

of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared that it is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (A) disserve the goal of promoting continuing development and innovation in computer software; (B) undermine the international consensus that computer software is a work of authorship protected by copyright; (C) result in economic harm to the computer software industry of the United States, and also of Japan and of other nations; and (D) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

International  
Trade and  
Investment Act.

### TITLE III—INTERNATIONAL TRADE AND INVESTMENT

#### SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

19 USC 2101  
note.

(a) This title may be cited as the “International Trade and Investment Act”.

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

19 USC 2101.

19 USC 2102  
note.

#### SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

- (2) to improve the ability of the President—
  - (A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and
  - (B) to achieve the elimination of such barriers and restrictions;
- (3) to encourage the expansion of—
  - (A) international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services, and
  - (B) United States service industries in foreign commerce; and
- (4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

**SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.**

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

**“CHAPTER 8—BARRIERS TO MARKET ACCESS**

**“SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.**

19 USC 2241.

“(a) NATIONAL TRADE ESTIMATES.—

“(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 shall—

19 USC 1872.

“(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

“(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

“(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

“(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

“(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

“(A) the relative impact of the act, policy, or practice on United States commerce;

“(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

“(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

“(D) any advice given through appropriate committees established pursuant to section 135.

19 USC 2155.

“(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

“(b) REPORT TO CONGRESS.—

*Ante*, p. 3000.

“(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

“(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

“(A) any action under section 301, or

“(B) negotiations or consultations with foreign governments.

“(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

“(c) ASSISTANCE OF OTHER AGENCIES.—

“(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

“(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

“(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.”.

(b) The table of contents for title I is amended by adding at the end thereof the following:

“CHAPTER 8—BARRIERS TO MARKET ACCESS

“Sec. 181. Actions concerning barriers to market access.”.

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

“(a) DETERMINATIONS REQUIRING ACTION.—

President of U.S.

“(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

“(A) to enforce the rights of the United States under any trade agreement; or

“(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

“(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

“(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

“(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

“(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

“(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).”

(b) Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out “and” at the end of paragraph (1);

(2) by inserting “, notwithstanding any other provision of law,” before “fees” in paragraph (2); and

(3) by striking out “products” in paragraph (2) and inserting in lieu thereof “goods”.

(c) Section 301 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

“(c) ADDITIONAL ACTIONS ON SERVICES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in subsection (b), the President may—

“(A) restrict, in the manner and to the extent the President deems appropriate, the terms and conditions of any such authorization, or

“(B) deny the issuance of any such authorization.

“(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

“(A) a petition is filed under section 302(a), or

“(B) a determination to initiate an investigation is made by the United States Trade Representative (hereinafter in this chapter referred to as the ‘Trade Representative’) under section 302(c).

“(3) CONSULTATION.—Before the President takes action under subsection (b) or (c) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.”

(d)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

**“SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.**

**“(a) FILING OF PETITION.—**

*Infra.*

“(1) **IN GENERAL.**—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the “Trade Representative”) requesting the President to take action under section 301 and setting forth the allegations in support of the request.

*Ante*, p. 3002.

“(2) **REVIEW OF ALLEGATIONS.**—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

“(b) **DETERMINATIONS REGARDING PETITIONS.**—

Federal Register, publication.

“(1) **NEGATIVE DETERMINATION.**—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

“(2) **AFFIRMATIVE DETERMINATION.**—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

“(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

“(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

“(c) **DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.**—

“(1) **DETERMINATION TO INITIATE.**—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President’s authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

“(2) **CONSULTATION BEFORE INITIATION.**—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.”

19 USC 2155.

19 USC 2171.

(2)(A) Section 141(d) is amended—

(i) by striking out “and” at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and “and”, and

(iii) by adding at the end thereof the following new paragraph:

“(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.”

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out “with respect to a petition”;

(ii) by inserting “or the determination of the Trade Representative under section 302(c)(1)” after “in the petition”; and

(iii) by inserting “(if any)” after “petitioner”.

*Ante*, p. 3003.

(C) Section 304 (19 U.S.C. 2414) is amended by striking out “issues raised in the petition” and inserting in lieu thereof “matters under investigation” in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

“Sec. 302. Initiation of Investigations by United States Trade Representative.”.

(e) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting “(a) IN GENERAL.—” before “On”; and

(2) by adding at the end thereof the following new subsection:

“(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—  
“(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

“(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

“(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

“(2) NOTICE AND REPORT.—The Trade Representative shall—

“(A) publish notice of any delay under paragraph (1) in the Federal Register, and

“(B) report to Congress on the reasons for such delay in the report required by section 306.”.

19 USC 2414.

Federal Register, publication.

19 USC 2416.

(f)(1) Paragraph (1) of section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended to read as follows:

“(1) COMMERCE.—The term ‘commerce’ includes, but is not limited to—

“(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

“(B) foreign direct investment by United States persons with implications for trade in goods or services.”.

(2) Section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended by adding at the end thereof the following new paragraphs:

“(3) UNREASONABLE.—The term ‘unreasonable’ means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

“(A) market opportunities;

“(B) opportunities for the establishment of an enterprise;

or

“(C) provision of adequate and effective protection of intellectual property rights.

“(4) UNJUSTIFIABLE.—

“(A) IN GENERAL.—The term ‘unjustifiable’ means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

“(B) CERTAIN ACTIONS INCLUDED.—The term ‘unjustifiable’ includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies

national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

“(5) **DEFINITION OF DISCRIMINATORY.**—The term ‘discriminatory’ includes, where appropriate, any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

“(6) **SERVICE SECTOR ACCESS AUTHORIZATION.**—The term ‘service sector access authorization’ means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.”

(3) Section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended by striking out the heading and inserting in lieu thereof:

“(e) **DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.**—For purposes of this section—”

(g) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

“(c) **CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

“(A) the person providing such information certifies that—

“(i) such information is business confidential,

“(ii) the disclosure of such information would endanger trade secrets or profitability, and

“(iii) such information is not generally available;

“(B) the Trade Representative determines that such certification is well-founded; and

“(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

“(2) **USE OF INFORMATION.**—The Trade Representative may—

“(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

“(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.”

**SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.**

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

19 USC 2114a. “**SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.**

“(a) **TRADE IN SERVICES.**—

19 USC 2112. “(1) **IN GENERAL.**—Principal United States negotiating objectives under section 102 shall be—

“(A) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and restrictions on the establishment and operation in such markets; and

“(B) to develop internationally agreed rules, including dispute settlement procedures, which—

“(i) are consistent with the commercial policies of the United States, and

“(ii) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

“(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

“(b) FOREIGN DIRECT INVESTMENT.—

“(1) IN GENERAL.—Principal United States negotiating objectives under section 102 shall be—

19 USC 2112.

“(A) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

“(B) to develop internationally agreed rules, including dispute settlement procedures, which—

“(i) will help ensure a free flow of foreign direct investment, and

“(ii) will reduce or eliminate the trade distortive effects of certain investment related measures.

“(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

“(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

“(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

“(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

*Ante*, p. 3001.

“(A) foreign industrial policies which distort international trade or investment;

“(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

“(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

“(D) measures which impair access to domestic markets for key commodity products; and

“(E) measures which facilitate or encourage anticompetitive market practices or structures;

“(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

“(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

“(5) to obtain commitments to foster national treatment;

“(6) to obtain commitments to—

“(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

“(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

“(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

“(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term ‘barriers to, or other distortions of, international trade in services’ includes, but is not limited to—

“(1) barriers to establishment in foreign markets, and

“(2) restrictions on the operation of enterprises in foreign markets, including—

“(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

“(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.”

(2) The table of contents for chapter 1 of title 1 is amended by inserting after the item relating to section 104 the following new item:

“Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.”

19 USC 2114b.

**SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.**

(a)(1) The Secretary of Commerce shall establish a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of Government policies and actions pertaining to services, including, but

not limited to, data on trade, both aggregate and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) policies of foreign governments toward foreign and United States service industries;

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the effect of such regulation on trade;

(iii) the adequacy of current United States policies to strengthen the competitiveness of United States service industries in foreign commerce, including export promotion activities in the service sector;

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(v) treatment of services under international agreements of the United States;

(vi) antitrust policies as such policies affect the competitiveness of United States firms; and

(vii) treatment of services in international agreements of the United States;

(D) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(E) conduct sectoral studies of domestic service industries.

(2) For purposes of the collection and analysis required by paragraph (1), and for the purpose of any reporting the Department of Commerce makes under paragraph (3), such collection and reporting shall distinguish between income from investment and income from noninvestment services.

(3) On not less than a biennial basis beginning in 1986, the Secretary shall prepare a report which analyzes the information collected under paragraph (1). Such report shall be submitted to the Congress and to the President by not later than the date that is 120 days after the close of the period covered by the report.

Report.

(4) The Secretary of Commerce shall carry out the provisions of this subsection from funds otherwise made available to him which may be used for such purposes.

(5) For purposes of this section, the term “services” means economic activities whose outputs are other than tangible goods. Such term includes, but is not limited to, banking, insurance, transportation, communications and data processing, retail and wholesale trade, advertising, accounting, construction, design and engineering, management consulting, real estate, professional services, entertainment, education, health care, and tourism.

(b)(1) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the “International Investment and Trade in Services Survey Act”.

International  
Investment and  
Trade in  
Services Survey  
Act.  
22 USC 3101  
note.

(2)(A) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(i) by striking out “and” at the end of paragraph (6);

(ii) by inserting “and trade in services” after “international investment” in paragraph (7);

(iii) by redesignating paragraph (7) as paragraph (9); and

(iv) by inserting after paragraph (6) the following new paragraphs:

“(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

“(8) international trade and services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and”.

22 USC 3101.

(B) Subsection (b) of section 2 of such Act is amended—

(i) by inserting “and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade,” after “international investment” the first place it appears; and

(ii) by inserting “and trade in services” after “international investment” the second place it appears.

(C) Subsection (c) of section 2 of such Act is amended by striking out “or United States investment abroad” and inserting in lieu thereof “, United States investment abroad, or trade in services”.

(3) Paragraph (3) of section 4(a) of such Act (22 U.S.C. 3103(a)(3)) is amended—

(A) by inserting “Finance” after “to the Committees on”, and

(B) by striking out “the Committee on Foreign Affairs” and inserting in lieu thereof “the Committees on Ways and Means, Energy and Commerce, and Foreign Affairs”.

(4)(A) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(i) by striking out “presentation relating to international investment” in paragraph (3) and inserting in lieu thereof “presentation”;

(ii) by inserting “and trade in services” after “international investment” each place it appears in paragraphs (1), (2), and (3);

(iii) by striking out “and” at the end of paragraph (3);

(iv) by redesignating paragraph (4) as paragraph (5); and

(v) by inserting after paragraph (3) the following new paragraph:

“(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and”.

(B) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting “(including trade in both goods and services)” after “regarding trade”.

(C) Subsection (f) of section 4 of such Act is amended by inserting “and trade in services” after “international investment”.

(5) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out “international investment” each place it appears.

19 USC 2114c.

19 USC 1872.

(c)(1)(A) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(B) In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets; or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) Nothing in this paragraph shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(2)(A) The President shall, as he deems appropriate—

President of U.S.

(i) consult with State governments on issues of trade policy, including negotiating objectives and implementation of trade agreements, affecting the regulatory authority of non-Federal governments, or their procurement of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States service industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.";

(iii) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(iv) by inserting "government," before "labor" in subsection (j); and

(v) by adding at the end thereof the following new subsection:

“(n) **NON-FEDERAL GOVERNMENT DEFINED.**—The term ‘non-Federal government’ means—

“(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

“(2) any agency or instrumentality of any entity described in paragraph (1).”; and

(vi) by inserting “or Public” after “Private” in the heading thereof.

(C)(i) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting “or non-Federal governmental” after “private”.

(ii) Section 303 (19 U.S.C. 2413) and section 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out “private sector”.

(iii) The table of sections for chapter 3 of title I is amended by inserting “and public” after “private” in the item relating to section 135.

**SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.**

(a) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

“(3) the term ‘international trade’ includes—

“(A) trade in both goods and services, and

“(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.”.

19 USC 2114d.

(b)(1) If the United States Trade Representative, with the advice of the committee established by section 242 of the Trade Expansion of 1962 (19 U.S.C. 1872), determines that action by the United States is appropriate to respond to any export performance requirements of any foreign country or instrumentality that adversely affect the economic interests of the United States, then the United States Trade Representative shall seek to obtain the reduction and elimination of such export performance requirements through consultations and negotiations with the foreign country or instrumentality concerned.

(2) In addition to the action referred to in subsection (1), the United States Trade Representative may impose duties or other import restrictions on the products or services of such foreign country or instrumentality for such time as he determines appropriate, including the exclusion from entry into the United States of products subject to such requirements.

(3) Nothing in paragraph (2) or paragraph (3) shall apply to any products or services with respect to which—

(A) any foreign direct investment (including a purchase of land or facilities) has been made directly or indirectly by any United States person before the date of enactment of this Act, or

(B) any written commitment relating to a foreign direct investment that is binding on the date of enactment of this Act has been made directly or indirectly by any United States person.

(4) Whenever the international obligations of the United States and actions taken under paragraph (2) make compensation necessary or appropriate, compensation may be provided by the United States Trade Representative subject to the limitations and conditions contained in section 123 of the Trade Act of 1974 (19 U.S.C.

2133) for providing compensation for actions taken under section 203 of that Act.

*Ante*, p. 3003.

**SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.**

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

19 USC 2114e.

*Ante*, p. 3006.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

**“SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.**

19 USC 2138.

“(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

19 USC 2151  
*et seq.*

“(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

“(2) such additional duties,

as he deems appropriate.

“(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

“(1) Transistors (provided for in item 587.70, part 5, schedule 6).

“(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).

“(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

“(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

“(5) Other components (provided for in item 687.81, part 5, schedule 6).

“(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

“(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

“(c) **TERMINATION.**—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.”.

(2) The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

“Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.”.

**TITLE IV—TRADE WITH ISRAEL**

**SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.**

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out “Whenever” and inserting in lieu thereof “(1) Whenever”, and

[Act of October 21, 1998, Pub. L. No. 105-277, 112 Stat. 2681, an omnibus appropriations act. Section 101(h) enacted the Treasury and General Government Appropriations Act, 1999. Section 633 of this act is set out below.]

112 STAT. 2681-523 PUBLIC LAW 105-277—OCT. 21, 1998

(2) FLEXIPLACE WORK TELECOMMUTING PROGRAM.—The term “flexiplace work telecommuting program” means a program under which employees of an Executive agency are permitted to perform all or a portion of their duties at a flexiplace work telecommuting center established under section 210(l) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(l)) or other Federal law.

SEC. 631. (a) MERITORIOUS EXECUTIVE.—Section 4507(e)(1) of title 5, United States Code, is amended by striking “\$10,000” and inserting “an amount equal to 20 percent of annual basic pay”.

(b) DISTINGUISHED EXECUTIVE.—Section 4507(e)(2) of title 5, United States Code, is amended by striking “\$20,000” and inserting “an amount equal to 35 percent of annual basic pay”.

5 USC 4507 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, or the date of enactment of this Act, whichever is later.

SEC. 632. (a) CAREER SES PERFORMANCE AWARDS.—Section 5384(b)(3) of title 5, United States Code, is amended—

(1) by striking “3 percent” and inserting “10 percent”; and

(2) by striking “15 percent” and inserting “20 percent”.

5 USC 5384 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, or the date of enactment of this Act, whichever is later.

SEC. 633. (a) INTERNATIONAL POSTAL ARRANGEMENTS.—Section 407 of title 39, United States Code, is amended to read as follows:

**“§ 407. International Postal Arrangements.**

“(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

“(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

“(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

“(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

“(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

“(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

“(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other

persons as the Secretary or the Postal Service considers appropriate.”.

(b) SENSE OF CONGRESS.—It is the sense of Congress that any treaty, convention or amendment entered into under the authority of section 407 of title 39 of the United States Code, as amended by this section, should not grant any undue or unreasonable preference to the Postal Service, a private provider of postal services, or any other person.

(c) TRADE-IN-SERVICE PROGRAMS.—The second sentence of paragraph (5) of section 306(a) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114b(5)) is amended by inserting “postal and delivery services,” after “transportation.”

(d) TRANSFER OF FUNDS.—In fiscal year 1999 and each fiscal year hereafter, the Postal Service shall allocate to the Department of State from any funds available to the Postal Service such sums as may be reasonable, documented and auditable for the Department of State to carry out the activities of Section 407 of title 39 of the United States Code. 39 USC 407 note.

SEC. 634. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President’s Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing. 5 USC 7301 note.

SEC. 635. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 636. No funds appropriated in this or any other Act for fiscal year 1999 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: “These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing