 of the Trade Act of 1974, then such determination under subsection (d)(2) with respect to such article or merchandise shall have no force or effect beginning with the day after the date of the adoption of such resolution of disapproval, and the additional duty provided under this section with respect to such article or merchandise shall apply with respect to articles or merchandise entered, or withdrawn from warehouse, for consumption on or after such day.

(f) Cross Reference.--For provisions of law applicable in the case of articles and merchandise which are the product of countries under the Agreement within the meaning of section 701(b) of this Act, see title VII of this Act.

Section 331(d)(3) of Trade Act of 1974
[19 U.S.C. 1303 note; P.L 93-618]

Sec. 331(d)(3). Any article which is entered or withdrawn from warehouse free of duty as a result of action taken under title V of this Act shall be considered a nondutiable article for purposes of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).
TITLE VII--COUNTERVAILING AND ANTIDUMPING DUTIES

Subtitle A--Imposition of Countervailing Duties

Sec. 701. Countervailing duties imposed.
Sec. 702. Procedures for initiating a countervailing duty investigation.
Sec. 703. Preliminary Determinations.
Sec. 704. Termination or suspension of investigation.
Sec. 705. Final determinations.
Sec. 706. Assessment of duty.
Sec. 707. Treatment of difference between deposit of estimated countervailing duty and final assessed duty under countervailing duty order.
Sec. 708. Effect of derogation of Export-Import Bank financing.
Sec. 709. Conditional payment of countervailing duty.

Subtitle B--Imposition of Antidumping Duties

Sec. 731. Antidumping duties imposed.
Sec. 732. Procedures for initiating an antidumping duty investigation.
Sec. 733. Preliminary determinations.
Sec. 734. Termination or suspension of investigation.
Sec. 735. Final Determinations.
Sec. 736. Assessment of duty.
Sec. 737. Treatment of difference between deposit of estimated antidumping duty and final assessed duty under antidumping duty order.
Sec. 738. Conditional payment of antidumping duty.
Sec. 739. Establishment of product categories for short life cycle merchandise.

Subtitle C--Review of Determinations

Part I--Review of Amount of Duty and Agreements Other Than Quantitative Restriction Agreements

Sec. 751. Administrative review of determinations.

Part II--Consultations and Determinations Regarding Quantitative Restriction Agreements

Sec. 761. Required consultations.
Sec. 762. Required determinations.

Subtitle D--General Provisions

Sec. 771. Definitions; special rules.
Sec. 771A. Upstream subsidies.
Sec. 771B. Calculation of subsidies on certain processed agricultural products.
Sec. 772. United States price.
Sec. 773. Foreign market value.
Sec. 774. Hearings.
Sec. 775. Subsidy practices discovered during a proceeding.
Sec. 776. Verification of information.
Sec. 777. Access to information.
Sec. 777A. Sampling and averaging.
Sec. 778. Interest on certain overpayments and underpayments.
Sec. 779. Drawback treatment.
Sec. 780. Downstream product monitoring.
TITLE VII--COUNTERVAILING AND ANTIDUMPING DUTIES

Subtitle A--Imposition of Countervailing Duties

SEC. 701. COUNTERVAILING DUTIES IMPOSED.

(a) General rule.--If--

(1) the administering authority determines that--
   (A) a country under the Agreement, or
   (B) a person who is a citizen or national of such a country, or a corporation, association, or other organization organized in such a country, is providing, directly or indirectly, a subsidy with respect to the manufacture, production, or exportation of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States, and

(2) the Commission determines that--
   (A) an industry in the United States--
       (i) is materially injured, or
       (ii) is threatened with material injury, or
   (B) the establishment of an industry in the United States is materially retarded, by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation,

then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net subsidy. For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

(b) Country under the Agreement.--For purposes of this subtitle, the term "country under the Agreement" means a country--

(1) between the United States and which the Agreement on Subsidies and Countervailing Measures applies, as determined under section 2(b) of the Trade Agreements Act of 1979,

(2) which has assumed obligations with respect to the United States which are substantially equivalent to obligations under the Agreement, as determined by the President, or

(3) with respect to which the President determines that--

   (A) there is an agreement in effect between the United States and that country which--
       (i) was in force on June 19, 1979, and
       (ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States,
   (B) the General Agreement on Tariffs and Trade does not apply between the United States and that country, and
   (C) the agreement described in subparagraph (A)
does not expressly permit--
(i) actions required or permitted by the General Agreement on Tariffs and Trade, or required by the Congress, or
(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

(c) Revocation of Status as a Country Under the Agreement.--The United States Trade Representative may revoke the status of a foreign country as a country under the Agreement for purposes of this subtitle if such foreign country--
(1) announces that such foreign country does not intend, or is not able, to honor the obligations it has assumed with respect to the United States or the Agreement for purposes of this subtitle, or
(2) does not in fact honor such obligations.

(d) Treatment of International Consortia.--For purposes of this subtitle, if the members (or other participating entities) of an international consortium that is engaged in the production of a class or kind of merchandise subject to a countervailing duty investigation receive subsidies from their respective home countries to assist, permit, or otherwise enable their participation in that consortium through production or manufacturing operations in their respective home countries, then the administering authority shall cumulate all such subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise.

(e) Upstream Subsidy.--Whenever the administering authority has reasonable grounds to believe or suspect that an upstream subsidy, as defined in section 771A(a)(1), is being paid or bestowed, the administering authority shall investigate whether an upstream subsidy has in fact been paid or bestowed, and if so, shall include the amount of the upstream subsidy as provided in section 771A(a)(3).

(d) Cross reference.--For provisions of law applicable in the case of merchandise which is the product of a country other than a country under the Agreement, see section 303 of this Act.

SEC. 702. PROCEDURES FOR INITIATING A COUNTERVAILING DUTY INVESTIGATION.

(a) Initiation by Administering Authority.--A countervailing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 701(a) exist.

(b) Initiation by Petition.--
(1) Petitioner requirements.--A countervailing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 701(a), and which is accompanied by information
reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

(2) Simultaneous filing with Commission.--The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

(3) Petition based upon a derogation of an international undertaking on official export credits.--If the sole basis of a petition filed under subsection 702(b)(1) is the derogation of an international undertaking on official export credits, the Administering Authority shall immediately notify the Secretary of the Treasury who shall, in consultation with the Administering Authority, within twenty days determine the existence and estimated value of the derogation, if any, and shall publish such determination in the Federal Register.

(c) Petition Determination.--Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall--

(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 701(a) and contains information reasonably available to the petitioner supporting the allegations,

(2) if the determination is affirmative, commence an investigation to determine whether a subsidy is being provided with respect to the class or kind of merchandise described in the petition, and provide for the publication of notice of the determination to commence an investigation in the Federal Register, and

(3) if the determination is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register.

(d) Notification to Commission of Determination.--The administering authority shall--

(1) notify the Commission immediately of any determination it makes under subsection (a) or (c), and

(2) if the determination is affirmative, make available to the Commission such information as it may have relating to the matter under investigation, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing or under protective order, of any information to which confidential treatment has been given by the administering authority.

(e) Information Regarding Critical Circumstances.--If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that the alleged subsidy is inconsistent with the Agreement, the administering authority may request the Commissioner of Customs to compile information on an expedited basis
regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 705(a), the investigation is terminated, or the administering authority withdraws the request.

SEC. 703. PRELIMINARY DETERMINATIONS.

(a) Determination by Commission of Reasonable Indication of injury.—Except in the case of a petition dismissed by the administering authority under section 702(c)(3), the Commission, within 45 days after the date on which a petition is filed under section 702(b) or on which it receives notice from the administering authority of an investigation commenced under section 702(a), shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable indication that—

(1) an industry in the United States—
   (A) is materially injured, or
   (B) is threatened with material injury, or

(2) the establishment of an industry in the United States is materially retarded,
by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

(b)(1) Preliminary Determination by Administering Authority; expedited determinations; waiver of verification.—Within 85 days after the date on which a petition is filed under section 702(b), or an investigation is commenced under section 702(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that a subsidy is being provided with respect to the merchandise which is the subject of the investigation. If the determination of the administering authority under this subsection is affirmative, the determination shall include an estimate of the net subsidy.

(b)(2) Notwithstanding subsection (b)(1), when the petition is one subject to section 702(b)(3), the Administering Authority shall, taking into account the nature of the subsidy concerned, make the determination required by subsection 703(b)(1) on an expedited basis and within 85 days after the date on which the petition is filed under section 702(b) unless the provisions of section 703(c) apply.

(b)(3) Preliminary determination under waiver of verification.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if
there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.

(c) Extension of Period in Extraordinarily Complicated Cases.--

(1) In general.--If--

(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b), or

(B) the administering authority concludes that the parties concerned are cooperating and determines that--

(i) the case is extraordinarily complicated by reason of--

   (I) the number and complexity of the alleged subsidy practices;
   (II) the novelty of the issues presented;
   (III) the need to determine the extent to which particular subsidies are used by individual manufacturers, producers, and exporters; or
   (IV) the number of firms whose activities must be investigated; and

(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b) until not later than the 150th day after the date on which a petition is filed under section 702(b), or an investigation is commenced under section 702(a).

(2) Notice of postponement.--The administering authority shall notify parties to the investigation, not later than 20 days before the date on which the preliminary
determination would otherwise be required under subsection (b), if it intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement. Notice of the postponement shall be published in the Federal Register.

(d) Effect of Determination by the Administering Authority.--If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority--

(1) shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

(2) shall order the posting of a cash deposit, bond, or other security, as it deems appropriate, for each entry of the merchandise concerned equal to the estimated amount of the net subsidy, and

(3) shall make available to the Commission all information upon which its determination was based and which the Commission considers relevant to its injury determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

(e) Critical Circumstances Determinations.--

(1) In general.--If a petitioner alleges critical circumstances in its original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly (at any time after the initiation of the investigation under this subtitle) determine, on the basis of the best information available to it at that time, whether there is a reasonable basis to believe or suspect that--

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

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

(2) Suspension of liquidation.--If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

(f) Notice of Determinations.--Whenever the Commission or the administering authority makes a determination under this
section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

(g) Time Period Where Upstream Subsidization Involved.--

(1) In general.--Whenever the administering authority concludes prior to a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 702(b) or commencement of an investigation under section 702(a) (310 days in cases declared extraordinarily complicated under section 703(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning upstream subsidization.

(2) Exceptions.--Whenever the administering authority concludes, after a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed--

(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 or 225 days as appropriate, under section 705(a)(1); or

(B) in cases in which the preliminary determination is affirmative, the determination concerning upstream subsidization--

(i) need not be made until the conclusion of the first annual review under section 751 of any eventual Countervailing Duty Order, or, at the option of the petitioner, or

(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 or 225 days, as appropriate, under section 705(a)(1), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of the determination and not be resumed unless and until the publication of a Countervailing Duty Order under section 706(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning upstream subsidization.

SEC. 704. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Termination of Investigation Upon Withdrawal of Petition.--

(1) In general.--Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be
terminated by either the administering authority or the
Commission, after notice to all parties to the investiga-
tion, upon withdrawal of the petition by the petitioner or
by the administering authority if the investigation was
initiated under section 702(a).
(2) Special rules for quantitative restriction
agreements.--
(A) In general.--Subject to subparagraphs (B) and
(C), the administering authority may not terminate an
investigation under paragraph (1) by accepting, with
the government of the country in which the subsidy
practice is alleged to occur, an understanding or other
kind of agreement to limit the volume of imports into
the United States of the merchandise that is subject to
the investigation unless the administering authority is
satisfied that termination on the basis of that
agreement is in the public interest.
(B) Public interest factors.--In making a
decision under subparagraph (A) regarding the public
interest, the administering authority shall take into
account--
(i) whether, based upon the relative impact
on consumer prices and the availability of
supplies of the merchandise, the agreement would
have a greater adverse impact on United States
consumers than the imposition of countervailing
duties;
(ii) the relative impact on the internation-
 al economic interests of the United States; and
(iii) the relative impact on the competi-
 tiveness of the domestic industry producing the
like merchandise, including any such impact on
employment and investment in that industry.
(C) Prior consultations.--Before making a
decision under subparagraph (A) regarding the public
interest, the administering authority shall, to the
extent practicable, consult with--
(i) potentially affected consuming in-
dustries; and
(ii) potentially affected producers and
workers in the domestic industry producing the
like merchandise, including producers and workers
not party to the investigation.
(3) Limitation on termination by Commission.--The
Commission may not terminate an investigation under
paragraph (1) before a preliminary determination is made by
the administering authority under section 703(b).
(b) Agreements to Eliminate or Offset Completely a Subsidy
or to Cease Exports of Subsidized Merchandise.--The administering
authority may suspend an investigation if the government of the
country in which the subsidy practice is alleged to occur
agrees, or exporters who account for substantially all of the
imports of the merchandise which is the subject of the investiga-
tion agree--
(1) to eliminate the subsidy completely or to offset completely the amount of the net subsidy, with respect to that merchandise exported directly or indirectly to the United States, within 6 months after the date on which the investigation is suspended, or
(2) to cease exports of that merchandise to the United States within 6 months after the date on which the investigation is suspended.

(c) Agreements Eliminating Injurious Effect.—
(1) General rule.—If the administering authority determines that extraordinary circumstances are present in a case, it may suspend an investigation upon the acceptance of an agreement from a government described in subsection (b), or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.
(2) Certain additional requirements.—Except in the case of an agreement by a foreign government to restrict the volume of imports of the merchandise which is the subject of the investigation into the United States, the administering authority may not accept an agreement under this subsection unless—
(A) the suppression or undercutting of price levels of domestic products by imports of that merchandise will be prevented, and
(B) at least 85 percent of the net subsidy will be offset.
(3) Quantitative restrictions agreements.—The administering authority may accept an agreement with a foreign government under this subsection to restrict the volume of imports of merchandise which is the subject of the investigation into the United States, but it may not accept such an agreement with exporters.
(4) Definition of extraordinary circumstances.—
(A) Extraordinary circumstances.—For purposes of this subsection, the term "extraordinary circumstances" means circumstances in which—
(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and
(ii) the investigation is complex.
(B) Complex.—For purposes of this paragraph, the term "complex" means—
(i) there are a large number of alleged subsidy practices and the practices are complicated,
(ii) the issues raised are novel, or
(iii) the number of exporters involved is large.

(d) Additional rules and conditions.—
(1) Public interest; monitoring.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—
(A) it is satisfied that suspension of the investigation is in the public interest, and
(B) effective monitoring of the agreement by the United States is practicable.

In applying subparagraph (A) with respect to any quantitative restriction agreement under subsection (c), the administering authority shall take into account, in addition to such other factors as are considered necessary or appropriate, the factors set forth in subsection (a)(2)(B)(i), (ii), and (iii) as they apply to the proposed suspension and agreement, after consulting with the appropriate consuming industries, producers, and workers referred to in subsection (a)(2)(C)(i) and (ii).

(2) Exports of merchandise to United States not to increase during interim period.--The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

(3) Regulations governing entry or withdrawals.--In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

(e) Suspension of Investigation Procedure.--Before an investigation may be suspended under subsection (b) or (c) the administering authority shall--

(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify other parties to the investigation and the Commission not less than 30 days before the date on which it suspends the investigation,

(2) provide a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced (including any action required of foreign governments), and of how the agreement will meet the requirements of subsections (b) and (d), or (c) and (d), and

(3) permit all interested parties described in section 771(9) to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

(f) Effects of Suspension of Investigation.--

(1) In general.--If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then--

(A) it shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section
703(b) with respect to the merchandise which is the subject of the investigation, unless it has previously issued such a determination in the same investigation,

(B) the Commission shall suspend any investigation it is conducting with respect to that merchandise, and

(C) the suspension of investigation shall take effect on the day on which such notice is published.

(2) Liquidation of entries.--

(A) Cessation of exports; complete elimination of net subsidy.--If the agreement accepted by the administering authority is an agreement described in subsection (b), then--

(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 703(d)(1),

(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 703(d)(1).

(B) Other agreements.--If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 703(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 703(d)(2) may be adjusted to reflect the effect of the agreement.

(3) Where investigation is continued.--If, pursuant to subsection (g), the administering authority and the Commission continue an investigation in which an agreement has been accepted under subsection (b) or (c), then--

(A) if the final determination by the administering authority or the Commission under section 705 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue a countervailing duty order in the case so long as--

(i) the agreement remains in force,

(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and
(d), and

(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

(g) Investigation to Be Continued Upon Request.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

(1) the government of the country in which the subsidy practice is alleged to occur, or
(2) an interested party described in subparagraph (C), (D), (E), (F), and (G) of section 771(9) which is a party to the investigation,

then the administering authority and the Commission shall continue the investigation.

(h) Review of Suspension.—

(1) In general.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), (E), (F), and (G) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

(2) Commission investigation.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed with it, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission's determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 703(b) had been made on that date.

(3) Suspension of liquidation to continue during review period.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

(A) terminate the suspension of liquidation under section 703(d)(1), and
(B) release any bond or other security, and refund any cash deposit, required under section 703(d)(2).

(i) Violation of Agreement.—
(1) In general.--If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of its determination, it shall--

(A) suspend liquidation under section 703(d)(1) of unliquidated entries of the merchandise made on or after the later of--

(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsections (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

(B) if the investigation was not completed, resume the investigation as if its affirmative preliminary determination under section 703(b) were made on the date of its determination under this paragraph,

(C) if the investigation was completed under subsection (g), issue a countervailing duty order under section 706(a) effective with respect to entries of merchandise the liquidation of which was suspended,

(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and

(E) notify the petitioner, interested parties who are or were parties to the investigation, and the Commission of its action under this paragraph.

(2) Intentional violation to be punished by civil penalty.--Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

(j) Determination Not to Take Agreement Into Account.--In making a final determination under section 705, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

(k) Termination of Investigations Initiated by Administering Authority.--The administering authority may terminate any investigation initiated by the administering authority under
section 702(a) after providing notice of such termination to all parties to the investigation.

SEC. 705. FINAL DETERMINATIONS.

(a) Final Determinations by Administering Authority.--

(1) In general.--Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.

(2) Critical circumstances determinations.--If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 703(e), shall also contain a finding as to whether--

(A) the subsidy is inconsistent with the Agreement, and

(B) there have been massive imports of the class or kind of merchandise involved over a relatively short period.

Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.

(b) Final Determination by Commission.--

(1) In general.--The Commission shall make a final determination of whether--

(A) an industry in the United States--

(i) is materially injured, or

(ii) is threatened with material injury, or

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

by reason of imports, or sales (or the likelihood of sales) for importation, of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

(2) Period for injury determination following affirmative preliminary determination by administering authority.--If the preliminary determination by the administering authority under section 703(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of--

(A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 703(b), or

(B) the 45th day after the day on which the administering authority makes its affirmative final
determination under subsection (a).

(3) Period for injury determination following negative preliminary determination by administering authority.—If the preliminary determination by the administering authority under section 703(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

(4) Certain additional findings.—

(A) Retroactive Application.—

(i) In general.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of a countervailing duty on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time and will be difficult to repair.

(ii) Prevention of recurrence.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the countervailing duty order would be materially impaired if such imposition did not occur.

(iii) Evaluation of effectiveness.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

(I) the condition of the domestic industry,

(II) whether massive imports of the merchandise over a relatively short period of time can be accounted for by efforts to avoid the potential imposition of countervailing duties,

(III) whether foreign economic conditions led to the massive imports of the merchandise, and

(IV) whether the impact of massive imports of the merchandise is likely to continue for some period after issuance of the countervailing duty order under this subtitle.

(B) If the final determination of the Commission is that there is no material injury but that there is threat of material injury, then its determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries
(c) Effect of Final Determinations.--

(1) Effect of affirmative determination by the administering authority.--If the determination of the administering authority under subsection (a) is affirmative, then--

(A) the administering authority shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to its determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority, and

(B) in cases where the preliminary determination by the administering authority under section 703(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 703(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

(2) Issuance of order; effect of negative determination.--If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue a countervailing duty order under section 706(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall--

(A) terminate the suspension of liquidation under section 703(d)(1), and

(B) release any bond or other security and refund any cash deposit required under section 703(d)(2).

(3) Effect of negative determinations under subsections (a)(2) and (b)(4)(A).--If the determination of the administering authority or the Commission under subsection (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall--

(A) terminate any retroactive suspension of liquidation required under paragraph (4) or section 703(e)(2), and

(B) release any bond or other security, and refund any cash deposit required, under section 703(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 703(e)(2).

(4) Effect of affirmative determination under subsection (a)(2).--If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall--

(A) in cases where the preliminary determinations by the administering authority under sections 703(b)
and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 703(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.

(d) Publication of Notice of Determinations.--Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

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

SEC. 706. ASSESSMENT OF DUTY.

(a) Publication of Countervailing Duty Order.--Within 7 days after being notified by the Commission of an affirmative determination under section 705(b), the administering authority shall publish a countervailing duty order which--

(1) directs customs officers to assess a countervailing duty equal to the amount of the net subsidy determined or estimated to exist, within 6 months after the date on which the administering authority receives satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from
warehouse, for consumption,
(2) shall presumptively apply to all merchandise of
such class or kind exported from the country investigated,
except that if--
(A) the administering authority determines there
is a significant differential between companies
receiving subsidy benefits, or
(B) a State-owned enterprise is involved,
the order may provide for differing countervailing duties,
(3) includes a description of the class or kind of
merchandise to which it applies, in such detail as the
administering authority deems necessary, and
(4) requires the deposit of estimated countervailing
duties pending liquidation of entries of merchandise at the
same time as estimated normal customs duties on that
merchandise are deposited.

(b) Imposition of Duties.--
(1) General rule.--If the Commission, in its final
determination under section 705(b), finds material injury or
threat of material injury which, but for the suspension of
liquidation under section 703(d)(1), would have led to a
finding of material injury, then entries of the merchandise
subject to the countervailing duty order, the liquidation of
which has been suspended under section 703(d)(1), shall be
subject to the imposition of countervailing duties under
section 701(a).
(2) Special rule.--If the Commission, in its final
determination under section 705(b), finds threat of material
injury, other than threat of material injury described in
paragraph (1), or material retardation of the establishment
of an industry in the United States, then merchandise
subject to a countervailing duty order which is entered, or
withdrawn from warehouse, for consumption on or after the
date of publication of notice of an affirmative determina-
tion of the Commission under section 705(b) shall be subject
to the imposition of countervailing duties under section
701(a), and the administering authority shall release any
bond or other security, and refund any cash deposit made, to
secure the payment of countervailing duties with respect to
entries of the merchandise entered, or withdrawn from
warehouse, for consumption before that date.

SEC. 707. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED
COUNTERVAILING DUTY AND FINAL ASSESSED DUTY UNDER
COUNTERVAILING DUTY ORDER.

(a) Deposit of Estimated Countervailing Duty Under Section
703(d)(2).--If the amount of a cash deposit, or the amount of any
bond or other security, required as security for an estimated
countervailing duty under section 703(d)(2) is different from the
amount of the countervailing duty determined under a countervail-
ing duty order issued under section 706, then the difference for
entries of merchandise entered, or withdrawn from warehouse, for
consumption before notice of the affirmative determination of the
Commission under section 705(b) is published shall be--
(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or
(2) refunded or released, to the extent that the cash deposit, bond, or other security is higher than the duty under the order.

(b) Deposit of Estimated Countervailing Duty Under Section 706(a)(3).—If the amount of an estimated countervailing duty deposited under section 706(a)(3) is different from the amount of the countervailing duty determined under a countervailing duty order issued under section 706, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 705(b) is published shall be—
(1) collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order, or
(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order,

SEC. 708. EFFECT OF DEROGATION OF EXPORT-IMPORT BANK FINANCING.
Nothing in this title shall be interpreted as superseding the provisions of section 1912 of the Export-Import Bank Act Amendments of 1978, except that in the event of an assessment of duty based on a derogation under section 706 or action under section 703(d)(2), the Secretary of the Treasury shall not authorize the Bank to provide guarantees, insurance and credits of competing United States sellers pursuant to section 1912 of such Act.

SEC. 709. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.
(a) In General.--For all entries, or withdrawals from warehouse, for consumption of merchandise subject to a countervailing duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirement of subsection (b) and deposits with the appropriate customs officer an estimated countervailing duty in an amount determined by the administering authority.

(b) Importer Requirements.--In order to meet the requirements of this subsection, a person shall—
(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,
(2) maintain and furnish to the customs officer such records concerning such merchandise as the administering authority, by regulation, requires, and
(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on that merchandise.
Subtitle B—Imposition of Antidumping Duties

SEC. 731. ANTIDUMPING DUTIES IMPOSED.

If--

(1) the administering authority determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and

(2) the Commission determines that--

(A) an industry in the United States--

(i) is materially injured, or

(ii) is threatened with material injury, or

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

by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation,

then there shall be imposed upon such merchandise an antidumping duty, in addition to any other duty imposed, in an amount equal to the amount by which the foreign market value exceeds the United States price for the merchandise. For purposes of this subsection and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

SEC. 732. PROCEDURES FOR INITIATING AN ANTIDUMPING DUTY INVESTIGATION.

(a) Initiation by Administering Authority.--

(1) In general.--An antidumping duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 731 exist.

(2) Cases involving persistent dumping.--

(A) Monitoring.--The administering authority may establish a monitoring program with respect to imports of a class or kind of merchandise from any additional supplier country for a period not to exceed one year if--

(i) more than one antidumping order is in effect with respect to that class or kind of merchandise;

(ii) in the judgment of the administering authority there is reason to believe or suspect an extraordinary pattern of persistent injurious dumping from one or more additional supplier countries; and

(iii) in the judgment of the administering authority this extraordinary pattern is causing a serious commercial problem for the domestic industry.

(B) If during the period of monitoring referred
to in subparagraph (A), the administering authority determines that there is sufficient information to commence a formal investigation under this subsection regarding an additional supplier country, the administering authority shall immediately commence such an investigation.

(C) Definition.--For purposes of this paragraph, the term "additional supplier country" means a country regarding which no antidumping investigation is currently pending, and no antidumping duty order is currently in effect, with respect to imports of the class or kind of merchandise covered by subparagraph (A).

(D) Expeditious action.--The administering authority and the Commission, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced under subparagraph (B).

(b) Initiation by Petition.--

(1) Petitioner requirements.--An antidumping duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 731, and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

(2) Simultaneous filing with Commission.--The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

(c) Petition Determination.--Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall--

(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 731 and contains information reasonably available to the petitioner supporting the allegations,

(2) if the determination is affirmative, commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at less than its fair value, and provide for the publication of notice of the determination in the Federal Register, and

(3) if the determination is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register.

(d) Notification to Commission of Determination.--The administering authority shall--
(1) notify the Commission immediately of any determination it makes under subsection (a) or (c), and
(2) if the determination is affirmative, make available to the Commission such information as it may have relating to the matter under investigation, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing or under protective order, of any information to which confidential treatment has been given by the administering authority.

(e) Information Regarding Critical Circumstances.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that—

(1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or
(2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value,

the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 735(a), the investigation is terminated, or the administering authority withdraws the request.

SEC. 733. PRELIMINARY DETERMINATIONS.

(a) Determination by Commission of Reasonable Indication of injury.—Except in the case of a petition dismissed by the administering authority under section 732(c)(3), the Commission, within 45 days after the date on which a petition is filed under section 732(b) or on which it receives notice from the administering authority of an investigation commenced under section 732(a), shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable indication that—

(1) an industry in the United States—
   (A) is materially injured, or
   (B) is threatened with material injury, or
(2) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

(b) Preliminary Determination by Administering Authority.—

(1) Period of antidumping duty investigation.—
(A) In general.--Except as provided in subparagraph (B), within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold at less than fair value. If the determination of the administering authority under this subsection is affirmative, the determination shall include the estimated amount by which the foreign market value exceeds the United States price.

(B) If certain short life cycle merchandise involved.--If a petition filed under section 732(b), or an investigation commenced under section 732(a), concerns short life cycle merchandise that is included in a product category established under section 739(a), subparagraph (A) shall be applied--

(i) by substituting "120 days" for "160 days" if manufacturers that are second offenders account for a significant proportion of the merchandise under investigation, and

(ii) by substituting "100 days" for "160 days" if manufacturers that are multiple offenders account for a significant proportion of the merchandise under investigation.

(C) Definitions of offenders.--For purposes of subparagraph (B)--

(i) the term "second offender" means a manufacturer that is specified in 2 affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is--

(I) specified in both such determinations, and

(II) within the scope of the product category referred to in subparagraph (B).

(ii) the term "multiple offender" means a manufacturer that is specified in 3 or more affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is--

(I) specified in each of such determinations, and

(II) within the scope of the product category referred to in subparagraph (B).

(2) Preliminary determination under waiver of verification.--Within 75 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 60 days
of the investigation, and, if there appears to be sufficient information available upon which the preliminary determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available non-confidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 60 days after the investigation was commenced.

(c) Extension of Period in Extraordinarily Complicated Cases.--

(1) In general.—If—

(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b)(1), or

(B) the administering authority concludes that the parties concerned are cooperating and determines that—

(i) the case is extraordinarily complicated by reason of—

(I) the number and complexity of the transactions to be investigated or adjustments to be considered,

(II) the novelty of the issues presented, or

(III) the number of firms whose activities must be investigated, and

(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b)(1) until not later than the 210th day after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a). No extension of a determination date may be made under this paragraph for any investigation in which a determination date provided for in subsection (b)(1)(B) applies unless the petitioner submits written notice to the administering authority of its consent
(2) Notice of postponement.--The administering authority shall notify parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b)(1), if it intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

(d) Effect of Determination by the Administering Authority.--If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority--

(1) shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

(2) shall order the posting of a cash deposit, bond, or other security, as it deems appropriate, for each entry of the merchandise concerned equal to the estimated amount by which the foreign market value exceeds the United States price, and

(3) shall make available to the Commission all information upon which its determination was based and which the Commission considers relevant to its injury determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

(e) Critical Circumstances Determinations.--

(1) In general.--If a petitioner alleges critical circumstances in its original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly (at any time after the initiation of the investigation under this subtitle) determine, on the basis of the best information available to it at that time, whether there is a reasonable basis to believe or suspect that--

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the
investigation over a relatively short period. The administering authority shall be treated as having made an affirmative determination under subparagraph (A) in any investigation to which subsection (b)(1)(B) is applied.

(2) Suspension of liquidation. — If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

(f) Notice of Determinations. — Whenever the Commission or the administering authority makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

SEC. 734. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Termination of Investigation Upon Withdrawal of Petition.—

(1) In general.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 732(a).

(2) Special rules for quantitative restriction agreements.—

(A) In general.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

(B) Public interest factors.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of antidumping duties;

(ii) the relative impact on the international economic interests of the United States; and
(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

(C) Prior consultations.--Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall, to the extent practicable, consult with--

(i) potentially affected consuming industries; and

(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

(3) Limitation on termination by Commission.--The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 733(b).

(b) Agreements to Eliminate Completely Sales at Less Than Fair Value or to Cease Exports of Merchandise.--The administering authority may suspend an investigation if the exporters who account for substantially all of the imports of that merchandise agree--

(1) to cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

(2) to revise their prices to eliminate completely any amount by which the foreign market value of the merchandise which is the subject of the agreement exceeds the United States price of that merchandise.

(c) Agreements Eliminating Injurious Effect.--

(1) General rule.--If the administering authority determines that extraordinary circumstances are present in a case, it may suspend an investigation upon the acceptance of an agreement to revise prices from exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise into the United States, if the agreement will eliminate completely the injurious effect of exports to the United States of that merchandise and if--

(A) the suppression or undercutting of price levels of domestic products by imports of that merchandise will be prevented, and

(B) for each entry of each exporter the amount by which the estimated foreign market value exceeds the United States price will not exceed 15 percent of the weighted average amount by which the estimated foreign market value exceeded the United States price for all less-than-fair-value entries of the exporter examined during the course of the investigation.

(2) Definition of extraordinary circumstances.--

(A) Extraordinary circumstances.--For purposes of this subsection, the term "extraordinary circumstances" means circumstances in which--
(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and
(ii) the investigation is complex.

(B) Complex.—For purposes of this paragraph, the term "complex" means--
(i) there are a large number of transactions to be investigated or adjustments to be considered,
(ii) the issues raised are novel, or
(iii) the number of firms involved is large.

(d) Additional rules and conditions.—The Administering authority may not accept an agreement under subsection (b) or (c) unless--

(1) it is satisfied that suspension of the investigation is in the public interest, and
(2) effective monitoring of the agreement by the United States is practicable.

(e) Suspension of Investigation Procedure.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall--

(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify other parties to the investigation and the Commission not less than 30 days before the date on which it suspends the investigation,
(2) provide a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced, and of how the agreement will meet the requirements of subsections (b) and (d), or (c) and (d), and
(3) permit all interested parties described in section 771(9) to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

(f) Effects of Suspension of Investigation.—

(1) In general.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then--
(A) it shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 733(b) with respect to the merchandise which is the subject of the investigation, unless it has previously issued such a determination in the same investigation,
(B) the Commission shall suspend any investigation it is conducting with respect to that merchandise, and
(C) the suspension of investigation shall take effect on the day on which such notice is published.

(2) Liquidation of entries.—
(A) Cessation of exports; complete elimination of dumping margin.—If the agreement accepted by the
administering authority is an agreement described in subsection (b), then--

(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 733(d)(1),

(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 733(d)(1).

(B) Other agreements.--If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 733(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 733(d)(2) may be adjusted to reflect the effect of the agreement.

(3) Where investigation is continued.--If, pursuant to subsection (g), the administering authority and the Commission continue an investigation in which an agreement has been accepted under subsection (b) or (c), then--

(A) if the final determination by the administering authority or the Commission under section 735 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue an antidumping duty order in the case so long as--

(i) the agreement remains in force,

(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and (d), and

(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

(g) Investigation to Be Continued Upon Request.--If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from--

(1) an exporter or exporters accounting for a significant proportion of exports to the United States of
the merchandise which is the subject of the investigation, or

(2) an interested party described in subparagraph (C), (D), (E), (F), and (G) of section 771(9) which is a party to the investigation,

then the administering authority and the Commission shall continue the investigation.

(h) Review of Suspension.--

(1) In general.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), (E), (F), and (G) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

(2) Commission investigation.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed with it, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission's determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 733(b) had been made on that date.

(3) Suspension of liquidation to continue during review period.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

(A) terminate the suspension of liquidation under section 733(d)(1), and

(B) release any bond or other security, and refund any cash deposit, required under section 733(d)(2).

(i) Violation of Agreement.—

(1) In general.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of its determination, it shall—

(A) suspend liquidation under section 733(d)(1) of unliquidated entries of the merchandise made on or
after the later of--

(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsections (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

(B) if the investigation was not completed, resume the investigation as if its affirmative preliminary determination under section 733(b) were made on the date of its determination under this paragraph,

(C) if the investigation was completed under subsection (g), issue an antidumping duty order under section 736(a) effective with respect to entries of merchandise the liquidation of which was suspended,

(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and

(E) notify the petitioner, interested parties who are or were parties to the investigation, and the Commission of its action under this paragraph.

(2) Intentional violation to be punished by civil penalty.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedures, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

(j) Determination Not to Take Agreement Into Account.—In making a final determination under section 735, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

(k) Termination of Investigations Initiated by Administering Authority.—The administering authority may terminate any investigation initiated by the administering authority under section 732(a) after providing notice of such termination to all parties to the investigation.

(l) Special Rule for Nonmarket Economy Countries.—

(1) In general.—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a nonmarket economy country to restrict the volume of imports into the United States of the merchandise under investigation only if the administering authority determines that--
(2) Failure of agreements.--If the administering authority determines that an agreement accepted under this subsection no longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (i) shall apply.

SEC. 735. FINAL DETERMINATIONS.
(a) Final Determinations by Administering Authority.--
(1) In general.—Within 75 days after the date of the preliminary determination under section 733(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at less than its fair value.

(2) Extension of period for determination.—The administering authority may postpone making the final determination under paragraph (1) until not later than the 135th day after the date on which it published notice of its preliminary determination under section 733(b) if a request in writing for such a postponement is made by—

(A) exporters who account for a significant proportion of exports of the merchandise which is the subject of the investigation, in a proceeding in which the preliminary determination by the administering authority under section 733(b) was affirmative, or

(B) the petitioner, in a proceeding in which the preliminary determination by the administering authority under section 733(b) was negative.

(3) Critical circumstances determinations.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 733(e), shall also contain a finding as to whether—

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported, knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

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

Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.

(b) Final Determination by Commission.—
(1) In general.--The Commission shall make a final determination of whether--
   (A) an industry in the United States--
      (i) is materially injured, or
      (ii) is threatened with material injury, or
   (B) the establishment of an industry in the United States is materially retarded,
      by reason of imports, or sales (or the likelihood of sales) for importation, of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a)(1).

(2) Period for injury determination following affirmative preliminary determination by administering authority.--If the preliminary determination by the administering authority under section 733(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of--
   (A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 733(b), or
   (B) the 45th day after the day on which the administering authority makes its affirmative final determination under subsection (a).

(3) Period for injury determination following negative preliminary determination by administering authority.--If the preliminary determination by the administering authority under section 733(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

(4) Certain additional findings.--
   (A) Retroactive application.--
      (i) In general.--If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time.
      (ii) Prevention of recurrence.--For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if such imposition did not occur.
      (iii) Evaluation of effectiveness.--In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant--
         (1) the condition of the domestic industry,
(II) whether massive imports of the merchandise in a relatively short period of time can be accounted for by efforts to avoid the potential imposition of antidumping duties,

(III) whether foreign economic conditions led to the massive imports of the merchandise, and

(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the antidumping duty order under this subtitle.

(B) If the final determination of the Commission is that there is no material injury but that there is threat of material injury, then its determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

(c) Effect of Final Determinations.--

(1) Effect of affirmative determination by the administering authority.--If the determination of the administering authority under subsection (a) is affirmative, then--

(A) the administering authority shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to its determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority, and

(B) in cases where the preliminary determination by the administering authority under section 733(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 733(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

(2) Issuance of order; effect of negative determination.--If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an antidumping duty order under section 736(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall--

(A) terminate the suspension of liquidation under section 733(d)(1), and

(B) release any bond or other security and refund
any cash deposit required under section 733(d)(2).

(3) Effect of negative determinations under subsections (a)(3) and (b)(4)(A).—If the determination of the administering authority or the Commission under subsection (a)(3) or (b)(4)(A), respectively, is negative, then the administering authority shall—

(A) terminate any retroactive suspension of liquidation required under paragraph (4) or section 733(e)(2), and

(B) release any bond or other security, and refund any cash deposit required, under section 733(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 733(e)(2).

(4) Effect of affirmative determination under subsection (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

(A) in cases where the preliminary determinations by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.

(d) Publication of Notice of Determinations.—Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

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

SEC. 736. ASSESSMENT OF DUTY.
(a) Publication of Antidumping Duty Order.—Within 7 days
after being notified by the Commission of an affirmative
determination under section 735(b), the administering authority
shall publish an antidumping duty order which—
    (1) directs customs officers to assess an antidumping
duty equal to the amount by which the foreign market value
of the merchandise exceeds the United States price of the
merchandise, within 6 months after the date on which the
administering authority receives satisfactory information
upon which the assessment may be based, but in no event
later than—
        (A) 12 months after the end of the annual
accounting period of the manufacturer or exporter
within which the merchandise is entered, or withdrawn
from warehouse, for consumption, or
        (B) in the case of merchandise not sold prior to
its importation into the United States, 12 months after
the end of the annual accounting period of the
manufacturer or exporter within which it is sold in the
United States to a person who is not the exporter of
the merchandise,
(2) includes a description of the class or kind of
merchandise to which it applies, in such detail as the
administering authority deems necessary, and
(3) requires the deposit of estimated antidumping
duties pending liquidation of entries of merchandise at the
same time as estimated normal customs duties on that
merchandise are deposited.
(b) Imposition of Duty.—
(1) General rule.—If the Commission, in its final
determination under section 735(b), finds material injury or
threat of material injury which, but for the suspension of
liquidation under section 733(d)(1), would have led to a
finding of material injury, then entries of the merchandise
subject to the antidumping duty order, the liquidation of
which has been suspended under section 733(d)(1), shall be
subject to the imposition of antidumping duties under
section 731.
(2) Special rule.—If the Commission, in its final
determination under section 735(b), finds threat of material
injury, other than threat of material injury described in
paragraph (1), or material retardation of the establishment
of an industry in the United States, then merchandise
subject to an antidumping duty order which is entered, or
withdrawn from warehouse, for consumption on or after the
date of publication of notice of an affirmative determina-
tion of the Commission under section 735(b) shall be subject to the assessment of antidumping duties under section 731, and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

(c) Security in Lieu of Estimated Duty Pending Early Determination of Duty.--

(1) Conditions for waiver of deposit of estimated duties.--The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if--

(A) the investigation has not been designated as extraordinarily complicated by reason of--

(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

(ii) the novelty of the issues presented, or

(iii) the number of firms whose activities must be investigated,

(B) the final determination in the investigation has not been postponed under section 735(a)(2)(A);

(C) on the basis of information presented to the administering authority by any manufacturer, producer, or exporter in such form and within such time as the administering authority may require, the administering authority is satisfied that a determination will be made, within 90 days after the date of publication of an order under subsection (a), of the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of--

(i) an affirmative preliminary determination by the administering authority under section 733(b), or

(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

(D) the party described in subparagraph (C) provides credible evidence that the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and
(E) the data concerning the foreign market value and the United States price apply to sales in the usual commercial quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.

(2) Notice; Hearing. — If the administering authority permits the posting of a bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), it shall—

(A) publish notice of its action in the Federal Register, and

(B) upon the request of any interested party, hold a hearing in accordance with section 774 before determining the foreign market value and the United States price of the merchandise.

(3) Determinations to be basis of antidumping duty. — The administering authority shall publish notice in the Federal Register of the results of its determination of foreign market value and United States price, and that determination shall be the basis for the assessment of antidumping duties on entries of merchandise to which the notice under this subsection applies and also shall be the basis for the deposit of estimated antidumping duties on future entries of merchandise of manufacturers, producers, or exporters described in paragraph (1) to which the order issued under subsection (a) applies.

(4) Provision of business proprietary information; written comments. — Before determining whether to permit the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties, the administering authority shall—

(A) make all business proprietary information supplied to the administering authority under paragraph (1) available under a protective order in accordance with section 777(c) to all interested parties described in subparagraph (C), (D), (E), (F), or (G) of section 771(9), and

(B) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties should be permitted.

SEC. 737. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ANTIDUMPING DUTY AND FINAL ASSESSED DUTY UNDER ANTIDUMPING DUTY ORDER.

(a) Deposit of Estimated Antidumping Duty Under Section 733(d)(2). — If the amount of a cash deposit collected as security for an estimated antidumping duty under section 733(d)(2) is different from the amount of the antidumping duty determined under an antidumping duty order issued under section 736, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 735(b) is published
shall be—

(1) disregarded, to the extent that the cash deposit collected is lower than the duty under the order, or
(2) refunded, to the extent the cash deposit is higher than the duty under the order.

(b) Deposit of Estimated Antidumping Duty Under Section 736(a)(3).—If the amount of an estimated antidumping duty deposited under section 736(a)(3) is different from the amount of the antidumping duty determined under an antidumping duty order issued under section 736, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 735(b) is published shall be—

(1) collected, to the extent that the deposit under section 736(a)(3) is lower than the duty determined under the order, or
(2) refunded, to the extent that the deposit under section 736(a)(3) is higher than the duty determined under the order,
together with interest as provided by section 778.

SEC. 738. CONDITIONAL PAYMENT OF ANTIDUMPING DUTY.

(a) General Rule.—For all entries, or withdrawals from warehouse, for consumption of merchandise subject to an antidumping duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirements of subsection (b) and deposits with the appropriate customs officer an estimated antidumping duty in an amount determined by the administering authority.

(b) Importer Requirements.—In order to meet the requirements of this subsection, a person shall—

(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for determining the United States price of the merchandise imported by or for the account of that person, and such other information as the administering authority deems necessary for ascertaining any antidumping duty to be imposed under this title;
(2) maintain and furnish to the customs officer such records concerning the sale of the merchandise as the administering authority, by regulation, requires; and
(3) state under oath before the customs officer that he is not an exporter, or if he is an exporter, declare under oath at the time of entry the exporter's sales price of the merchandise to the customs officer if it is then known, or, if not, so declare within 30 days after the merchandise has been sold, or has been made the subject of an agreement to be sold, in the United States; and
(4) pay, or agree to pay on demand, to the customs officer the amount of antidumping duty imposed under section 731 on that merchandise.
SEC. 739. ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE.

(a) Establishment of Product Categories.--

(1) Petitions.--

(A) In general.--An eligible domestic entity may file a petition with the Commission requesting that a product category be established with respect to short life cycle merchandise at any time after the merchandise becomes the subject of 2 or more affirmative dumping determinations.

(B) Contents.--A petition filed under subparagraph (A) shall--

(i) identify the short life cycle merchandise that is the subject of the affirmative determinations,

(ii) specify the short life cycle merchandise that the petitioner seeks to have included in the same product category as the merchandise that is subject to the affirmative dumping determinations,

(iii) specify any short life cycle merchandise the petitioner particularly seeks to have excluded from the product category,

(iv) provide reasons for the inclusions and exclusions specified under clauses (ii) and (iii), and

(v) identify such merchandise in terms of the designations used in the Tariff Schedules of the United States.

(2) Determinations on sufficiency of petition.--Upon receiving a petition under paragraph (1), the Commission shall--

(A) request the administering authority to confirm promptly the affirmative determinations on which the petition is based, and

(B) upon receipt of such confirmation, determine whether the merchandise covered by the confirmed affirmative determinations is short life cycle merchandise and whether the petitioner is an eligible domestic entity.

(3) Notice; hearings.--If the determinations under paragraph (2)(B) are affirmative, the Commission shall--

(A) publish notice in the Federal Register that the petition has been received, and

(B) provide opportunity for the presentation of views regarding the establishment of the requested product category, including a public hearing if requested by any interested person.

(4) Determinations.--

(A) In general.--By no later than the date that is 90 days after the date on which a petition is filed under paragraph (1), the Commission shall determine the scope of the product category into which the short life cycle merchandise that is the subject of the affirma-
tive dumping determinations identified in such petition shall be classified for purposes of this section.

(B) Modifications not requested by petition.--
(i) In general.--The Commission may, on its own initiative, make a determination modifying the scope of any product category established under subparagraph (A) at any time.
(ii) Notice and hearing.--Determinations may be made under clause (i) only after the Commission has--

(I) published in the Federal Register notice of the proposed modification, and
(II) provided interested parties an opportunity for a hearing, and a period for the submission of written comments, on the classification of merchandise into the product categories to be affected by such determination.

(C) Basis of determinations.--In making determinations under subparagraph (A) or (B), the Commission shall ensure that each product category consists of similar short life cycle merchandise which is produced by similar processes under similar circumstances and has similar uses.

(b) Definitions.--For purposes of this section--

(1) Eligible domestic entity.--The term "eligible domestic entity" means a manufacturer or producer in the United States, or a certified union or recognized union or group of workers which is representative of an industry in the United States, that manufactures or produces short life cycle merchandise that is--

(A) like or directly competitive with other merchandise that is the subject of 2 or more affirmative dumping determinations, or
(B) is similar enough to such other merchandise as to be considered for inclusion with such merchandise in a product monitoring category established under this section.

(2) Affirmative dumping determination.--The term "affirmative dumping determination" means--

(A) any affirmative final determination made by the administering authority under section 735(a) during the 8-year period preceding the filing of the petition under this section that results in the issuance of an antidumping duty order under section 736 which requires the deposit of estimated antidumping duties at a rate of not less than 15 percent ad valorem, or
(B) any affirmative preliminary determination that--

(i) is made by the administering authority under section 733(b) during the 8-year period preceding the filing of the petition under this section in the course of an investigation for which no final determination is made under section
735 by reason of a suspension of the investigation under section 734, and
(ii) includes a determination that the estimated average amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is not less than 15 percent ad valorem.

(3) Subject of affirmative dumping determination.--
(A) In general.--Short life cycle merchandise of a manufacturer shall be treated as being the subject of an affirmative dumping determination only if the administering authority--
(i) makes a separate determination of the amount by which the foreign market value of such merchandise of the manufacturer exceeds the United States price of such merchandise of the manufacturer, and
(ii) specifically identifies the manufacturer by name with such amount in the affirmative dumping determination or in an antidumping duty order issued as a result of the affirmative dumping determination.
(B) Exclusion.--Short life cycle merchandise of a manufacturer shall not be treated as being the subject of an affirmative dumping determination if--
(i) such merchandise of the manufacturer is part of a group of merchandise to which the administering authority assigns (in lieu of making separate determinations described in subparagraph (A)(i)(I)) an amount determined to be the amount by which the foreign market value of the merchandise in such group exceeds the United States price of the merchandise in such group, and
(ii) the merchandise and the manufacturer are not specified by name in the affirmative dumping determination or in any antidumping duty order issued as a result of such affirmative dumping determination.

(4) Short life cycle merchandise.--The term "short life cycle merchandise" means any product that the Commission determines is likely to become outmoded within 4 years, by reason of technological advances, after the product is commercially available. For purposes of this paragraph, the term "outmoded" refers to a kind of style that is no longer state-of-the-art.

(c) Transitional Rules.--
(1) For purposes of this section and section 733(b)(1)(B) and (C), all affirmative dumping determinations described in subsection (b)(2)(A) that were made after December 31, 1980, and before the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, and all affirmative dumping determinations described in subsection (b)(2)(B) that were made after December 31, 1984, and before the date of enactment of such Act, with respect to each
category of short life cycle merchandise of the same manufacturer shall be treated as one affirmative dumping determination with respect to that category for that manufacturer which was made on the date on which the latest of such determinations was made.

(2) No affirmative dumping determination that--
     (A) is described in subsection (b)(2)(A) and was made before January 1, 1981, or
     (B) is described in subsection (b)(2)(B) and was made before January 1, 1985,
may be taken into account under this section or section 733(b)(1)(B) and (C).
SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.
(a) Periodic Review of Amount of Duty.--
(1) In general.—At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, if a request for such a review has been received and after publication of such review in the Federal Register, shall—
(A) review and determine the amount of any net subsidy,
(B) review, and determine (in accordance with paragraph (2)), the amount of any antidumping duty, and
(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net subsidy or margin of sales at less than fair value involved in the agreement,
and shall publish the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed in the Federal Register.
(2) Determination of antidumping duties.—For the purpose of paragraph (1)(B), the administering authority shall determine—
(A) the foreign market value and United States price of each entry of merchandise subject to the antidumping duty order and included within that determination, and
(B) the amount, if any, by which the foreign market value of each such entry exceeds the United States price of the entry.
The administering authority, without revealing confidential information, shall publish notice of the results of the determination of antidumping duties in the Federal Register, and that determination shall be the basis for the assessment of antidumping duties on entries of the merchandise included within the determination and for deposits of estimated duties.
(b) Reviews Upon Information or Request.—
(1) In general.—Whenever the administering authority or the Commission receives information concerning, or a request for the review of, an agreement accepted under section 704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2)) or an affirmative determination made under section
704(h)(2), 705(a), 705(b), 734(h)(2), 735(a), 735(b), 762(a)(1), or 762(a)(2), which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the Federal Register. In reviewing its determination under section 704(h)(2) or 734(h)(2), the Commission shall consider whether, in the light of changed circumstances, an agreement accepted under section 704(c) or 734(c) continues to eliminate completely the injurious effects of imports of the merchandise. During an investigation by the Commission, the party seeking revocation of an antidumping or countervailing duty order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping or countervailing duty order.

(2) Limitation on period for review.--In the absence of good cause shown--

(A) the Commission may not review a determination under section 705(b) or 735(b), and

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

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

(c) Revocation of Countervailing Duty Order or Antidumping Duty Order.--The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order, or terminate a suspended investigation, after review under this section. The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of the merchandise to the United States specifically intended to offset the subsidy received. Any such revocation or termination shall apply with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after a date determined by the administering authority.

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

(e) Determination That Basis for Suspension No Longer Exists.--If the determination of the Commission under the last sentence of subsection (b)(1) is negative, the agreement shall be treated as not accepted, beginning on the date of publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

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

Chapter 2--Consultations and Determinations Regarding Quantitative Restriction Agreements

SEC. 761. REQUIRED CONSULTATIONS.
(a) Agreements in Response to Subsidies.--Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704(a)(2) or (c)(3), the President shall enter into consultations with the government that is party to the agreement for purposes of--
   (1) eliminating the subsidy completely, or
   (2) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.
(b) Modification of Agreements on Basis of Consultations.--At the direction of the President, the administering authority shall modify a quantitative restriction agreement as a result of consultations entered into under subsection (a).
(c) Special Rule Regarding Agreements Under Section 704(c)(3).--This chapter shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

SEC. 762. REQUIRED DETERMINATIONS.
(a) In General.--Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2) or 704(c)(3) (if suspension of the related investigation is still in effect)--
   (1) the administering authority shall, at the direction of the President, initiate a proceeding to determine whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy; and
   (2) if the administering authority initiates a proceeding under paragraph (1), the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.
(b) Determinations.--The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made under such procedures as the administering authority and the Commission, respectively, shall by regulation
prescribe, and shall be treated as final determinations made under section 705 for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall--

(1) issue a countervailing duty order under section 706 effective with respect to merchandise entered on and after the date on which the agreement terminates; and

(2) order the suspension of liquidation of all entries of merchandise subject to the order which are entered, or withdrawn from warehouse for consumption, on or after the date of publication of the order in the Federal Register.

(c) Hearings.--The determination proceedings required to be prescribed under subsection (b) shall provide that the administering authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 774 on the issues involved.
Subtitle D--General Provisions

SEC. 771. DEFINITIONS; SPECIAL RULES.

For purposes of this title--

(1) Administering authority.--The term "administering authority" means the Secretary of the Treasury, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under this title are transferred by law.


(3) Country.--The term "country" means a foreign country, a political subdivision, dependent territory, or possession of a foreign country, and, except for the purpose of antidumping proceedings, may include an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.

(4) Industry.--

(A) In general.--The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products.1

(B) Related parties.--When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term "industry" may be applied in appropriate circumstances by excluding such producers from those included in that industry.

(C) Regional industries.--In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry.

1 As provided in section 626(c) of the Trade and Tariff Act of 1984, the language following the semicolon added by section 612(a)(1) of that Act shall not apply with respect to petitions filed (or refiled under paragraph (1)) under section 702 or 732 of the Tariff Act of 1930 after September 30, 1986.
if--

(i) the producers within such market sell all or almost all of their production of the like product in question in that market, and

(ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collective output of a like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury, or if the establishment of an industry is being materially retarded, by reason of the subsidized or dumped imports.

(D) Product lines.--The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

(E) Industry producing processed agricultural products.--

(i) In general.--Subject to clause (v), in an investigation involving a processed agricultural product produced from any raw agricultural product, the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if--

(II) there is a substantial coincidence of economic interest between the producers or growers of the raw
agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may, in the discretion of the Commission, include price, added market value, or other economic interrelationships (regardless of whether such coincidence of economic interest is based upon any legal relationship).

(ii) Processing.--For purposes of this subparagraph, the processed agricultural product shall be considered to be processed from a raw agricultural product through a single continuous line of production if--

(I) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

(II) the processed agricultural product is produced substantially or completely from the raw product.

(iii) Relevant economic factors.--For purposes of clause (i)(II), in addition to such other factors it considers relevant to the question of coincidence of economic interest, the Commission shall--

(I) if price is taken into account, consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

(II) if added market value is taken into account, consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

(iv) Raw agricultural product.--For purposes of this subparagraph, the term "raw agricultural product" means any farm or fishery product.

(v) Termination of this subparagraph.--This subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.

(5) Subsidy.--

(A) In general.--The term "subsidy" has the same meaning as the term "bounty or grant" as that term is used in section 303, and includes, but is not limited to, the following:
(i) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

(ii) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

(I) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

(II) The provision of goods or services at preferential rates.

(III) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

(IV) The assumption of any costs or expenses of manufacture, production, or distribution.

(B) Special rule.--In applying subparagraph (A), the administering authority, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in fact is provided to a specific enterprise or industry, or group of enterprises or industries. Nominal general availability, under the terms of the law, regulation, program, or rule establishing a bounty, grant, or subsidy, of the benefits thereunder is not a basis for determining that the bounty, grant, or subsidy is not, or has not been, in fact provided to a specific enterprise or industry, or group thereof.

(6) Net subsidy.--For the purpose of determining the net subsidy, the administering authority may subtract from the gross subsidy the amount of--

(A) any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the subsidy,

(B) any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by Government order, and

(C) export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

(7) Material injury.--

(A) In general.--The term "material injury" means harm which is not inconsequential, immaterial, or unimportant.

(B) Volume and consequent impact.--In making
determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission in each case--

(i) shall consider--

(I) the volume of imports of the merchandise which is the subject of the investigation,

(II) the effect of imports of that merchandise on prices in the United States for like products, and

(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

In the notification required under section 705(d) or 735(d), as the case may be, the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination.

(C) Evaluation of relevant factors.--For purposes of subparagraph (B)--

(i) Volume.--In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.

(ii) Price.--In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether--

(I) there has been significant price underselling by the imported merchandise as compared with the price of like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

(iii) Impact on affected domestic industry.--In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to--

(I) actual and potential decline
in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(II) factors affecting domestic prices,

(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

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

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

(iv) Cumulation.--For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.

(v) Treatment of negligible imports.--The Commission is not required to apply clause (iv) or subparagraph (F)(iv) in any case in which the Commission determines that imports of the merchandise subject to investigation are negligible and have no discernable adverse impact on the domestic industry. For purposes of making such determination, the Commission shall evaluate all relevant economic factors regarding the imports, including, but not limited to, whether--

(I) the volume and market share of the imports are negligible,

(II) sales transactions involving the imports are isolated and sporadic, and

(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

For purposes of this clause, the Commission may treat as negligible and having no
discernable adverse impact on the domestic industry imports that are the product of any country that is a part to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.

(D) Special rules for agricultural products.--

(i) The Commission shall not determine that there is no material injury or threat of material injury to the United States producers of an agricultural commodity merely because the prevailing market price is at or above the minimum support price.

(ii) In the case of agricultural products, the Commission shall consider any increased burden on government income or price support programs.

(E) Special rules.--For purposes of this paragraph--

(i) Nature of subsidy.--In determining whether there is a threat of material injury, the Commission shall consider such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign country and the effects likely to be caused by the subsidy.

(ii) Standard for determination.--The presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) or (D) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury.

(F) Threat of material injury.--

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

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United
States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 706 or 736, are also used to produce the merchandise under investigation,

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

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

(ii) Basis for determination.--Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

(iii) Effect of dumping in third-country
markets.--

(I) In general.--In investigations under subtitle B, the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign manufacturer, exporter, or United States importer concerning this issue.

(II) GATT member market.--For purposes of this clause, the term "GATT member market" means the market of any country which is a signatory to The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(III) European communities.--For purposes of this clause, the European Communities shall be treated as a foreign country.

(iv) Cumulation.--To the extent practicable and subject to subparagraph (C)(v), for purposes of clause (i)(III) and (IV) the Commission may cumulatively assess the volume and price effects of imports from two or more countries if such imports--

(I) compete with each other, and with like products of the domestic industry, in the United States market, and

(II) are subject to any investigation under section 303, 701, or 731.

(8) Agreement on subsidies and countervailing measures; agreement.--The terms "Agreement on Subsidies and Countervailing Measures" and "Agreement" mean the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures) approved under section 2(a) of the Trade Agreements Act of 1979.

(9) Interested party.--The term "interested party" means--

(A) a foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under this title or a trade or business association a majority of the members of which are importers of such merchandise,

(B) the government of a country in which
such merchandise is produced or manufactured,
   (C) a manufacturer, producer, or wholesaler
   in the United States of a like product,
   (D) a certified union or recognized union or
   group of workers which is representative of an
   industry engaged in the manufacture, production,
   or wholesale in the United States of a like
   product,
   (E) a trade or business association a
   majority of whose members manufacture, produce, or
   wholesale a like product in the United States,
   (F) an association, a majority of whose
   members is composed of interested parties
   described in subparagraph (C), (D), or (E) with
   respect to a like product, and
   (G) in any investigation under this title
   involving an industry engaged in producing a
   processed agricultural product, as defined in
   paragraph (4)(E), a coalition or trade association
   which is representative of either--
      (1) processors,
      (ii) processors and producers, or
      (iii) processors and growers,
   but this subparagraph shall cease to have effect
   if the United States Trade Representative notifies
   the administering authority and the Commission
   that the application of this subparagraph is
   inconsistent with the international obligations of
   the United States.
(10) Like product.—The term "like product" means
a product which is like, or in the absence of like,
most similar in characteristics and uses with, the
article subject to an investigation under this title.
(11) Affirmative determinations by divided
commission.—If the Commissioners voting on a deter-
mination by the Commission are evenly divided as to
whether the determination should be affirmative or
negative, the Commission shall be deemed to have made
an affirmative determination. For the purpose of
applying this paragraph when the issue before the
Commission is to determine whether there is--
   (A) material injury to an industry in the
   United States,
   (B) threat of material injury to such an
   industry, or
   (C) material retardation of the establish-
   ment of an industry in the United States,
by reason of imports of the merchandise, an affirmative
vote on any of the issues shall be treated as a vote
that the determination should be affirmative.
(12) Attribution of merchandise to country of
manufacture or production.—For purposes of subtitle A,
merchandise shall be treated as the product of the
country in which it was manufactured or produced.
without regard to whether it is imported directly from that country and without regard to whether it is imported in the same condition as when exported from that country or in a changed condition by reason of remanufacture or otherwise.

(13) Exporter.—For the purpose of determining United States price, the term "exporter" includes the person by whom or for whose account the merchandise is imported into the United States if—

(A) such person is the agent or principal of the exporter, manufacturer, or producer;
(B) such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer;
(C) the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business conducted by such person; or
(D) any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 percent or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 percent or more of such power or control in the business of the exporter, manufacturer, or producer.

(14) Sold or, in the absence of sales, offered for sale.—The term "sold or, in the absence of sales, offered for sale" means sold, or, in the absence of sales offered—

(A) to all purchasers in commercial quantities, or
(B) in the ordinary course of trade to one or more selected purchasers in commercial quantities at a price which fairly reflects the market value of the merchandise, without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

(15) Ordinary course of trade.—The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind.

(16) Such or similar merchandise.—The term "such
or similar merchandise" means merchandise in the first of the following categories in respect of which a determination for the purposes of subtitle B of this title can be satisfactorily made:

(A) The merchandise which is the subject of an investigation and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise.

(B) Merchandise--
   (i) produced in the same country and by the same person as the merchandise which is the subject of the investigation,
   (ii) like that merchandise in component material or materials and in the purposes for which used, and
   (iii) approximately equal in commercial value to that merchandise.

(C) Merchandise--
   (i) produced in the same country and by the same person and of the same general class or kind as the merchandise which is the subject of the investigation,
   (ii) like that merchandise in the purposes for which used, and
   (iii) which the administering authority determine may reasonably be compared with that merchandise.

(17) Usual commercial quantities.--The term "usual commercial quantities", in any case in which the merchandise which is the subject of the investigation is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

(18) Nonmarket economy country.--
   (A) In general.--The term "nonmarket economy country" means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.

   (B) Factors to be considered.--In making determinations under subparagraph (A) the administering authority shall take into account--
      (i) the extent to which the currency of the foreign country is convertible into the currency of other countries;
      (ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,
(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,
(iv) the extent of government ownership or control of the means of production,
(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and
(vi) such other factors as the administering authority considers appropriate.

(C) Determination in effect.--
(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.
(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

(D) Determination not in issue.--Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle B.

(E) Collection of information.--Upon request by the administering authority, the Commissioner of Customs shall provide the administering authority a copy of all public and proprietary information submitted to, or obtained by, the Commissioner of Customs that the administering authority considers relevant to proceedings involving merchandise from nonmarket economy countries. The administering authority shall protect proprietary information obtained under this section from public disclosure in accordance with section 777.

(18) United States-Canada Agreement.--The term "United States-Canada Agreement" means the United States-Canada Free-Trade Agreement.

(19) Equivalency of leases to sales.--In determining whether a lease is equivalent to a sale for purposes of this title, the administering authority shall consider--
(A) the terms of the lease,
(B) commercial practices within the industry,
(C) the circumstances of the transaction,
(D) whether the product subject to the lease is integrated into the operations of the lessee or importer.
whether in practice there is a likelihood that the lease will be continued or renewed for a significant period of time, and

whether the lease transaction would permit avoidance of antidumping or countervailing duties.

(A) In general.—Except as otherwise provided by this paragraph, merchandise imported by, or for the use of, a department or agency of the United States Government (including merchandise provided for under schedule 8 of the Tariff Schedules of the United States) is subject to the imposition of countervailing duties or antidumping duties under this title or section 303.

(B) Exceptions.—Merchandise imported by, or for the use of, the Department of Defense shall not be subject to the imposition of countervailing or antidumping duties under this title if—

(i) the merchandise is acquired by, or for the use of, such Department—

(1) from a country with which such Department had a Memorandum of Understanding which was in effect on January 1, 1988, and has continued to have a comparable agreement (including renewals) or superceding agreements, and (2) in accordance with terms of the Memorandum of Understanding in effect at the time of importation, or

(ii) the merchandise has no substantial nonmilitary use.

SEC. 771A. UPSTREAM SUBSIDIES.

(a) Definition.—The term "upstream subsidy" means any subsidy described in section 771(5)(B) (i), (ii), (iii), or (iv) by the government of a country that—

(1) is paid or bestowed by that government with respect to a product (hereinafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) in the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this subsection, an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

(b) Determination of Competitive Benefit.—

(1) In general.—Except as provided in paragraph (2), the administering authority shall decide that a competitive
benefit has been bestowed when the price for the input
test product referred to in subsection (a)(1) for such use is
lower than the price that the manufacturer or producer of
merchandise which is the subject of a countervailing duty
proceeding would otherwise pay for the product in obtaining
it from another seller in an arms-length transaction.

(2) Adjustments.--If the administering authority has
determined in a previous proceeding that a subsidy is paid
or bestowed on the input product that is used for comparison
under paragraph (1), the administering authority may (A)
where appropriate, adjust the price that the manufacturer or
producer of merchandise which is the subject of such
proceeding would otherwise pay for the product to reflect
the effects of the subsidy, or (B) select in lieu of that
price a price from another source.

(c) Inclusion of Amount of Subsidy.--If the administering
authority decides, during the course of a countervailing duty
proceeding that an upstream subsidy is being or has been paid or
bestowed regarding the merchandise under investigation, the
administering authority shall include in the amount of any
countervailing duty imposed on the merchandise an amount equal to
the amount of the competitive benefit referred to in subparagraph
(1)(B), except that in no event shall the amount be greater that
the amount of subsidization determined with respect to the
upstream product.

SEC. 771B. In the case of an agricultural product processed from
a raw agricultural product in which (1) the demand for the prior
stage product is substantially dependent on the demand for the
latter stage product, and (2) the processing operation adds only
limited value to the raw commodity, subsidies found to be
provided to either producers or processors of the product shall
be deemed to be provided with respect to the manufacture,
production, or exportation of the processed product.

SEC. 772. UNITED STATES PRICE.

(a) United States Price.--For purposes of this title, the
term "United States price" means the purchase price, or the
exporter's sales price, of the merchandise, whichever is
appropriate.

(b) Purchase Price.--For purposes of this section, the term
"purchase price" means the price at which merchandise is
purchased, or agreed to be purchased, prior to the date of
importation, from a reseller or the manufacturer or producer of
the merchandise for exportation to the United States. Appropriate
adjustments for costs and expenses under subsection (d)
shall be made if they are not reflected in the price paid by the
person by whom, or for whose account, the merchandise is
imported.

(c) Exporter's Sales Price.--For purposes of this section,
the term "exporter's sales price" means the price at which
merchandise is sold or agreed to be sold in the United States,
before or after the time of importation, by or for the account of
the exporter, as adjusted under subsections (d) and (e).
(d) Adjustments to Purchase Price and Exporter's Sales Price.—The purchase price and the exporter's sales price shall be adjusted by being—

(1) increased by—

(A) when not included in such price, the cost of all containers and covering and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States;

(B) the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States;

(C) the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and

(D) the amount of any countervailing duty imposed on the merchandise under subtitle A of this title or section 303 of this Act to offset an export subsidy, and

(2) reduced by—

(A) except as provided in paragraph (1)(D), the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and

(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the country of exportation on the exportation of the merchandise to the United States other than an export tax; duty, or other charge described in section 771(6)(C).

(e) Additional Adjustments to Exporter's Sales Price.—For purposes of this section, the exporter's sales price shall also be adjusted by being reduced by the amount, if any of—

(1) commissions for selling in the United States the particular merchandise under consideration,

(2) expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and

(3) any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter of the merchandise.
SEC. 773. FOREIGN MARKET VALUE.

(a) Determination; Fictitious Market; Sales Agencies.—For purposes of this title—

(1) In general.—The foreign market value of imported merchandise shall be the price, at the time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3) with respect to such person—

(A) at which such or similar merchandise is sold, or in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual commercial quantities and in the ordinary course of trade for home consumption, or

(B) if not so sold or offered for sale for home consumption, or if the administering authority determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States, increased by, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of importation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

(2) Use of constructed value.—If the administering authority determines that the foreign market value of imported merchandise cannot be determined under paragraph (1)(A), then, notwithstanding paragraph (1)(B), the foreign market value of the merchandise may be the constructed value of that merchandise, as determined under subsection (e).

(3) Indirect sales and offers for sale.—If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 771(13), the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.

(4) Other adjustments.—In determining foreign market value, if it is established to the satisfaction of the administering authority that the amount of any difference between United States price and the foreign market value (or that the fact that the United States price is the same as
the foreign market value) is wholly or partly due to—

(A) the fact that the commercial quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale, for exportation to, or in the principal markets of, the United States, as appropriate, in the ordinary course of trade, are less or are greater than the commercial quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale, in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not sold for home consumption, then for exportation to countries other than the United States);

(B) other differences in circumstances of sale;

or

(C) the fact that merchandise described in paragraph (B) or (C) of section 771(16) is used in determining foreign market value,

then due allowance shall be made therefor.

(5) Fictitious markets.--The occurrence of different movements in the prices at which different forms of any merchandise subject to an antidumping duty order issued under this title are sold (or, in the absence of sales, offered for sale) after the issuance of such order in the principal markets of the foreign country from which the merchandise is exported may be considered by the administering authority as evidence of the establishment of a fictitious market for the merchandise if the movement in such prices appears to reduce the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise.

(b) Sales at Less Than Cost of Production.--Whenever the administering authority has reasonable grounds to believe or suspect that sales in the home market of the country of exportation, or, as appropriate, to countries other than the United States, have been made at prices which represent less than the cost of producing the merchandise in question, it shall determine whether, in fact, such sales were made at less than the cost of producing the merchandise. If the administering authority determines that sales made at less than cost of production—

(1) have been made over an extended period of time and in substantial quantities, and

(2) are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade,

such sales shall be disregarded in the determination of foreign market value. Whenever sales are disregarded by virtue of having been made at less than the cost of production and the remaining sales, made at not less than the cost of production, are determined to be inadequate as a basis for the determination of foreign market value under subsection (a), the administering authority shall employ the constructed value of the merchandise to determine its foreign market value.

(c) Nonmarket Economy Countries.--
(1) In general.—If—
(A) the merchandise under investigation is exported from a nonmarket economy country, and
(B) the administering authority finds that available information does not permit the foreign market value of the merchandise to be determined under subsection (a),
the administering authority shall determine the foreign market value of the merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses, as required by subsection (e). Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

(2) Exception.—If the administering authority finds that the available information is inadequate for purposes of determining the foreign market value of merchandise under paragraph (1), the administering authority shall determine the foreign market value on the basis of the price at which merchandise that is—
(A) comparable to the merchandise under investigation, and
(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country, is sold in other countries, including the United States.

(3) Factors of production.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—
(A) hours of labor required,
(B) quantities of raw materials employed,
(C) amounts of energy and other utilities consumed, and
(D) representative capital cost, including depreciation.

(4) Valuation of factors of production.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—
(A) at a level of economic development comparable to that of the nonmarket economy country, and
(B) significant producers of comparable merchandise.

(d) Special Rule for Certain Multinational Corporations.—Whenever, in the course of an investigation under this title, the administering authority determines that—
(1) merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm or corporation
which also owns or controls, directly or indirectly, other facilities for the production of such or similar merchandise which are located in another country or countries;

(2) the sales of such or similar merchandise by the company concerned in the home market of the exporting country are nonexistent or inadequate as a basis for comparison with the sales of the merchandise to the United States; and

(3) the foreign market value of such or similar merchandise produced in one or more of the facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise produced in the facilities located in the country of exportation, it shall determine the foreign market value of such merchandise by reference to the foreign market value at which such or similar merchandise is sold in substantial quantities by one or more facilities outside the country of exportation. The administering authority, in making any determination under this paragraph, shall make adjustments for the difference between the costs of production (including taxes, labor, materials, and overhead) of such or similar merchandise produced in facilities outside the country of exportation and costs of production of such or similar merchandise produced in the facilities in the country of exportation, if such differences are demonstrated to its satisfaction. For the purposes of this subsection, in determining foreign market value of such or similar merchandise produced in a country outside of the country of exportation, the administering authority shall determine its price at the time of exportation from the country of exportation and shall make any adjustments required by subsection (a) of this section for the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States by reference to such costs in the country of exportation.

(e) Constructed Value.—

(1) Determination.—For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

(A) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(B) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual commercial
quantities and in the ordinary course of trade, except that--

(i) the amount for general expenses shall not be less than 10 percent of the cost as defined in subparagraph (A), and

(ii) the amount for profit shall not be less than 8 percent of the sum of such general expenses and cost; and

(C) the cost of all containers and covering of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

(2) Transactions disregarded; best evidence.--For the purposes of this subsection, a transaction directly or indirectly between persons specified in any of the subparagraphs in paragraph (4) of this subsection may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the subparagraphs in paragraph (4) of this section.

(3) Special rule.--If, regarding any of transaction between persons specified in any one of the subparagraphs of paragraph (4) involving the production by one of such persons of a major input to the merchandise under consideration, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the costs of production of such input, then the administering authority may determine the value of the major input on the basis of the best evidence available regarding such costs of production, if such costs are greater than the amount that would be determined for such input under paragraph (2).

(4) Related parties.--The persons referred to in paragraphs (2) and (3) of this subsection are:

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(f) Exportation From an Intermediate Country.—If—

(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported.

SEC. 774. HEARINGS.

(a) Investigation Hearings.—

(1) In general.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

(2) Exception.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.

(b) Procedures.—Any hearing required or permitted under this title shall be conducted after notice published in the Federal Register, and a transcript of the hearing shall be prepared and made available to the public. The hearing shall not be subject to the provisions of subchapter II of chapter 5 of title 5, United States Code, or to section 702 of such title.

SEC. 775. SUBSIDY PRACTICES DISCOVERED DURING A PROCEEDING.

If, in the course of a proceeding under this title, the administering authority discovers a practice which appears to be a subsidy, but was not included in the matters alleged in a countervailing duty petition, then the administering authority—

(1) shall include the practice in the proceeding if it appears to be a subsidy with respect to the merchandise
which is the subject of the proceeding, or
(2) shall transfer the information concerning the
practice (other than confidential information) to the
library maintained under section 777(a)(1), if the practice
appears to be a subsidy with respect to any other merchan-
dise.

SEC. 776. VERIFICATION OF INFORMATION.
(a) Certification of Submissions.--Any person providing
factual information to the administering authority or the
Commission in connection with a proceeding under this title on
behalf of the petitioner or any other interested party shall
certify that such information is accurate and complete to the
best of that person's knowledge.
(b) Verification.--The administering authority shall verify
all information relied upon in making--
(1) a final determination in an investigation,
(2) a revocation under section 751(c), and
(3) a review and determination under section 751(a),
if--
(A) verification is timely requested by an
interested party as defined in section 771(9) (C), (D),
(E), or (F), and
(B) no verification was made under this paragraph
during the 2 immediately preceding reviews and
determination under that section of the same order,
finding, or notice, except that this clause shall not
apply if good cause for verification is shown.

In publishing notice of any action referred to in paragraph (1),
(2), or (3), the administering authority shall report the methods
and procedures used to verify such information. If the admin-
istering authority is unable to verify the accuracy of the
information submitted, it shall use the best information
available to it as the basis for its action, which may include,
in actions referred to in paragraph (1), the information
submitted in support of the petition.
(c) Determinations To Be Made on Best Information Avail-
able.--In making their determinations under this title, the
administering authority and the Commission shall, whenever a
party or any other person refuses or is unable to produce
information requested in a timely manner and in the form
required, or otherwise significantly impedes an investigation,
use the best information otherwise available.

SEC. 777. ACCESS TO INFORMATION.
(a) Information Generally Made Available.--
(1) Public information function.--There shall be
established a library of information relating to foreign
subsidy practices and countervailing measures. Copies of
material in the library shall be made available to the
public upon payment of the costs of preparing such copies.
(2) Progress of investigation reports.--The admin-
istering authority and the Commission shall, from time to
time upon request, inform the parties to an investigation of
the progress of that investigation.

(3) Ex parte meetings.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

(A) interested parties or other persons providing factual information in connection with a proceeding, and

(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding,

if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.

(4) Summaries; non-proprietary submissions.—The administering authority and the Commission may disclose—

(A) any proprietary information received in the course of a proceeding if it is disclosed in a form which cannot be associated with, or otherwise be used to identify, operations of a particular person, and

(B) any information submitted in connection with a proceeding which is not designated as proprietary by the person submitting it.

(b) Proprietary Information.—

(1) Proprietary status maintained.—Except as provided in subsection (a)(4)(A) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting it shall not be disclosed to any person (other than an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title) without the consent of the person submitting it. The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

(A) either—

(i) a non-proprietary summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

(B) either—

(i) a statement which permits the administering authority or the Commission to release
under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

(ii) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.

(2) Unwarranted designation.—If the administering authority or the Commission determines, on the basis of the nature and extent of the information or its availability from public sources, that designation of any information as proprietary is unwarranted, then it shall notify the person who submitted it and ask for an explanation of the reasons for the designation. Unless that person persuades the administering authority or the Commission that the designation is warranted, or withdraws the designation, the administering authority or the Commission, as the case may be, shall return it to the party submitting it.

(c) Limited Disclosure of Certain Proprietary Information Under Protective Order.—

(1) Disclosure by administering authority or Commission.—

(A) In general.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to all interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during a proceeding.

(B) Protective order.—The protective order under which information is made available shall contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall provide by regulation for such sanctions as the administering authority and the Commission determine to be appropriate, including disbarment from practice before the agency.

(C) Time limitations on determinations.—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted, or
(ii) if—
(I) the person submitted the information raises objection to its release, or
(II) the information is unusually voluminous or complex,
not later than 30 days (10 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted.

(D) Availability after determination.--If the determination under subparagraph (C) is affirmative, then

(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date; and

(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

(E) Failure to disclose.--If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.

(2) Disclosure under court order.--If the administering authority denies a request for information under paragraph (1), then application may be made to the United States Customs Court for an order directing the administering authority or the Commission to make the information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may issue an order, under such conditions as the court deems appropriate, which shall not have the effect of stopping or suspending the investigation, directing the administering authority or the Commission to make all or a portion of the requested information described in the preceding sentence available under a protective order and setting forth sanctions for violation of such order if the court finds that, under the standards applicable in proceedings of the court, such an order is warranted, and that--

(A) the administering authority or the Commission has denied access to the information under subsection (b)(1),

(B) the person on whose behalf the information is requested is an interested party who is a party to the investigation in connection with which the information
was obtained or developed, and
(C) the party which submitted the information to which the request relates has been notified, in advance of the hearing, of the request made under this section and of its right to appear and be heard.

(d) Disclosure of Proprietary Information Under Protective Orders Issued Pursuant to the United States-Canada Agreement.--

(1) Issuance of protective orders.--

(A) In general.--If binational panel review of a determination under this title is requested pursuant to article 1904 of the United States-Canada Agreement, or an extraordinary challenge committee is convened under Annex 1904.13 of the United States-Canada Agreement, the administering authority or the Commission, as appropriate, may make available to authorized persons, under a protective order described in paragraph (2), a copy of all proprietary material (but not privileged material as defined by the rules of procedure referred to in article 1904(14) of the United States-Canada Agreement) in the administrative record made during the proceeding in question.

(B) Authorized persons.--For purposes of this subsection, the term "authorized persons" means--

(i) the members of, and the appropriate staff of, the binational panel or the extraordinary challenge committee, as the case may be, and the Secretariat,

(ii) counsel for parties to such panel or committee proceeding, and employees of such counsel, and

(iii) any officer or employee of the United States Government designated by the administering authority or the Commission, as appropriate, to whom disclosure is necessary in order to implement the United States-Canada Agreement with respect to such proceeding.

(C) Review.--A decision concerning the disclosure or nondisclosure of material under protective order by the administering authority or the Commission shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such decision on any question of law or fact by an action in the nature of mandamus or otherwise.

(2) Contents of protective order.--Each protective order issued under this subsection shall be in such form and contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall ensure that regulations issued pursuant to this paragraph shall be designed to provide an opportunity for participation in the binational panel proceeding equivalent to that available for judicial review of determinations by the administering authority or the Commission that are not subject to review by a binational panel.
(3) Prohibited acts.--It is unlawful for any person to violate, or to induce the violation of, any provision of a protective order issued under this subsection or to violate, or to induce the violation of, any provision of an undertaking entered into with an authorized agency of Canada to protect proprietary material during binational panel review pursuant to article 1904 of the United States-Canada Agreement.

(4) Sanctions for violation of protective orders.--Any person who is found by the administering authority or the Commission, as appropriate, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (3) shall be liable to the United States for a civil penalty and shall be subject to such other administrative sanctions, including, but not limited to, debarment from practice before the administering authority or the Commission, as the administering authority or the Commission determines to be appropriate. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty and other sanctions shall be assessed by the administering authority or the Commission by written notice, except that assessment shall be made by the administering authority for violation of, or inducement of a violation of, an undertaking entered into by any person with an authorized agency of Canada.

(5) Review of sanctions.--Any person against whom sanctions are imposed under paragraph (4) may obtain review of such sanctions by filing a notice of appeal in the United States Court of International Trade within 30 days from the date of the order imposing the sanction and by simultaneously sending a copy of such notice by certified mail to the administering authority or the Commission, as appropriate. The administering authority or the Commission shall promptly file in such court a certified copy of the record upon which such violation was found or such sanction imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the administering authority or the Commission shall be set aside by the court only if the court finds that such findings and order are not supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(6) Enforcement of sanctions.--If any person fails to pay an assessment of a civil penalty or to comply with other administrative sanctions after the order imposing such sanctions becomes a final and unappealable order, or after the United States Court of International Trade has entered final judgment in favor of the administering authority or the Commission, an action may be filed in such court to enforce the sanctions. In such action, the validity and appropriateness of the final order imposing the sanctions shall not be subject to review.

(7) Testimony and production of papers.--
(A) Authority to obtain information.—For the purpose of conducting any hearing and carrying out other functions and duties under this subsection, the administering authority and the Commission, or their duly authorized agents—

(i) shall have access to and the right to copy any pertinent document, paper, or record in the possession of any individual, partnership, corporation, association, organization, or other entity,

(ii) may summon witnesses, take testimony, and administer oaths,

(iii) and may require any individual or entity to produce pertinent documents, books, or records.

Any member of the Commission, and any person so designated by the administering authority, may sign subpoenas, and members and agents of the administering authority and the Commission, when authorized by the administering authority or the Commission, as appropriate, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(B) Witnesses and evidence.—The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subparagraph (A) may be required from any place in the United States at any designated place of hearing. In the case of disobedience to a subpoena issued under subparagraph (A), an action may be filed in any district or territorial court of the United States to require the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization or other entity, issue any order requiring such individual or entity to appear before the administering authority or the Commission, or to produce documentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(C) Mandamus.—Any court referred to in subparagraph (B) shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this subsection or any order of the administering authority or the Commission made in pursuance thereof.

(D) Depositions.—For purposes of carrying out any functions or duties under this subsection, the administering authority or the Commission may order testimony to be taken by deposition. Such deposition may be taken before any person designated by the administering authority or Commission and having power
to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization or other entity may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the administering authority or Commission, as provided in this paragraph.

(E) Fees and mileage of witnesses.--Witnesses summoned before the administering authority or the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Service.--Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order; however, a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

(e) Timely Submissions.--Information shall be submitted to the administering authority or the Commission during the course of a proceeding on a timely basis and shall be subject to comment by other parties within such reasonable time as the administering authority or the Commission shall provide. If information is submitted without an adequate opportunity for other parties to comment thereon, the administering authority or the Commission may return the information to the party submitting it and not consider it.

SEC. 777A. SAMPLING AND AVERAGING.

(a) In General.--For the purposes of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may--

(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required, and

(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

(b) Selection of Samples and Averages.--The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.
SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENT.
   (a) General Rule.--Interest shall be payable on overpay-
   ments and underpayments of amounts deposited on merchandise
   entered, or withdrawn from warehouse, for consumption on and
   after--
   (1) the date of publication of a countervailing or
   antidumping duty order under this title or section 303, or
   (2) the date of a finding under the Antidumping Act,
   1921.
   (b) Rate.--The rate of interest payable under subsection
   (a) for any period of time is the rate of interest established
   under section 6621 of the Internal Revenue Code of 1954 for such
   period.

SEC. 779. DRAWBACK TREATMENT.
   For purposes of any law relating to the drawback of customs
duties, countervailing duties and antidumping duties imposed by
this title shall not be treated as being regular customs duties.

SEC. 780. DOWNSTREAM PRODUCT MONITORING.
   (a) Petition Requesting Monitoring.--
       (1) In general.--A domestic producer of an article
       that is like a component part or a downstream product may
       petition the administering authority to designate a
downstream product for monitoring under subsection (b). The
petition shall specify--
       (A) the downstream product,
       (B) the component product incorporated into such
downstream product, and
       (C) the reasons for suspecting that the imposi-
tion of antidumping or countervailing duties has
resulted in a diversion of exports of the component
parts into increased production and exportation to the
United States of such downstream product.
   (2) Determination regarding petition.--Within 14 days
after receiving a petition submitted under paragraph (1),
the administering authority shall determine--
       (A) whether there is a reasonable likelihood that
imports into the United States of the downstream
product will increase as an indirect result of any
diversion with respect to the component part, and
       (B) whether--
       (i) the component part is already subject to
monitoring to aid in the enforcement of a
bilateral arrangement (within the meaning of
section 804 of the Trade and Tariff Act of 1984),
(ii) merchandise related to the component
part and manufactured in the same foreign country
in which the component part is manufactured has
been the subject of a significant number of
investigations suspended under section 704 or 734
or countervailing or antidumping duty orders
issued under this title or section 303, or
       (iii) merchandise manufactured or exported
by the manufacturer or exporter of the component part that is similar in description and use to the component part has been the subject of at least 2 investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303.

(3) Factors to take into account.—In making a determination under paragraph (2)(A), the administering authority may, if appropriate, take into account such factors as—

(A) the value of the component part in relation to the value of the downstream product,

(B) the extent to which the component part has been substantially transformed as a result of its incorporation into the downstream product, and

(C) the relationship between the producers of component parts and producers of downstream products.

(4) Publication of determination.—The administering authority shall publish in the Federal Register notice of each determination made under paragraph (2) and, if the determination made under paragraph (2)(A) and a determination made under any subparagraph of paragraph (2)(B) are affirmative, shall transmit a copy of such determinations and the petition to the Commission.

(5) Determination not subject to judicial review.—Notwithstanding any other provision of law, any determination made by the administering authority under paragraph (2) shall not be subject to judicial review.

(b) Monitoring by the Commission.—

(1) In general.—If the determination made under subsection (a)(2)(A) and a determination made under any clause of subsection (a)(2)(B) with respect to a petition are affirmative, the Commission shall immediately commence monitoring of trade in the downstream product that is the subject of the determination made under subsection (a)(2)(A). If the Commission finds that imports of a downstream product being monitored increased during any calendar quarter by 5 percent or more over the preceding quarter, the Commission shall analyze that increase in the context of overall economic conditions in the product sector.

(2) Reports.—The Commission shall make quarterly reports to the administering authority regarding the monitoring and analyses conducted under paragraph (1). The Commission shall make the reports available to the public.

(c) Action on Basis of Monitoring Reports.—The administering authority shall review the information in the reports submitted by the Commission under subsection (b)(2) and shall—

(1) consider the information in determining whether to initiate an investigation under section 702(a), 732(a), or 303 regarding any downstream product, and

(2) request the Commission to cease monitoring any downstream product if the information indicates that imports into the United States are not increasing and there is no reasonable likelihood of diversion with respect to component
(d) Definitions.—For purposes of this section—

(1) The term "component part" means any imported article that—

(A) during the 5-year period ending on the date on which the petition is filed under subsection (a), has been subject to—

(i) a countervailing or antidumping duty order issued under this title or section 303 that requires the deposit of estimated countervailing or antidumping duties imposed at a rate of at least 15 percent ad valorem, or

(ii) an agreement entered into under section 704, 734, or 303 after a preliminary affirmative determination under section 703(b), 733(b)(1), or 303 was made by the administering authority which included a determination that the estimated net subsidy was at least 15 percent ad valorem or that the estimated average amount by which the foreign market value exceeded the United States price was at least 15 percent ad valorem, and

(B) because of its inherent characteristics, is routinely used as a major part, component, assembly, or material in a downstream product.

(2) The term "downstream product" means any manufactured article—

(A) which is imported into the United States, and

(B) into which is incorporated any component part.

SEC. 781. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) Merchandise Completed or Assembled in the United States.—

(1) In general.—If—

(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

(i) an antidumping duty order issued under section 736,

(ii) a finding issued under the Antidumping Act, 1921, or

(iii) a countervailing duty order issued under section 706 or 303,

(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies, and

(C) the difference between the value of such merchandise sold in the United States and the value of the imported parts and components referred to in subparagraph (B) is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may...
include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

(2) Factors to consider.--In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as--

(A) the pattern of trade,
(B) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and
(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

(b) Merchandise Completed or Assembled in Other Foreign Countries.--

(1) In general.--If--

(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of--

(i) an antidumping duty order issued under section 736,
(ii) a finding issued under the Antidumping Act, 1921, or
(iii) a countervailing duty order issued under section 706 or section 303,

(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which--

(i) is subject to such order or finding, or
(ii) is produced in the foreign country with respect to which such order or finding applies,

(C) the difference between the value of such imported merchandise and the value of the merchandise described in subparagraph (B) is small, and

(D) the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

(2) Factors to consider.--In determining whether to include merchandise assembled or completed in a foreign country in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as--

(A) the pattern of trade,
(B) whether the manufacturer or exporter of the
merchandise described in paragraph (1)(B) is related to the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and
(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the issuance of such order or finding.

(c) Minor Alterations of Merchandise.--

(1) In general.--The class or kind of merchandise subject to--

(A) an investigation under this title,
(B) an antidumping duty order issued under section 736,
(C) a finding issued under the Antidumping Act, 1921, or
(D) a countervailing duty order issued under section 706 or section 303,
shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

(2) Exception.--Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order, or finding.

(d) Later-Developed Merchandise.--

(1) In general.--For purposes of determining whether merchandise developed after an investigation is initiated under this title or section 303 (hereafter in this paragraph referred to as the "later-developed merchandise") is within the scope of an outstanding antidumping or countervailing duty order issued under this title or section 303 as a result of such investigation, the administering authority shall consider whether--

(A) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the "earlier product"),
(B) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,
(C) the ultimate use of the earlier product and the later-developed product are the same,
(D) the later-developed merchandise is sold through the same channels of trade as the earlier product, and
(E) the later-developed merchandise is advertised and displayed in a manner similar to the earlier product.

The administering authority shall take into account any advice provided by the Commission under subsection (e)
before making a determination under this subparagraph.

(2) Exclusion from orders.--The administering authority may not exclude a later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise—

(A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or

(B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

(e) Commission Advice.--

(1) Notification to Commission of proposed action.--Before making a determination—

(A) under subsection (a) with respect to merchandise completed or assembled in the United States (other than minor completion or assembly),

(B) under subsection (b) with respect to merchandise completed or assembled in other foreign countries, or

(C) under subsection (d) with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product,

with respect to an antidumping or countervailing duty order or findings as to which the Commission has made an affirmative injury determination, the administering authority shall notify the Commission of the proposed inclusion of such merchandise in such countervailing or antidumping order or finding. Notwithstanding any other provision of law, a decision by the administering authority regarding whether any merchandise is within a category for which notice is required under this paragraph is not subject to judicial review.

(2) Request for consultation.--After receiving notice under paragraph (1), the Commission may request consultations with the administering authority regarding the inclusion. Upon the request of the Commission, the administering authority shall consult with the Commission and any such consultation shall be completed within 15 days after the date of the request.

(3) Commission advice.--If the Commission believes, after consultation under paragraph (2), that a significant injury issue is presented by the proposed inclusion, the Commission may provide written advice to the administering authority as to whether the inclusion would be inconsistent with the affirmative determination of the Commission on which the order or finding is based. If the Commission decides to provide such written advice, it shall promptly notify the administering authority of its intention to do
so, and must provide such advice within 60 days after the date of notification under paragraph (1). For purposes of formulating its advice with respect to merchandise completed or assembled in the United States from parts or components produced in a foreign country, the Commission shall consider whether the inclusion of such parts or components taken as a whole would be inconsistent with its prior affirmative determination.
Judicial Review: Section 516A of Tariff Act of 1930

SEC. 516A. JUDICIAL REVIEW IN COUNTERVAILING DUTY AND ANTIDUMPING DUTY PROCEEDINGS.

(a) Review of Determination.--
   (1) Review of certain determinations.--Within 30 days after the date of publication in the Federal Register of--
      (A) a determination by the administering authority, under section 702(c) or 732(c) of this Act, not to initiate an investigation,
      (B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances, or
      (C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,
   an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.
   (2) Review of determinations on record.--
      (A) In general.--Within thirty days after--
      (i) the date of publication in the Federal Register of--
      (I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or
      (II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or
      (ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),
   an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.
      (B) Reviewable determinations.--The determinations which may be contested under subparagraph (A) are as follows:
      (i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including
any negative part of such a determination (other than a part referred to in clause (ii)).

(ii) A final negative determination by the administering authority or the Commission under section 705 or 705 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751 of this Act.

(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.

(3) Exception.--Notwithstanding the limitation imposed by paragraph (2)(A)(i)(II) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act.

(4) Procedures and fees.--The procedures and fees set forth in chapter 169 of Title 28 apply to an action under this section.

(5) Time limits in cases involving Canadian merchandise.--Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the 31st day after--

(A) the date of publication in the Federal Register of--

(i) notice of any determination described in
paragraph (1)(B) or a determination described in clause (ii) or (iii) of paragraph (2)(B), or
(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of paragraph (2)(B), or
(B) the date on which the Government of Canada receives notice of a determination described in clause (vi) of paragraph (2)(B).

(b) Standards of review.
(1) Remedy.—The court shall hold unlawful any determination, finding, or conclusion found--
(A) in an action brought under paragraph (1) of subsection (a) of this section, to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or
(B) in an action brought under paragraph (2) of subsection (a) of this section, to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.
(2) Record for review.--
(A) In general.—For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of--
(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 777(a)(3) of this title; and
(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.
(B) Confidential or privileged material.—The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.
(3) Effect of decisions by United States-Canada binational panels.—In making a decision in any action brought under subsection (a), a court of the United States is not bound by, but may take into consideration, a final decision of a binational panel or extraordinary challenge committee convened pursuant to article 1904 of the Agreement.

(c) Liquidation of entries.
(1) Liquidation in accordance with determination.—Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of
the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) of this section shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a decision of the United States Court of International Trade, or of the United States Court of Appeals for the Federal Circuit, not in harmony with that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

(2) Injunctive relief.—In the case of a determination described in paragraph (2) of subsection (a) of this section by the Secretary, the administering authority, or the Commission, the United States Court of International Trade may enjoin the liquidation of some or all entries of merchandise covered by a determination of the Secretary, the administering authority, or the Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances.

(3) Remand for final disposition.—If the final decision of an action brought under this section is not in harmony with the published determination of the Secretary, the administering authority, or the Commission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

(d) Standing.
Any interested party who was a party to the proceeding under section 303 of this Act or title VII of this Act shall have the right to appear and be heard as a party in interest before the United States Court of International Trade. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, and within the time prescribed by rules of the court.

(e) Liquidation in accordance with final decision.
If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit—

(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, or withdrawn from warehouse, for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, and

(2) entries the liquidation of which was enjoined under subsection (c)(2) of this section, shall be liquidated in accordance with the final court decision
in the action. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

(f) Definitions.

(1) Administering authority.--The term "administering authority" means the administering authority described in section 771(1) of this Act.


(3) Interested party.--The term "interested party" means any person described in section 771(9) of this Act.

(4) Secretary.--The term "Secretary" means the Secretary of the Treasury.

(5) Agreement.--The term "Agreement" means the United States-Canada Free-Trade Agreement.

(6) United States Secretary.--The term "United States Secretary" means the secretary provided for in paragraph 4 of Article 1909 of the Agreement.

(7) Canadian Secretary.--The term "Canadian Secretary" means the secretary provided for in paragraph 5 of Article 1909 of the Agreement.

(g) Review of Countervailing Duty and Antidumping Duty Determinations Involving Canadian Merchandise.--

(1) Definition of determination.--For purposes of this subsection, the term "determination" means a determination described in--

(A) paragraph (1)(B) of subsection (a), or

(B) clause (i), (ii), (iii), or (vi) of paragraph (2)(B) of subsection (a),

if made in connection with a proceeding regarding a class or kind of Canadian merchandise, as determined by the administering authority.

(2) Exclusive review of determination by binational panels.--If binational panel review of a determination is requested pursuant to Article 1904 of the Agreement, then, except as provided in paragraph (3) and (4)--

(A) the determination is not reviewable under subsection (a), and

(B) no court of the United States has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise.

(3) Exception to exclusive binational panel review.--

(A) In general.--A determination is reviewable under subsection (a) if the determination sought to be reviewed is--

(i) a determination as to which neither the United States nor Canada requested review by a binational panel pursuant to Article 1904 of the Agreement,

(ii) a revised determination issued as a direct result of judicial review, commenced
pursuant to subsection (a), if neither the United States nor Canada requested review of the original determination, or

(iii) a determination issued as a direct result of judicial review that was commenced pursuant to subsection (a) prior to the entry into force of the Agreement.

(B) Special rule.--A determination described in subparagraph (A)(i) is reviewable under subsection (a) only if the party seeking to commence review has provided timely notice of its intent to commence such review to the United States Secretary, the Canadian Secretary, all interested parties who were parties to the proceeding in connection with which the matter arises, and the administering authority or the Commission, as appropriate. Such notice is provided timely if the notice is delivered by no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination. Such notice shall contain such information, and be in such form, manner, and style, as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(4) Exception to exclusive binational panel review for constitutional issues.--

(A) Constitutionality of binational panel review system.--An action for declaratory judgment or injunctive relief, or both, regarding a determination on the grounds that any provision of, or amendment made by, the United States-Canada Free-Trade Implementation Agreement Act of 1988 implementing the binational panel dispute settlement system under Chapter 19 of the Agreement violates the Constitution may be brought in the United States Court of Appeals for the District of Columbia Circuit. Any action brought under this subparagraph shall be heard and determined by a 3-judge court in accordance with section 2284 of title 28, United States Code.

(B) Other constitutional review.--Review is available under subsection (a) with respect to a determination solely concerning a constitutional issue (other than an issue to which subparagraph (A) applies) arising under any law of the United States as enacted or applied. An action for review under this subparagraph shall be assigned to a 3-judge panel of the United States Court of International Trade.

(C) Commencement of review.--Notwithstanding the time limits in subsection (a), within 30 days after the date of publication in the Federal Register of notice that binational panel review has been completed, an interested party who is a party to the proceeding in
connection with which the matter arises may commence an action under subparagraph (A) or (B) by filing an action in accordance with the rules of the court.

(D) Transfer of actions to appropriate Court.--Whenever an action is filed in a court under subparagraph (A) or (B) and that court finds that the action should have been filed in the other court, the court in which the action was filed shall transfer the action to the other court and the action shall proceed as if it had been filed in the court to which it is transferred on the date upon which it was actually filed in the court from which it is transferred.

(E) Frivolous claims.--Frivolous claims brought under subparagraph (A) or (B) are subject to dismissal and sanctions as provided under section 1927 of title 28, United States Code, and the Federal Rules of Civil Procedure.

(F) Security.--
(i) Subparagraph (A) actions.--The security requirements of Rule 65(c) of the Federal Rules of Civil Procedure apply with respect to actions commenced under subparagraph (A).

(ii) Subparagraph (B) actions.--No claim shall be heard, and no temporary restraining order or temporary or permanent injunction shall be issued, under an action commenced under subparagraph (B), unless the party seeking review first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense parties affected for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction. If a court upholds the constitutionality of the determination in question in such action, the court shall award to a prevailing party fees and expenses, in addition to any costs incurred by that party, unless the court finds that the position of the other party was substantially justified or that special circumstances make an award unjust.

(G) Panel record.--The record of proceedings before the binational panel shall not be considered part of the record for review pursuant to subparagraph (A) or (B).

(H) Appeal to Supreme Court of court orders issued in subparagraph (A) actions.--Notwithstanding any other provision of law, any final judgment of the United States Court of Appeals for the District of Columbia Circuit which is issued pursuant to an action brought under subparagraph (A) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of
appeal filed within 20 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under subparagraph (A) may be issued by a single Justice of the Supreme Court.

(5) Liquidation of entries.--

(A) Application.—In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, the rules provided in this paragraph shall apply, notwithstanding the provisions of subsection (c).

(B) General rule.—In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, entries of merchandise covered by such determination shall be liquidated in accordance with the determination of the administering authority or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the administering authority of notice of a final decision of a binational panel, or of an extraordinary challenge committee, not in harmony with that determination. Such notice of a decision shall be published within 10 days of the date of the issuance of the panel or committee decision.

(C) Suspension of liquidation.—

(i) In general.—Notwithstanding the provisions of subparagraph (B), in the case of a determination described in clause (iii) or (vi) of subsection (a)(2)(B) for which binational panel review is requested pursuant to article 1904 of the Agreement, the administering authority, upon request of an interested party who was a party to the proceeding in connection with which the matter arises and who is a participant in the binational panel review, shall order the continued suspension of liquidation of those entries of merchandise covered by the determination that are involved in the review pending the final disposition of the review.

(ii) Notice.—At the same time as the interested party makes its request to the administering authority under clause (i), that party shall serve a copy of its request on the United States Secretary, the Canadian Secretary, and all interested parties who were parties to the proceeding in connection with which the matter arises.

(iii) Application of suspension.—If the interested party requesting continued suspension of liquidation under clause (i) is a foreign
manufacturer, producer, or exporter, or a United States importer, the continued suspension of liquidation shall apply only to entries of merchandise manufactured, produced, exported, or imported by that particular manufacturer, producer, exporter, or importer. If the interested party requesting the continued suspension of liquidation under clause (i) is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9), the continued suspension of liquidation shall apply only to entries which could be affected by a decision of the binational panel convened under chapter 19 of the Agreement.

(iv) Judicial review.--Any action taken by the administering authority or the United States Customs Service under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(6) Injunctive relief.--Except for cases under paragraph (4)(B), in the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, the provisions of subsection (c)(2) shall not apply.

(7) Implementation of international obligations under article 1904.--

(A) In general.--If a determination is referred to a binational panel or extraordinary challenge committee under the Agreement and the panel or committee makes a decision remanding the determination to the administering authority or the Commission, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with the decision of the panel or committee. Any action taken by the administering authority or the Commission under this paragraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(B) Application if subparagraph (A) held unconstitutional.--In the event that the provisions of subparagraph (A) are held unconstitutional under the provisions of subparagraphs (A) and (H) of paragraph (4), the provisions of this subparagraph shall take effect. In such event, the President is authorized on behalf of the United States to accept, as a whole, the decision of a binational panel or extraordinary challenge committee remanding the determination to the administering authority or the Commission within the
period specified by the panel or committee. Upon acceptance by the President of such a decision, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with such decision. Any action taken by the President, the administering authority, or the Commission under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(8) Requests for binational panel review.---

(A) Interested party requests for binational panel review.--An interested party who was a party to the proceeding in which a determination is made may request binational panel review of such determination by filing a request with the United States Secretary by no later than the date that is 30 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination. Receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(B) Service of request for binational panel review.--

(i) Service by interested party.--If a request for binational panel review of a determination is filed under subparagraph (A), the party making the request shall serve a copy, by mail or personal service, on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(ii) Service by United States Secretary.--If an interested party to the proceeding requests binational panel review of a determination by filing a request with the Canadian Secretary, the United States Secretary shall serve a copy of the request by mail on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(C) Limitation on request for binational panel review.--Absent a request by an interested party under subparagraph (A), the United States may not request binational panel review under article 1904 of the Agreement of a determination.
(9) Representation in panel proceedings.—In the case of binational panel proceedings convened under chapter 19 of the Agreement, the administering authority and the Commission shall be represented by attorneys who are employees of the administering authority or the Commission respectively. Interested parties who were parties to the proceeding in connection with which the matter arises shall have the right to appear and be represented by counsel before the binational panel.

(10) Notification of class or kind rulings.—In the case of a determination which is described in paragraph (2)(B)(vi) of subsection (a) and which is subject to the provisions of paragraph (2), the administering authority, upon request, shall inform any interested person of the date on which the Government of Canada received notice of the determination under article 1904(4) of the Agreement.
SEC. 805. ENFORCEMENT AUTHORITY.

(a) Subject to section 806, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations, restrictions, and other terms agreed to between the United States and steel-exporting nations as contained in bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of steel products.

(b)(1) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension, or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to paragraph (2) of this subsection whenever he determines that--

(A) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average of annual United States apparent consumption specified in the Arrangement, or

(B) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European communities articles within product categories developed by the Secretary of Commerce.

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under paragraph (2) is requested.

(2) At the request of the Secretary of Commerce pursuant to paragraph (1), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement.

(3) Nothing in this subsection may be construed as prohibiting the Secretary of Commerce from permitting the importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist; except that a short supply or emergency economic situation shall not be considered to exist solely because domestic producers are unwilling to supply products.
at prices below their cost of production (as determined by the Secretary of Commerce).

(c) For purposes of carrying out this title, the Secretary of the Treasury may provide by regulation for the terms and conditions under which steel products may be denied entry into the United States.

(d)(1) Any steel product that is manufactured in a country that is not party to a bilateral arrangement from steel which was melted and poured in a country that is a party to a bilateral arrangement (hereafter in this subsection referred to as an "arrangement country") may be treated for purposes of the quantitative restrictions and related terms under that arrangement as if it were a product of the arrangement country.

(2) The President may implement such procedures as may be necessary or appropriate to carry out the purpose of paragraph (1).

(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called "third country equity provision" of an arrangement entered into under the President's Steel Policy, take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.