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UNITED STATES-JORDAN FREE TRADE AREA IMPLEMENTATION ACT

SEPTEMBER 4, 2001.—Ordered to be printed

Mr. BAUCUS, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 643]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, having considered legislation (S. 643) to implement the agreement establishing a United States-Jordan free trade area, reports favorably thereon with an amendment and refers the bill as amended to the full Senate with a recommendation that the bill do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Jordan Free Trade Area Implementation Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to implement the agreement between the United States and Jordan establishing a free trade area;

(2) to strengthen and develop the economic relations between the United States and Jordan for their mutual benefit; and

(3) to establish free trade between the 2 nations through the removal of trade barriers.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) AGREEMENT.—The term "Agreement" means the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area, entered into on October 24, 2000.

(2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

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SEC. 4. APPROVAL OF AGREEMENT.

Congress approves the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the establishment of a free trade area, entered into on October 24, 2000, and submitted to Congress on January 6, 2001.

TITLE I—TARIFF MODIFICATIONS; RULES OF ORIGIN

SEC. 101. TARIFF MODIFICATIONS.

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—The President may proclaim—

(1) such modifications or continuation of any duty,

(2) such continuation of duty-free or excise treatment, or

(3) such additional duties,

as the President determines to be necessary or appropriate to carry out article 2.1 of the Agreement and the schedule of duty reductions with respect to Jordan set out in Annex 2.1 of the Agreement.

(b) OTHER TARIFF MODIFICATIONS.—The President may proclaim—

(1) such modifications or continuation of any duty,

(2) such continuation of duty-free or excise treatment, or

(3) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Jordan provided for by the Agreement.

SEC. 102. RULES OF ORIGIN.

(a) IN GENERAL.—

(1) ELIGIBLE ARTICLES.—

(A) IN GENERAL.—The reduction or elimination of any duty imposed on any article by the United States provided for in the Agreement shall apply only if—

(i) that article is imported directly from Jordan into the customs territory of the United States; and

(ii) that article—

(I) is wholly the growth, product, or manufacture of Jordan; or

(II) is a new or different article of commerce that has been grown, produced, or manufactured in Jordan and meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—

(i) GENERAL RULE.—The requirements of this subparagraph are that with respect to an article described in subparagraph (A)(ii)(II), the sum of—

(I) the cost or value of the materials produced in Jordan, plus

(II) the direct costs of processing operations performed in Jordan,

is not less than 35 percent of the appraised value of such article at the time it is entered.

(ii) MATERIALS PRODUCED IN UNITED STATES.—If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in clause (i).

(2) EXCLUSIONS.—No article may be considered to meet the requirements of paragraph (1)(A) by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(b) DIRECT COSTS OF PROCESSING OPERATIONS.—

(1) IN GENERAL.—As used in this section, the term "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

(2) EXCLUDED COSTS.—The term “direct costs of processing operations” does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as—

(A) profit; and

(B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen’s salaries, commissions, or expenses.

(c) TEXTILE AND APPAREL ARTICLES.—

(1) IN GENERAL.—A textile or apparel article imported directly from Jordan into the customs territory of the United States shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) only if—

(A) the article is wholly obtained or produced in Jordan;

(B) the article is a yarn, thread, twine, cordage, rope, cable, or braiding, and—

(i) the constituent staple fibers are spun in Jordan, or

(ii) the continuous filament is extruded in Jordan;

(C) the article is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in Jordan; or

(D) the article is any other textile or apparel article that is wholly assembled in Jordan from its component pieces.

(2) DEFINITION.—For purposes of paragraph (1), an article is “wholly obtained or produced in Jordan” if it is wholly the growth, product, or manufacture of Jordan.

(3) SPECIAL RULES.—

(A) CERTAIN MADE-UP ARTICLES, TEXTILE ARTICLES IN THE PIECE, AND CERTAIN OTHER TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, subparagraph (A), (B), or (C) of paragraph (1), as appropriate, shall determine whether a good that is classified under one of the following headings or subheadings of the HTS shall be considered to meet the requirements of paragraph (1)(A) of subsection (a): 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6304, 6305, 6306, 6307.10, 6307.90, 6308, and 9404.90.

(B) CERTAIN KNIT-TO-SHAPE TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, a textile or apparel article which is knit-to-shape in Jordan shall be considered to meet the requirements of paragraph (1)(A) of subsection (a).

(C) CERTAIN DYED AND PRINTED TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D), a good classified under subheading 6117.10, 6213.00, 6214.00. 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95 of the HTS, except for a good classified under any such subheading as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the fabric in the good is both dyed and printed in Jordan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(D) FABRICS OF SILK, COTTON, MANMADE FIBER OR VEGETABLE FIBER.—Notwithstanding paragraph (1)(C), a fabric classified under the HTS as of silk, cotton, man-made fiber, or vegetable fiber shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the fabric is both dyed and printed in Jordan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(4) MULTICOUNTRY RULE.—If the origin of a textile or apparel article cannot be determined under paragraph (1) or (3), then that article shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if—

(A) the most important assembly or manufacturing process occurs in Jordan; or

(B) if the applicability of paragraph (1)(A) of subsection (a) cannot be determined under subparagraph (A), the last important assembly or manufacturing occurs in Jordan.

(d) EXCLUSION.—A good shall not be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the good—

(1) is imported into Jordan, and, at the time of importation, would be classified under heading 0805 of the HTS; and

(2) is processed in Jordan into a good classified under any of subheadings 2009.11 through 2009.30 of the HTS.

(e) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

TITLE II—RELIEF FROM IMPORTS

Subtitle A—General Provisions

SEC. 201. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the United States International Trade Commission.

(2) JORDANIAN ARTICLE.—The term "Jordanian article" means an article that qualifies for reduction or elimination of a duty under section 102.

Subtitle B—Relief From Imports Benefiting From The Agreement

SEC. 211. COMMENCING OF ACTION FOR RELIEF.

(a) FILING OF PETITION.—

(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974.

(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

(b) INVESTIGATION AND DETERMINATION.—

(1) IN GENERAL.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Jordanian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Jordanian article alone constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) CAUSATION.—For purposes of this subtitle, a Jordanian article is being imported into the United States in increased quantities as a result of the reduction or elimination of a duty provided for under the Agreement if the reduction or elimination is a cause that contributes significantly to the increase in imports. Such cause need not be equal to or greater than any other cause.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (d).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Jordanian article if import relief has been provided under this subtitle with respect to that article.

SEC. 212. COMMISSION ACTION ON PETITION.

(a) DETERMINATION.—By no later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 211(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, the Commission shall find, and recommend to the President in the report required under subsection (c), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 213(c).

(c) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that shall include—

(1) a statement of the basis for the determination;

(2) dissenting and separate views; and

(3) any finding made under subsection (b) regarding import relief.

(d) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (c), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(e) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall apply with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

SEC. 213. PROVISION OF RELIEF.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission containing an affirmative determination of the Commission under section 212(a), the President shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to prevent or remedy the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition, unless the President determines that the provision of such relief is not in the national economic interest of the United States or, in extraordinary circumstances, that the provision of such relief would cause serious harm to the national security of the United States.

(b) NATIONAL ECONOMIC INTEREST.—The President may determine under subsection (a) that providing import relief is not in the national economic interest of the United States only if the President finds that taking such action would have an adverse impact on the United States economy clearly greater than the benefits of taking such action.

(c) NATURE OF RELIEF.—The import relief (including provisional relief) that the President is authorized to provide under this subtitle with respect to imports of an article is—

(1) the suspension of any further reduction provided for under the United States Schedule to Annex 2.1 of the Agreement in the duty imposed on that article;

(2) an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force; or

(3) in the case of a duty applied on a seasonal basis to that article, an increase in the rate of duty imposed on the article to a level that does not exceed the column 1 general rate of duty imposed under the HTS on the article for the corresponding season occurring immediately before the date on which the Agreement enters into force.

(d) PERIOD OF RELIEF.—The import relief that the President is authorized to provide under this section may not exceed 4 years.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this subtitle is terminated with respect to an article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which termination occurs shall be the rate that, according to the United States Schedule to Annex 2.1 of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the initiation of the import relief action under section 211; and

(2) the tariff treatment for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the rate of duty conforming to the applicable rate set out in the United States Schedule to Annex 2.1; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the United States Schedule to Annex 2.1 for the elimination of the tariff.

SEC. 214. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Except as provided in subsection (b), no import relief may be provided under this subtitle after the date that is 15 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—Import relief may be provided under this subtitle in the case of a Jordanian article after the date on which such relief would, but for this subsection, terminate under subsection (a), but only if the Government of Jordan consents to such provision.

SEC. 215. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 213 shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 216. SUBMISSION OF PETITIONS.

A petition for import relief may be submitted to the Commission under—

(1) this subtitle;

(2) chapter 1 of title II of the Trade Act of 1974; or

(3) under both this subtitle and such chapter 1 at the same time, in which case the Commission shall consider such petitions jointly.

Subtitle C—Cases Under Title II of The Trade Act of 1974

SEC. 221. FINDINGS AND ACTION ON JORDANIAN IMPORTS.

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article from Jordan are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL ACTION REGARDING JORDANIAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall determine whether imports from Jordan are a substantial cause of the serious injury found by the Commission and, if such determination is in the negative, may exclude from such action imports from Jordan.

SEC. 222. TECHNICAL AMENDMENT.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking "and part 1" and inserting ", part 1"; and

(2) by inserting before the period at the end ", and title II of the United States-Jordan Free Trade Area Implementation Act".

TITLE III—TEMPORARY ENTRY

SEC. 301. NONIMMIGRANT TRADERS AND INVESTORS.

Upon the basis of reciprocity as provided for by the Agreement, an alien who is a national of Jordan (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) of the alien, if accompanying or following to join the alien) shall be considered to be entitled to enter the United States under and in pursuance of the provisions of the Agreement as a nonimmigrant described in section 101(a)(15)(E) of the Immigration and Nationality Act

(8 U.S.C. 1101(a)(15)(E)), if the entry is solely for a purpose described in clause (i) or (ii) of such section and the alien is otherwise admissible to the United States as such a nonimmigrant.

TITLE IV—GENERAL PROVISIONS

SEC. 401. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year after fiscal year 2001 to the Department of Commerce not more than $100,000 for the payment of the United States share of the expenses incurred in dispute settlement proceedings under article 17 of the Agreement.

SEC. 403. IMPLEMENTING REGULATIONS.

After the date of enactment of this Act—

(1) the President may proclaim such actions, and

(2) other appropriate officers of the United States may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

SEC. 404. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 through 4 and this title take effect on the date of enactment of this Act.

(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection) and the amendments made by this Act, shall cease to have effect.

I. SUMMARY

S. 643 implements the Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area ("the Agreement") in order to strengthen and develop economic relations between the United States and Jordan for their mutual benefit. The bill establishes free trade between the two countries through the removal of trade barriers.

On October 24, 2000, President Clinton and His Majesty King Abdullah II bin Al-Hussein signed an agreement to establish a free trade area between the United States and Jordan. On January 6, 2001, President Clinton transmitted the Agreement to the 107th Congress for approval, together with the necessary implementing legislation.

S. 643 approves the Agreement and makes changes to U.S. law necessary to implement the Agreement. The bill authorizes the President to proclaim reductions, and eventual elimination, of tariffs on goods imported from Jordan according to a schedule provided for in the Agreement. The bill also establishes rules of origin for determining whether goods imported from Jordan are, in fact, Jordanian goods subject to tariff treatment under the Agreement.

Additionally, consistent with the Agreement, the bill establishes a safeguard mechanism to enable the extension of relief to American industries seriously injured (or threatened with serious injury) due to increased imports resulting from tariff reductions and elimination. The bill also amends the general safeguards provision in U.S. law (chapter 1 of title II of the Trade Act of 1974), to include special rules governing the treatment of products from Jordan in any measure imposed under that provision.

The bill contains a provision to facilitate the entry of Jordanian nationals into the United States as non-immigrants. Finally, the bill authorizes certain expenditures by the U.S. Government to support operation of the Agreement's dispute settlement mechanism.

II. GENERAL EXPLANATION

A. BACKGROUND

On June 6, 2000, President Clinton and King Abdullah II announced their intention to launch negotiation of an agreement to establish a free trade area between the United States and Jordan. Negotiations concluded, and the two leaders signed an agreement on October 24, 2000. President Clinton submitted the Agreement to the 107th Congress on January 6, 2001.

On March 28, 2001, Senator Max Baucus introduced legislation in the Senate (S. 643) to implement the Agreement. Congressman Sander M. Levin introduced identical legislation in the House (H.R. 1484) on April 4, 2001. Congressman William M. Thomas introduced similar legislation (H.R. 2603) on July 26, 2001.

On March 20, 2001, the Committee on Finance held a public hearing on the Agreement. Witnesses appearing before the Committee were Charlene Barshefsky (former U.S. Trade Representative); Samuel R. Berger (former National Security Advisor); Michael B. Smith (former Deputy U.S. Trade Representative); Timothy E. Deal (Senior Vice President, U.S. Council for International Business); Thomas J. Donohue (President and CEO, U.S. Chamber of Commerce); Professor Jagdish Bhagwati (Arthur Lehman Professor of Economics and Political Science, Columbia University, and Andrew Meyer Senior Fellow in International Economics, Council on Foreign Relations); Roger Schlickeisen (President, Defenders of Wildlife); and John Sweeney (President, AFL–CIO). Other persons submitted written testimony for the record.

The principal negotiator of the Agreement, former U.S. Trade Representative Charlene Barshefsky, expressed strong support for early enactment of the Agreement "as both a critical element of America's Middle East policy, and a market opening free trade agreement." Barshefsky noted that, in negotiating the Agreement, the Clinton Administration had three specific strategic goals: first, to encourage regional economic integration in the Middle East generally; second, to support Jordan's economic reform program in particular; and third, to develop a comprehensive and innovative free trade agreement, which would set a new standard for rigorous trade liberalization and help bolster bipartisan consensus for trade policy in the United States.

On April 5, 2001, Finance Committee members met in executive session with King Abdullah II in Washington, DC to discuss the Agreement and congressional support for its implementation.

The Jordanian Parliament ratified the Agreement on May 9, 2001.

In a markup begun on July 17, 2001, the Finance Committee debated the bill implementing the Agreement and approved an amendment in the nature of a substitute. The amendment made certain technical corrections to the bill as introduced.

Separate from the Agreement itself, on July 23, 2001, the United States and Jordan exchanged letters, signed by U.S. Trade Representative Robert Zoellick and Jordanian Ambassador Marwan Muasher, respectively, clarifying each Government's understanding of the implementation of the Agreement's dispute settlement procedures. The letters state the view of both Governments that few, if any, differences will arise over interpretation or application of the Agreement. In the event that differences do arise under the Agreement, the letters state that each Government will make every effort to resolve them without resort to the dispute settlement procedures in the Agreement. The Governments also state their intention not to apply the Agreement's dispute settlement enforcement procedures in a manner that results in blocking trade. The letters further state that bilateral consultations and other procedures, particularly alternative mechanisms, would be appropriate measures to secure compliance without resort to traditional trade sanctions.

The markup of S. 643 continued on July 26, 2001, at which time the Finance Committee reported S. 643 to the full Senate without further amendment.

B. United States-Jordan Trade

The United States has consistently had a merchandise trade surplus with Jordan, its 101st largest trading partner. In 2000, total bilateral trade between the United States and Jordan was valued at $386 million, with U.S. exports to Jordan totaling $312.7 million, and imports from Jordan totaling $73.2 million.

Principal U.S. exports to Jordan include wheat and grains, aircraft and helicopter parts, tobacco, and radio transceivers. Exports of durum wheat, other wheat and meslin, and barley—which comprise about 20 percent of total U.S. exports to Jordan—already enter Jordan duty-free. Tariff rates for other commodities vary from as low as 0–10 percent for aircraft turbine engines, to as high as 70 percent for tobacco.

Principal Jordanian exports to the United States include trunks and suitcases, women's and girl's clothing, men's and boy's suits, sweaters and pullovers, and jewelry. In 2000, approximately 40 percent (or $30 million) of all Jordanian exports to the United States entered the United States duty-free, because they were products of Qualifying Industrial Zones ("QIZs").

QIZs are areas along the Israel-Jordan and Israel-Egypt borders that are specially designated by the U.S. Trade Representative ("USTR"). Pursuant to the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. § 2112 note) as amended by Public Law No. 104–234, products originating in a QIZ receive duty-free treatment upon entry into the United States. The first QIZ in Jordan was opened in 1998. Since then, USTR has designated nine additional QIZs along the Israel-Jordan border.

In addition to imports into the United States originating from QIZs in Jordan, another 14 percent (or $10 million) of imports into the United States from Jordan in 2000 received duty-free treatment under the U.S. Generalized System of Preferences.

U.S. TOTAL EXPORTS TO JORDAN 1996–2000

[In actual dollars]

	1996	1997	1998	1999	2000
100110—Durum wheat	3,850	444,611	3,683,790	0	44,469,720
880330—Parts of airplanes or helicopters	11,955,736	24,641,479	51,582,815	25,121,207	16,104,902
100190—Wheat (other than durum wheat) and meslin	51,871,145	56,674,184	32,536,312	26,803,267	14,154,073
240310—Smoking tobacco	2,674,625	4,945,736	11,312,858	9,308,040	14,077,933
470321—Chemical woodpulp	6,234,344	3,774,668	6,215,596	5,195,956	10,770,393
890590—Floating cranes, floating docks, fire floats, etc.	0	0	0	0	9,137,800
852520—TV and Radio Receivers	1,631,983	4,121,849	6,613,537	1,320,473	8,781,037
841112—Turbojets (thrust exceeding 25 KN)	0	0	0	0	7,098,800
988000—Low value export shipments (non-Canadian)	6,702,389	7,425,816	7,098,136	5,314,233	5,720,249
100300—Barley	7,510,327	6,825,000	0	0	5,150,000
Other	256,224,017	293,493,316	234,043,085	202,577,507	177,278,661
Total	344,808,416	402,346,659	353,086,129	275,640,683	312,743,568

Source: U.S. International Trade Commission Dataweb.

U.S. TOTAL IMPORTS FROM JORDAN 1996–2000

[In actual dollars]

	1996	1997	1998	1999	2000
420212—Trunks, suitcases and vanity cases	0	0	0	194,670	8,510,447
620462—Women's and girls' cotton trousers and shorts	621,308	516,151	0	97,641	6,651,841
620463—Women's and girls' trousers and shorts made from synthetic fibers	68,538	76,916	317,380	0	5,230,343
711319—Jewelry (not made from silver)	2,494,053	2,321,864	2,628,522	3,594,888	4,953,719
620311—Men's or boys' suits of wool (or other fine animal hair)	48,036	297,368	82,329	466,952	4,544,712
611020—Cotton sweaters and pullovers	3,127,162	739,214	594,509	178,137	4,407,223
620342—Men's or boys' trousers and shorts of cotton	412,016	2,140	191,472	493,108	4,388,537
711311—Silver jewelry	0	0	23,294	842,697	4,316,705
611030—Knitted or crocheted sweaters and pullovers of manmade fibers	45,108	0	0	2,305	4,107,626

U.S. TOTAL IMPORTS FROM JORDAN 1996–2000—Continued

[In actual dollars]

	1996	1997	1998	1999	2000
980100—Imports of articles exported and returned	6,335,233	13,605,588	2,953,908	18,520,997	4,011,492
Other	11,953,617	8,074,936	9,598,964	6,603,826	21,718,925
Total	25,105,071	25,634,177	16,390,378	30,995,221	72,841,570

Source: U.S. International Trade Commission Dataweb.

The Agreement provides for a 10-year transitional period, during which duties on almost all goods (with the exception of tobacco and tobacco-related products) will be phased out, leading to duty-free trade in goods between the United States and Jordan. Duties on many goods will be phased out well before the end of the 10-year transitional period. The Agreement also provides for a liberalization of bilateral trade in services. It addresses specific market-opening commitments in various sectors, including (but not limited to) communications, construction and engineering, distribution, education, environmental services, finance, healthcare, tourism, recreation, and transportation.

A study by the U.S. International Trade Commission (Economic Impact on the United States of a U.S.-Jordan Free Trade Agreement, Inv. No. 332–418) concluded that a U.S.-Jordan free trade agreement "would have no measurable impacts on total U.S. exports, total U.S. imports, U.S. production, or U.S. employment." As noted above, much of the trade between the United States and Jordan already is duty-free. The International Trade Commission study did conclude that a U.S.-Jordan free trade agreement could lead to a modest increase in bilateral trade. In particular, exports of Jordanian textiles and apparel to the United States, as well as U.S. exports to Jordan of commodities that face relatively high tariffs today, could expand under an agreement.

C. The Agreement

The Agreement comprises an integrated set of reciprocal obligations that will eliminate barriers to trade between Jordan and the United States in a manner that is consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") and Article V of the General Agreement on Trade in Services ("GATS").

Trade in Goods.—The principal feature of the Agreement is the mutual elimination of tariffs within 10 years. Various provisions also limit non-tariff trade barriers and distortions of trade.

For purposes of tariff elimination, the Agreement divides products into "staging" categories. Where current tariffs are less than 5 percent, the tariffs will be eliminated in 2 years. In general, tariffs between 5 and 10 percent will be eliminated in 4 years. Tariffs between 10 and 20 percent will be eliminated in 5 years. Tariffs in excess of 20 percent will be eliminated in 10 years.

Some of the Jordanian products that will receive duty-free treatment 2 years after the Agreement comes into force are jewelry, sea bath salts, certified handloomed fabric, and a variety of chemicals and fruit. Some Jordanian exports that will be subject to tariff reductions but will not enter the United States duty-free until the end of the 10-year phase-in period are footwear, ceramics, dairy, sugar, and certain textiles and apparel currently subject to tariffs in excess of 20 percent.

Some of the U.S. products that will receive duty-free treatment 2 years after the Agreement comes into force are certain chemicals (including plastics), machinery and parts, paper products, and agricultural items such as seed and rice. Some U.S. exports that will be subject to tariff reductions but will not enter Jordan duty-free until the end of the 10-year phase-in period are fruit juice, fruit, wood and paper, scientific equipment, and textiles.

Trade in Services.—The Agreement commits the countries to provide increased market access in particular service sectors identified in schedules attached to the Agreement. For Jordan, these sectors include (but are not limited to): legal services, accounting and auditing, architectural and engineering services, computer and related services, research and development, real estate, telecommunications, and financial services. The U.S. schedule contains a similarly broad array of service sectors. The schedules set forth certain terms, limitations and conditions specific to particular sectors. Subject to these terms, limitations and conditions, each country agrees to accord services and service suppliers of the other country treatment no less favorable than it accords to its own like services and service suppliers.

Intellectual Property Rights.—The Agreement contains obligations in the area of intellectual property that supplement the countries' obligations under the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property. For example, the Agreement requires the countries to give effect to provisions contained in other conventions on intellectual property, such as the World Intellectual Property Organization ("WIPO") Copyright Treaty (1996) and the WIPO Performances and Phonograms Treaty (1996). The Agreement contains a general obligation that each country accord to nationals of the other country treatment no less favorable than it accords to its own nationals with regard to the protection and enjoyment of all intellectual property rights. It also contains general obligations with respect to enforcement. Thus, for example, with respect to copyright and trademark piracy, both countries are required to provide for the initiation of criminal and seizure actions by its national authorities without advance notice to the alleged pirates. The Agreement then specifies particular obligations in the areas of trademarks and geographical indications, copyright and related rights, and patents. Most obligations concerning intellectual property rights will take effect three years after the Agreement enters into force.

Concurrent with conclusion of the Agreement, the United States and Jordan entered into a Memorandum of Understanding on Issues Related to the Protection of Intellectual Property Rights. That document identifies certain changes to Jordanian law that will be made pursuant to the intellectual property provisions in the Agreement itself.

Environment.—In article 5, the Agreement states that the United States and Jordan "shall strive to ensure" that they do not "waive or otherwise derogate from, or offer to waive or otherwise derogate from," their respective environmental laws "as an encouragement for trade" with each other. Article 5 also states that each country "shall strive to ensure" that its laws provide for "high levels of environmental protection" and "shall strive to continue to improve those laws."

Article 5.3 of the Agreement states that each country shall not fail to effectively enforce its own environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the countries. This provision is not implicated when either country undertakes a course of action or inaction which reflects a reasonable exercise of discretion or results from a bona fide decision regarding the allocation of resources.

Additionally, in a joint statement annexed to the Agreement, the United States and Jordan agreed to establish a Joint Forum on Environmental Technical Cooperation. The Joint Forum will meet on a regular basis and has a mandate to develop technical cooperation initiatives for environmental protection in Jordan.

Labor.—Article 6.4 of the Agreement states that each country shall not fail to effectively enforce its own labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the countries. This provision is not implicated when either country undertakes a course of action or inaction which reflects a reasonable exercise of discretion or results from a bona fide decision regarding the allocation of resources. Each country also reaffirms its obligations as a member of the International Labor Organization ("ILO") and its commitments under the ILO Declaration of Fundamental Principles and Rights at Work and its Follow-up. The countries agree to "strive to ensure" that principles defined by the ILO as "core" are "recognized and protected by domestic law." The five core principles, as set forth in article 6.6 of the Agreement, are: (a) right of association; (b) right to organize and bargain collectively; (c) prohibition on the use of any form of forced or compulsory labor; (d) minimum age for the employment of children; and (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

In article 6.2, the Agreement states that the United States and Jordan "shall strive to ensure" that they do not "waive or otherwise derogate from, or offer to waive or otherwise derogate from," their respective labor laws "as an encouragement for trade" with each other.

Electronic Commerce.—The United States and Jordan agree to "seek to refrain" from imposing new barriers, including both tariffs and non-tariff barriers, on electronic transmissions.

Visa Commitments.—The United States and Jordan each agree to allow nationals of the other to enter and remain in their respective territories for purposes of facilitating trade and investment.

Government Procurement.—The United States and Jordan agree to enter into negotiations on Jordan's accession to the World Trade Organization Agreement on Government Procurement.

Safeguard Measures.—Under the Agreement, a country may put a "safeguard" measure in place if, as a result of the reduction or elimination of a duty, imports of a good from the other country are increasing in such quantities and under such conditions as to be a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive product. A safeguard measure may take the form of a suspension of the reduction of a duty or an increase in a duty rate. However, in the case of an increase, the duty rate may not exceed the most-favored-nation ("MFN") duty rate.

Procedural requirements for putting a safeguard measure in place under the Agreement are identical to the requirements for putting a general safeguard measure in place under WTO rules. For the United States, this means an investigation and determination by the U.S. International Trade Commission ("ITC") into whether the requirements for a safeguard have been met. If the ITC's determination is affirmative, then the President must decide, in light of that determination, whether to put a measure in place and, if so, what measure.

A safeguard measure may remain in place only for the period necessary to prevent or remedy serious injury to, and to facilitate adjustment by, the domestic industry and, in any event, not longer than 4 years. No measure may be put in place against a good as to which a safeguard measure was previously imposed under the Agreement. A country imposing a measure for longer than 1 year is required to liberalize the measure (i.e., reduce tariff rates) on a regular basis.

Upon termination of a safeguard measure, duties on the subject goods will be the rates that ordinarily would have applied 1 year after the measure was initiated. The Agreement provides for further duty reductions beginning on January 1 of the year after a measure is terminated.

A country imposing a safeguard measure is required to provide "concessions having substantially similar trade effects" to the other country. In the event that the countries are unable to agree on concessions, the other country may raise tariffs on imports from the country imposing the measure. However, in general, it may do so only after the measure has been in effect for 2 years.

The safeguard provisions under the Agreement are in addition to the general safeguard provisions under WTO rules. Thus, if the United States were to put a safeguard measure in place under Chapter 1 of Title II of the Trade Act of 1974, such measure could include imports from Jordan, along with imports from all other sources. However, under the Agreement, imports from Jordan may be excluded from a general safeguard measure if such imports, by themselves, are not a substantial cause of serious injury or threat thereof.

Balance of Payments.—In taking trade-restrictive measures to safeguard their balance of payments, Jordan and the United States agree to abide by WTO balance-of-payments disciplines.

Exceptions.—The Agreement sets forth three categories of exceptions to its ordinary rules. These include the general exceptions to WTO rules on trade in goods, set forth in article XX of the GATT 1994; certain measures taken for national security reasons; and, in general, measures concerning taxation.

Economic Cooperation and Technical Assistance.—The Agreement commits the United States and Jordan to foster economic cooperation and, given Jordan's developing country status, commits the United States to provide Jordan economic technical assistance, as appropriate.

Rules of Origin and Cooperation in Customs Administration.—Preferential tariff treatment under the Agreement is available only to goods originating in Jordan or the United States. An annex to the Agreement sets forth rules for determining the origin of goods. The Agreement states that each country "shall strive to administer such rules effectively, uniformly, and consistently with the object and purpose of [the] Agreement and the WTO Agreement." The Agreement further provides for consultations on the operation of these rules.

Joint Committee.—The Agreement establishes a joint committee to oversee implementation of the Agreement. The Joint Committee consists of the U.S. Trade Representative and the Jordanian Minister for Trade, or their respective designees. The Joint Committee will meet once a year in regular session, and in special sessions within 30 days of a request by either country. Its responsibilities will include (among other tasks) reviewing the functioning of the Agreement, avoiding trade disputes, considering amendments to the Agreement, and establishing guidelines for administering rules of origin.

Consultations.—The United States and Jordan agree to consult on all matters concerning interpretation and application of the Agreement, and each commits to reply promptly to requests by the other for consultations.

Dispute Settlement.—The Agreement establishes a dispute settlement mechanism to resolve disputes over interpretation of the Agreement, claims that a country has violated obligations under the Agreement, and claims that measures taken by a country "severely distort the balance of trade benefits" accorded by the Agreement or "substantially undermine fundamental objectives" of the Agreement.

When a dispute arises, the parties are required, first, to make "every attempt to arrive at a mutually agreeable resolution" through consultations. Should consultations fail, either country may refer the matter to the Joint Committee, described above. If the Joint Committee fails to resolve the matter within 90 days, then the matter may be referred to a dispute settlement panel, composed of one member chosen by each country and a chairman chosen by the first two members.

A dispute settlement panel is required to make findings of fact and a determination as to whether either country has violated an obligation under the Agreement or taken measures that severely distort the balance of trade benefits or substantially undermine the fundamental objectives of the Agreement. The panel may make recommendations concerning resolution of the dispute only if both countries ask it to do so.

A dispute settlement panel's report is non-binding. Resolution of a dispute ultimately is in the hands of the Joint Committee, which must "endeavor to resolve the dispute, taking the report into account, as appropriate." If the Joint Committee fails to resolve the dispute within 30 days of presentation of the panel's report, then the country affected by any measures found by the panel to be violations of the Agreement or to severely distort trade benefits or to substantially undermine the Agreement's fundamental objectives "shall be entitled to take any appropriate and commensurate measure."

Concurrently with conclusion of the Agreement, the United States and Jordan entered into a Memorandum of Understanding on Transparency in Dispute Settlement. That document requires that, when dispute settlement is triggered, both countries "shall solicit and consider the views of members of their respective publics in order to draw upon a broad range of perspectives." It further requires that submissions to panels be made available to the public within 10 days of filing, that oral presentations to panels be made open to the public, that amicus briefs be accepted and considered, and that panel reports be released to the public "at the earliest possible time." The foregoing requirements do not obligate the countries to disclose confidential information.

In a Joint Statement issued concurrently with conclusion of the Agreement, the United States and Jordan agreed to support the application of similar transparency-related procedures in disputes between the two countries that may be brought before panels in the WTO.

No Private Right of Action.—Neither the United States nor Jordan may provide for a private right of action under domestic law that would allow a person to claim that a measure taken by the other country constituted a violation of the Agreement.

Entry Into Force.—The Agreement will enter into force 2 months after the United States and Jordan exchange written notifications of ratification of the Agreement by their respective legislatures.

Termination.—Either country may terminate the Agreement by providing written notice to the other. In that case, the Agreement will expire six months after the provision of such notification.

III. THE COMMITTEE BILL

Section 1. Short title

The short title of the bill is the "United States-Jordan Free Trade Area Implementation Act."

Section 2. Purposes

Section 2 identifies the following three purposes of the bill: (1) to implement the Agreement between the United States and Jordan establishing a free trade area, (2) to strengthen and develop the economic relations between the United States and Jordan for their mutual benefit, and (3) to establish free trade between the two nations through the removal of trade barriers.

Section 3. Definitions

Section 3 defines the terms "Agreement" and "HTS." For the purpose of this bill, the term "Agreement" means the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area, entered into on October 24, 2000. The term "HTS" means the Harmonized Tariff Schedule of the United States.

Section 4. Approval of Agreement

Section 4 expresses congressional approval of the Agreement.

Title I—Tariff Modifications; Rules of Origin

Section 101. Tariff modifications

Section 101 authorizes the President to proclaim changes to duties (or, as the case may be, continuation of duties) on goods imported from Jordan as necessary or appropriate to implement the Agreement.

Section 102. Rules of origin

Section 102 provides that in order for an article to receive duty-free or reduced tariff treatment under the Agreement, it must be imported into the United States directly from Jordan and meet one of two rules of origin. The article must be either (1) wholly the growth, product, or manufacture of Jordan, or (2) partially the growth, product, or manufacture of Jordan, provided that it meets certain criteria. The principal criterion under this second rule is that materials produced in Jordan plus the direct costs of processing operations performed in Jordan constitute not less than 35 percent of the appraised value of the article upon entry into the United States. However, if materials produced in the United States are included in the article, the value of such materials up to 15 percent of the appraised value of the article may contribute to the 35 percent requirement. Additional special rules of origin apply to textile and apparel products.

Title II—Relief From Imports

SUBTITLE A—GENERAL PROVISIONS

Section 201. Definitions

Section 201 defines the terms "Commission" and "Jordanian article." The term "Commission" means the United States International Trade Commission. The term "Jordanian article" means an article that qualifies for reduction or elimination of a duty under section 102 of the bill.

SUBTITLE B—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

Subtitle B establishes a mechanism for certain U.S. persons to petition for and receive relief from serious injury (or the threat thereof) resulting from import surges of products receiving duty-free or reduced tariff treatment under the Agreement.

Section 211. Commencing of action for relief

Parties eligible to petition for relief under this subtitle would include trade associations, firms, unions, or groups of workers representative of an industry. As under the general safeguards provisions in U.S. law (Chapter 1 of Title II of the Trade Act of 1974), parties would file their petitions with the U.S. International Trade Commission ("ITC"). The ITC then would be required to investigate and determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Jordanian article is being imported into the United States in such increased quantities and under such conditions that imports of the article alone constitute a substantial cause of serious injury (or threat thereof) to the U.S.

industry producing a like or directly competitive article. Procedures for investigating and making this determination would be similar to the general safeguards procedures. An investigation could not be initiated with respect to a Jordanian article if import relief under this subtitle previously had been granted with respect to that article.

Section 212. Commission action on petition

The time for the ITC to act upon a petition filed under section 211 of the bill would be identical to the time for ITC action under the general safeguard provisions of the Trade Act of 1974. Ordinarily, the ITC must make its determination within 120 days following initiation of an investigation. Where a petitioner alleges that critical circumstances exist and, therefore, seeks provisional relief, the ITC would have 180 days in which to make its final determination. (The present bill incorporates by reference (at section 211(c)(3)) the procedures for making a determination on provisional relief set forth at section 202(d) of the Trade Act of 1974.)

If the ITC determined that "a Jordanian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Jordanian article alone constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article," then the ITC would be required to recommend the amount of relief necessary to remedy or prevent serious injury to the U.S. industry. Within 30 days of making its determination, the ITC would be required to submit a report to the President explaining the basis for its determination and recommended relief, along with any dissenting and separate views. The bill would require that report to be promptly made public.

Section 213. Provision of relief

Within 30 days of receipt of the ITC's report containing an affirmative determination, the President ordinarily would be required to provide relief to the U.S. industry to the extent necessary to prevent or remedy the injury identified by the ITC and to facilitate the industry's positive adjustment to import competition. The President could decline to provide such relief only if (1) he found that "taking such action would have an adverse impact on the United States economy clearly greater than the benefits of taking such action," or (2) in "extraordinary circumstances," he found that "the provision of such relief would cause serious harm to the national security of the United States."

In general, the relief granted could be either a suspension of tariff reductions or a "snap-back" of tariffs to their ordinary, MFN rate. Relief could be granted for up to 4 years. Prior to December 31 in the year in which relief ended, upon the termination of relief, tariff rates would be the rates that would have applied 1 year after the initiation of the action. After December 31, tariff rates could be either (at the President's discretion) (1) the rates that ordinarily would have applied at that date, or (2) the rates resulting from the elimination of the tariff in equal annual stages ending on the scheduled date for tariff elimination.

Section 214. Termination of relief authority

Section 214 would cause the safeguard provision of subtitle B to expire 15 years after the Agreement entered into force unless, in a particular case, Jordan agreed to have a safeguard measure applied after the initial 15-year period.

Section 215. Compensation authority

Section 215 establishes that section 123 of the Trade Act of 1974, which authorizes the President to compensate another country in the event certain safeguards measures are imposed on products from that country, would apply to safeguards imposed under the Agreement.

Section 216. Submission of petitions

Section 216 would permit a petition for safeguard relief to be submitted to the ITC under either subtitle B of the present bill, section 201 of the Trade Act of 1974, or both.

SUBTITLE C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

This subtitle would govern the treatment of imports from Jordan in general safeguards investigations and relief determinations under section 201 of the Trade Act of 1974.

Section 221. Findings and action on Jordanian imports

When the ITC makes an affirmative determination under section 201 of the Trade Act of 1974 (i.e., that increased imports of a given product are a substantial cause of serious injury (or threat thereof) to a domestic producer of like or directly competitive products), section 221 of the present bill would require it to make a separate determination regarding imports from Jordan of the product under investigation. The ITC would have to determine whether imports from Jordan were themselves a substantial cause of serious injury (or threat thereof). The President, too, would have to make a separate determination regarding products from Jordan and, if that determination were negative, he could opt to exclude products from Jordan from the relief provided to the U.S. industry.

Section 222. Technical amendment

Section 222 would extend the general rules governing ITC treatment of confidential information to information received in connection with a safeguards investigation under the Agreement.

Title III—Temporary Entry

Section 301. Nonimmigrant traders and investors

Section 301 would implement the Agreement's requirement that each country allow nationals of the other to enter and remain in its territory for purposes of facilitating trade and investment.

Title IV—General Provisions

Section 401. Relationship of the Agreement to United States and state law

Section 401 provides that the Agreement would not have direct effect in the United States. Rather, the Agreement would take effect through the present implementing legislation. To the extent that there may be inconsistencies between U.S. law and the Agreement, U.S. law would prevail. Further, only the U.S. Government would be authorized to sue to have a state law declared invalid due to a conflict with the Agreement. Finally, section 401 provides that the Agreement would not give rise to any private rights of action.

Section 402. Authorization of appropriations

Section 402 would authorize up to $100,000 in appropriations to the Department of Commerce for each fiscal year after fiscal year 2001 to support the United States' share of expenses incurred in dispute settlement proceedings under article 17 of the Agreement.

Section 403. Implementing regulations

Section 403 would authorize the President and Executive Branch agencies to promulgate regulations and to take such other actions as may be necessary to make the present bill effective when the Agreement enters into force.

Section 404. Effective dates; effect of termination

Section 404 would make this bill and amendments to current law made thereby effective on the date the Agreement enters into force. Certain provisions, such as congressional approval of the Agreement, would take effect upon enactment. Finally, the bill and any amendments to U.S. law made by it would cease to have effect on the date on which the Agreement ceased to be in force.

IV. CONGRESSIONAL ACTION

On January 6, 2001, President Clinton, in a message to Congress, transmitted the Agreement between the Hashemite Kingdom of Jordan and the United States of America on the Establishment of a Free Trade Area, signed October 24, 2000, including annexes forming an integral part of the Agreement.

On March 28, 2001, Senator Baucus (for himself and others) introduced S. 643, a bill to implement the Agreement. The bill was read twice and referred to the Committee on Finance.

On April 4, 2001, Congressman Levin (for himself and others) introduced a substantively identical bill (H.R. 1484). The bill was referred to the Committee on Ways and Means.

On July 17, 2001, the Finance Committee began debate on the bill implementing the Agreement and approved an amendment in the nature of a substitute to the bill. The amendment in the nature of a substitute added to S. 643 a provision expressing congressional approval of the Agreement and made certain technical corrections to the bill as introduced.

On July 24, 2001, Congressman Thomas introduced H.R. 2603, the United States-Jordan Free Trade Area Implementation Act, which was referred to the Committee on Ways and Means and the Committee on the Judiciary. The Committee on Ways and Means held a markup on July 26, 2001 and, upon a voice vote, ordered reported to the full House an amendment in the nature of a substitute to H.R. 2603.

On July 26, 2001, the Finance Committee completed its markup of S. 643 and ordered the bill reported to the full Senate without further amendment.

On July 31, 2001, the House of Representatives, on a motion to suspend the rules and pass the bill, agreed to H.R. 2603 by voice vote. The bill was received in the Senate that same day and referred to the Committee on Finance.

V. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the committee states that S. 643 was ordered favorably reported, with an amendment, by voice vote with a quorum present on July 26, 2001. Senators Gramm and Nickles asked to be recorded as voting nay.

VI. BUDGETARY IMPACT OF THE BILL

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 2001.

Hon. MAX BAUCUS,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 643, a bill to implement the agreement establishing a United States-Jordan Free Trade Area.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 643—A bill to implement the agreement establishing a United States-Jordan Free Trade Area

Summary: S. 643 would approve the agreement between the government of the United States and the government of the Hashemite Kingdom of Jordan that was entered into on October 24, 2000. It would provide for tariff reductions and other changes in law related to implementation of the agreement, such as provisions dealing with dispute settlement and intellectual property rights protection. The Congressional Budget Office estimates that enacting the bill would reduce revenues by $2 million in 2002, by $15 million over the 2002–2006 period, and by $44 million over the 2002–2011 period. Because enacting S. 643 would affect receipts, pay-as-you-go procedures would apply. CBO has determined that S. 463 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 643 is shown in the following table.

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN REVENUES					
Estimated revenues	−2	−3	−3	−4	−4

Basis of estimate

Revenues

Under the United States-Jordan agreement, all tariffs on U.S. imports from Jordan would be phased out for individual products at varying rates according to one of nine different timetables ranging from immediate elimination to partial elimination over 10 years. One schedule would allow goods to enter at current rates of duty until year ten of the agreement, at which time such goods would enter duty-free. Based on Census Bureau data on imports from Jordan, CBO estimates that the reduction of tariff rates would reduce revenues by about $15 million over the 2002–2006 period, net of income and payroll tax offsets. This estimate includes the effects of increased imports from Jordan that would result from the reduced prices of imported products in the U.S.—reflecting the lower tariff rates—and has been estimated based on the expected substitution between U.S. products and imports from Jordan. In addition, it is likely that some of the increase in U.S. imports from Jordan would displace imports from other countries. In the absence of specific data on the extent of this substitution effect, CBO assumes that an amount equal to one-half of the increase in U.S. imports from Jordan will displace imports from other countries.

Spending subject to appropriation

S. 643 would authorize the appropriation of $100,000 for the Department of Commerce to pay the United States' share of the costs of the dispute settlement procedures established by the agreement. CBO estimates that implementing this provision would cost the same amount, subject to the availability of appropriated funds.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up procedures for legislation affecting receipts or direct spending. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	0	−2	−2	−3	−4	−4	−5	−5	−5	−6	−9
Changes in outlays	Not applicable										

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of State, local, or tribal governments.

Estimate prepared by: Federal revenues: Erin Whitaker; Federal costs: Ken Johnson; Impact on State, local and tribal governments: Scott Marsters; Impact on the private sector: Lauren Marks.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis; Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VII. REGULATORY IMPACT AND OTHER MATTERS

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee states that the bill will not significantly regulate any individuals or businesses, will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4). The committee has reviewed the provisions of S. 643 as approved by the Committee on July 26, 2001. In accordance with the requirements of Pub. L. No. 104–04, the Committee has determined that the bill contains no intergovernmental mandates, as defined in the UMRA, and would not affect the budgets of State, local, or tribal governments.

VIII. CHANGES IN EXISTING LAW

Pursuant to the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 643, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

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TITLE 19—CUSTOMS DUTIES

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CHAPTER 12—TRADE ACT OF 1974

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Subchapter II—Relief from Injury Caused by Import Competition

* * * * * * *

Part 1—Positive Adjustment by Industries Injured by Imports

SEC. 2252. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY COMMISSION.

(a) PETITIONS AND ADJUSTMENT PLANS.—

(1) * * *

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(8) The procedures concerning the release of confidential business information set forth in section 332(g) of the Tariff Act of 1930 shall apply with respect to information received by

the Commission in the course of investigations conducted under this part ⟦and part 1⟧, *part 1* of title III of the North American Free Trade Agreement Implementation Act, and *title II of the United Sates-Jordan Free Trade Area Implementation Act.* The Commission may request that parties providing confidential business information furnish nonconfidential summaries thereof or, if such parties indicate that the information in the submission cannot be summarized, the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.

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