

1 EXECUTIVE COMMITTEE MEETING ON S. 525, RELATING TO THE
2 ANDEAN TRADE PREFERENCE ACT, WITH BAUCUS AMENDMENT IN THE
3 NATURE OF A SUBSTITUTE (AS AN AMENDMENT TO H.R. 3009)
4 THURSDAY, NOVEMBER 29, 2001 (S. 1209)

5 U.S. Senate,
6 Committee on Finance,
7 Washington, DC.

8 The meeting was convened, pursuant to notice, at
9 9:12 a.m., in room SD-215, Dirksen Senate Office
10 Building, Hon. Max Baucus (chairman of the committee)
11 presiding.

12 Present: Senators Rockefeller, Breaux, Graham,
13 Jeffords, Bingaman, Torricelli, Lincoln, Grassley, Hatch,
14 Murkowski, Gramm, Lott, Thompson, Snowe, Kyl, and Thomas.

15 Also present: John Angell, Staff Director; Michael
16 Evans, Deputy Staff Director; Kolan Davis, Republican
17 Staff Director and Chief Counsel; Carla Martin, Chief
18 Clerk.

19 Also present: Grant Aldonas, Under Secretary for
20 International Trade, U.S. Department of Commerce; Chris
21 Spear, Assistant Secretary for Policy, U.S. Department of
22 Labor; Peter Allgeier, Deputy U.S. Trade Representative;
23 Dr. Greg Mastel, Democratic Chief, International Trade
24 Counsel/Chief Economist; and Dr. Liz Fowler, Democratic
25 Chief, Health and Entitlements Counsel.

1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
2 MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The committee will come to order.

5 Perhaps because the Congress has passed only limited
6 trade legislation over the last five years, there are a
7 number of concepts that have matured into sound
8 legislative proposals this year.

9 Two of these proposals are the subject of today's
10 mark-up, expansion of the Trade Adjustment Assistance
11 program and expansion of the Andean Trade Preference Act.

12 Both pieces of legislation were introduced by members
13 of this committee. Senator Bingaman is the sponsor of S.
14 1209, the Trade Adjustment Assistance Expansion Program.
15 Ten members of the committee, including myself, and 14
16 other Senators have co-sponsored the legislation.

17 Senator Graham has introduced S. 525, to expand the
18 Andean Trade Preference Act. Four other members of the
19 committee, as well as 11 other Senators, have co-
20 sponsored this legislation.

21 Both pieces of legislation were the topic of Finance
22 Committee hearings earlier this year. Both also formed
23 the basis of the Chairman's marks on these topics to be
24 considered today.

25 It is my hope that we can report both pieces of

1 legislation favorably today for Senate action later this
2 year or early next year.

3 I should also note that straight extensions of both
4 TAA and ATPA were included in the economic stimulus bill.
5 I hope these will be signed into law this year on some
6 vehicle to avoid a lapse in existing programs while
7 legislative action proceeds on expansions.

8 I take considerable pride in the expansion of TAA
9 that we are considering today. Throughout the year, my
10 staff and I have worked closely with Senator Bingaman,
11 Senator Daschle, Senator Snowe, Senator Kerry, and many
12 other Senators to improve this legislation.

13 In my opinion, the limited nature of the current
14 Trade Adjustment Assistance program is the great weakness
15 of U.S. trade policy.

16 Since World War II, the United States has led the way
17 in forging new global and regional trade agreements. In
18 just the last 10 years, the United States has been
19 instrumental in creating both the World Trade
20 Organization and the North American Free Trade Agreement.

21 Unfortunately, while opening the U.S. market through
22 both trade agreements and through unilateral programs
23 like ATPA and the Generalized System of Preferences, the
24 U.S. Government has done comparatively little to address
25 the needs of workers that may lose their jobs because of

1 new imports or because companies leave the United States.

2 TAA simply pales when compares to the comprehensive
3 worker adjustment programs our allies in Europe and Japan
4 have pursued.

5 I have always favored freer trade, and I continue to
6 favor it today. But we must be willing to forthrightly
7 address the problems of workers, farmers, and companies
8 that lose because of trade. That is what TAA is all
9 about.

10 The bill before us improves TAA in a number of ways.
11 It consolidates the current TAA and NAFTA TAA programs to
12 ensure that workers get the same benefits regardless of
13 where the imports they compete with originate, and
14 regardless of what foreign country their plant moves to.

15 It extends income support for workers in TAA from 52
16 weeks to 78 weeks to give workers the opportunity to take
17 meaningful training programs.

18 It provides access to the corporate health program
19 for TAA recipients to ensure that they and their families
20 have health coverage while they participate in TAA.

21 On this issue, health care coverage for displaced
22 workers, Senators will note that this is also being
23 debated in the context of a stimulus package. Since that
24 debate continues, I have asked my colleagues not to
25 reopen the issue of COBRA and related health care topics

1 in this mark-up.

2 I appreciate their cooperation. I respect their
3 differing views on this issue. I also assure them that,
4 once a resolution of the COBRA issue is achieved, I
5 expect to try to apply a comparable approach to TAA
6 during floor debate or in later conference action.

7 Next, taking a recommendation made by Senators
8 Grassley and Conrad on S. 1209, the TAA extends to
9 farmers. Building in similar recommendations from
10 Senators Snowe and Kerry, we extent TAA to fishermen.

11 Finally, the program begins an experiment with wage
12 insurance as an alternative strategy for reemploying
13 displaced workers.

14 As one might expect, these improvements in TAA do not
15 come for free. The legislation before us would
16 substantially expand the current TAA program. CBO is
17 still working on the final score, but the initial
18 estimate is an increase of approximately \$800 million per
19 year.

20 To put this in perspective, however, the United
21 States currently spends only one-third total as much as
22 Germany on worker adjustment assistance, despite having
23 an economy nearly four times as large.

24 Indeed, our current funding levels are roughly
25 comparable to those of Finland, a nation that the United

1 States dwarfs in terms of both economy and population.

2 Expansion of TAA will start to rectify this
3 situation, though our funding levels will continue to
4 remain much lower than the rest of the developed world.

5 Considering that the manufacturing sector, the sector
6 hardest hit by trade and globalization, has lost more
7 than a million jobs since June of 2000 and over 230,000
8 in just the last two months, this expansion becomes even
9 more essential.

10 However, by the time this proposal goes to the floor,
11 it is my intent to fully offset the cost under Senate
12 budget rules primarily by extending the current Customs
13 user fees.

14 The administration has also expressed an interest in
15 TAA. We have recently produced a sharp proposal for some
16 changes in the existing program. The legislation before
17 the committee incorporates many of the administration's
18 suggested improvements, including shortening the
19 processing time for applicants and improving interagency
20 cooperation.

21 Unfortunately, the administration has not been
22 willing to devote any new resources to the TAA program,
23 which means the proposal cannot cover the major
24 improvements in this bill.

25 The committee will also take up today a Chairman's

1 mark based on S. 525, expansion of the Andean Trade
2 Preferences Act. This program provides important trade
3 benefits to the countries in the Andean region, Colombia,
4 Peru, Bolivia, and Ecuador.

5 Senator Graham's legislation seeks to extend benefits
6 similar to those that the Congress last year granted to
7 the countries of the Caribbean Basin through an expansion
8 of the Caribbean Basin Initiative.

9 The hope is that, by encouraging legitimate economic
10 activities in the Andean countries as alternatives to
11 illegal drug production, our war on drugs has a better
12 chance of succeeding.

13 I have supported this program, and will continue to
14 support it. But I do have some concerns regarding the
15 extension of program benefits to tuna and some other
16 items, which I plan to address as the legislative process
17 continues.

18 I also understand that some members of the committee
19 may be intending to offer an amendment to grant fast
20 track to one of these two vehicles. I would strongly
21 urge my colleagues not to pursue this option.

22 As I have made very clear on a number of occasions, I
23 favor an extension of fast track, provided it addresses
24 issues like labor, environment, and protection of U.S.
25 trade laws.

1 I was heartened a few weeks ago to see Ways and Means
2 Committee Chairman Thomas join with several of the
3 Democratic colleagues on a version of fast track that I
4 believe is the first step toward a compromise that could
5 win passage of fast track.

6 This legislation, however, has not yet passed the
7 House and there is significant doubt as to whether it
8 can. With House passage so uncertain, and given that the
9 House has twice before rejected fast track, I see no
10 reason to waste the time of this committee and the whole
11 Senate on an issue that may simply not be able to pass
12 the House.

13 As I have said many times, if the House acts on a
14 bill similar to the current Thomas-Dooley bill, I will
15 quickly mark it up in the Senate Finance Committee.
16 Until that time, I do not believe consideration of fast
17 track legislation is a good use of Senate time.

18 The House of Representatives has already acted on
19 companion versions of this legislation that we are
20 marking up today. A more ambitious expansion of HBA has
21 already passed the House and been sent to the Senate. We
22 will begin marking up today by substituting the mark for
23 the House bill.

24 The House Ways and Means Committee has also passed a
25 less ambitious two-year expansion of TAA that is now

1 pending on the House calendar.

2 I also note that yesterday Representatives Ken Benson
3 and Anna Eschoo introduced TAA legislation similar to
4 what we are considering today. I thank them for their
5 efforts and for their leadership. I hope that Senate
6 floor action, in conference with the House, can be
7 completed on both measures in the coming months.

8 Senator Grassley?

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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.
2 SENATOR FROM IOWA

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4 Senator Grassley. Yes. Thank you, Mr. Chairman.

5 I support the Andean legislation. I also want to do
6 something meaningful on Trade Adjustment Assistance, even
7 though I have serious concerns about the size and scope
8 of what has been proposed by the Chairman.

9 I have always supported Trade Adjustment Assistance,
10 and am prepared to do so again. But not this way. The
11 Chairman's mark is a notable departure from our history
12 in this area. I cannot support it.

13 I know that the legislation is going to go to the
14 floor of the Senate. I think we are setting ourselves up
15 once again to have legislation voted out of this
16 committee that might not move on the floor of the Senate.

17 I think that there are a lot of people on our side of
18 the aisle that think trade promotion authority ought to
19 move along with Trade Adjustment Assistance. It is a sad
20 commentary that we are going to have two bills on the
21 floor of the Senate that will have majority support of
22 the Senate. We could pass trade promotion authority, we
23 could pass a very good Trade Adjustment Assistance Act.
24 We will have two bills out there that may not move.

25 I do not consider the Senate irrelevant in the

1 legislative process, that we necessarily have to wait
2 until the Senate takes some action on a particular piece
3 of legislation.

4 In fact, I think just the opposite when it comes to
5 trade promotion authority. If the Senate would act, that
6 would help put more pressure on the House of
7 Representatives, where the vote is probably much closer
8 than it is here in the Senate.

9 Since 1962, Trade Adjustment Assistance programs have
10 provided income support and retraining for America's
11 workers hurt by our trade policies. Trade Adjustment
12 Assistance programs have played an important role in
13 keeping people retrained to get other jobs, particularly
14 when things are tough. I support those goals.

15 Today, however, the Chairman's mark on Trade
16 Adjustment Assistance goes further and wider than we have
17 ever gone before. I was especially surprised to see the
18 possibility of several components of the Democratic
19 stimulative package come before the committee.

20 Just as my colleagues on the other side failed to
21 work in a bipartisan fashion on economic stimulus, I
22 think they have followed the same course again on Trade
23 Adjustment Assistance.

24 So this approach is disappointing. Included are
25 unprecedented policy changes in this trade legislation.

1 If permanent COBRA subsidy programs and Medicaid
2 expansions were to be included, it sends a very clear
3 message. That is, that Democrats are more interested in
4 pushing political agenda than getting a bipartisan Trade
5 Adjustment Assistance bill through the committee.

6 But this mark-up is more notable for what is not on
7 the agenda than what is. Trade promotion authority for
8 the President is not on the agenda.

9 The real story of this mark-up is that it is a huge
10 missed opportunity on this issue. Sad to say, it is a
11 missed opportunity largely because the effort to bring up
12 trade promotion authority in the Finance Committee this
13 year has been so needlessly and excessively partisan.

14 Nearly every member on this side of the aisle, and
15 several Democrats, have wanted to see a vote on trade
16 promotion authority this year. Even members who do not
17 favor trade promotion authority believe it should be
18 brought up for a vote in the committee.

19 But, time and again, members have been pressured not
20 to bring it up. I cannot tell you how dismayed I am that
21 we cannot even get a commitment on a date to consider the
22 President's most important trade legislation in this
23 committee.

24 This is not the bipartisan tradition of the Finance
25 Committee. We can, and we will, do better. But instead

1 of getting a commitment to have a vote on the matter this
2 year that affects a majority of workers and farmers of
3 the United States, all we have had are delays and reasons
4 that, in my view, do not have merit.

5 I want to briefly say a word on some of these. One
6 reason that we have heard for not marking up TPA is that
7 the Finance Committee should not act before the House
8 does.

9 I have addressed this issue a little bit, but would
10 do it more thoroughly by saying, the fact of the matter
11 is, even though the House is constitutionally required to
12 act first on revenue matters, on many occasions the
13 Finance Committee has acted on revenue matters while
14 awaiting House action. The Senate not only has a right
15 to act, it has an obligation to act when vital U.S.
16 interests are at stake.

17 Another excuse I have heard for why we cannot take up
18 trade promotion authority, is that we do not need trade
19 promotion authority to start those negotiations. Now,
20 technically speaking, that is true. We do not need TPA
21 to start trade negotiations. But we surely need it if we
22 want the President and our negotiators to have
23 credibility at the negotiating table.

24 What we are really talking about is not trade
25 promotion authority for the President of the United

1 States. What we are talking about is trade promotion
2 authority for our country, for the Nation, for the
3 Nation's people, because it is the U.S.'s negotiation
4 credibility that is on the line.

5 When our credibility with 141 other countries in the
6 WTO is impaired, it is the United States itself that gets
7 hurt, particularly now when our country is at war. We
8 are fighting a war, and world leadership is very
9 important to the President of the United States.

10 Now, this is not a theoretical discussion any more.
11 A new round of global trade talks will start in a few
12 weeks. It will be a matter of great deal if other
13 delegations in the room take our negotiators seriously.
14 Our negotiators are not credible if other countries know
15 that a deal with the United States is never final.

16 You do not have to take my word for it. I would
17 quote Ambassador Robert Straus, President Carter's USTR,
18 who told this committee in 1987 about what his foreign
19 counterparts told him in trade negotiation.

20 "Why should I put this on the table and have it bit
21 on here, and nibbled on there, and torn apart here, and
22 then you come back and insist I do this, that, or the
23 other? I want to know, when we shake hands and walk out
24 of this room, that is what your Congress is going to vote
25 up or down, or I won't go," is what the person told

1 Straus.

2 Well, he was one of our top trade negotiators. He
3 negotiated a lot of tough deals. He knows what he is
4 talking about. What he said in 1987 is even more true
5 today, and particularly true because of what happened on
6 September 11 and the war on terrorism, and Presidential
7 leadership for the maintenance of peace around the world.

8 Another excuse for not bringing up trade promotion
9 authority is that the timing does not seem to be right.
10 Well, that is not what Alan Greenspan thinks. The
11 Federal Reserve Chairman told this committee twice, once
12 in April and again in the fall, that to help our ailing
13 economy we ought to renew trade promotion authority this
14 year.

15 Now that, according to the OECD, the world has
16 plunged into its first global recession in two decades,
17 it seems to me that Chairman Greenspan's advice assumes
18 even more urgency with this committee.

19 Furthermore, denying trade promotion authority to the
20 President until we are one or two years into a three-year
21 negotiation would only slow down the talks and would
22 postpone the benefits. We know the benefits of trade the
23 last 50 years are real.

24 Without trade promotion authority, it will take
25 longer to cut trade-distorting tariffs and to gain more

1 market access for our agricultural products, our
2 manufactured goods, and our services. That is a good
3 deal for Europe and Japan, but it is a bad deal for
4 America's farmers and workers.

5 America's major farm organizations have told us time
6 and again how important trade promotion authority is. I
7 would point to the Farm Bureau letter that I have on
8 display: "We urge expedient Senate consideration of trade
9 promotion authority, an important negotiating tool for
10 the President. If we languish in granting trade
11 promotion authority to the President, U.S. agriculture
12 will suffer."

13 A similar letter from the National Pork Producers,
14 who want trade promotion authority renewed, and renewed
15 now. Their president has written this strong letter that
16 is also on display.

17 Finally, the latest excuse for not bringing up trade
18 promotion authority this year is that Ambassador Zoellick
19 gave too much away at the World Trade Organization
20 ministerial with respect to antidumping, so we should not
21 move forward on trade promotion authority.

22 This argument, it seems to me, has the least merit at
23 all because the facts say otherwise. What we gained in
24 the antidumping area is so good, that I wonder if the
25 critics of the rules language have even read this portion

1 of the ministerial declaration.

2 The antidumping language that the United States
3 succeeded in getting into the rules portion of the WTO
4 ministerial declaration is a big win for the United
5 States. First, it allows us to get a new round launched.
6 The Farm Bureau said that what the United States achieved
7 in Guttar was, in their words, an historic declaration.

8 They also said, "The launch of the international
9 trade talks in the WTO is a critical step to improving
10 the global outlook for U.S. agriculture."

11 But we could never have launched a new round without
12 agreeing to the demand of 141 other countries to put the
13 topic of antidumping on the table.

14 Furthermore, the antidumping language did agree to
15 specifically allow the United States to continue using
16 every one of our current laws. That needs to be
17 repeated: every one of our current laws can still be
18 used. We agreed to give up none of our current laws, not
19 one.

20 But the really good point is, for the first time the
21 WTO will look at the abusive antidumping practices of
22 other nations who have antidumping regimes that are not
23 as fair or transparent as ours and are going to soon be
24 used against the United States to a greater extent than
25 ever before. Many U.S. farmers and workers have been

1 hurt by these abusive practices.

2 Because of the language that Ambassador Zoellick
3 negotiated in Guttar, we will finally be able to try to
4 do something about it then in the World Trade
5 Organization process where this matter really ought to be
6 raised.

7 There are other issues in this mark-up that also
8 concern me, such as using Customs user fees for new
9 spending. There is still time to resolve the trade
10 promotion issue in a bipartisan way, but we cannot do
11 that until we get the commitment to bring it up this year
12 in this committee.

13 Mr. Chairman, so I consequently then urge you, as I
14 close, to schedule a TPA mark-up before we go home for
15 Christmas, regardless of what the House does. This is
16 our obligation as a committee. We must never shirk these
17 obligations. This committee has not hesitated to act on
18 trade legislation in the past before the House has done
19 it. We did that as recently as 1997.

20 Nothing less than U.S. credibility and leadership in
21 the world's foremost trade forum, the WTO, is at stake,
22 as well as--and I say it for a third time--Presidential
23 leadership in the process of the war on terrorism.

24 So let us put aside any differences we have, schedule
25 a TPA mark-up now, and do what is good.

1 Thank you.

2 The Chairman. Thank you, Senator Grassley.

3 I would like other members of the committee to now
4 offer their opening statements and, if possible, keep
5 them somewhat limited. That would be very helpful.

6 I will just go down the list here of Senators who
7 came in order of arrival. Senator Breaux, Senator
8 Murkowski, Senator Graham of Florida, Senator Gramm of
9 Texas, Senator Jeffords.

10 Senator Bingaman?

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1 OPENING STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR
2 FROM NEW MEXICO
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4 Senator Bingaman. Mr. Chairman, let me just
5 compliment you for scheduling the mark-up. I do think we
6 should concentrate, not on what we are not doing at this
7 mark-up, but what we, in fact, have a chance to do. That
8 is, to go ahead with these two items that you have
9 scheduled for consideration.

10 The Trade Adjustment Assistance issue, as you
11 indicated, is one that we have been working on for many
12 months. Your staff has been a tremendous help, and you
13 have.

14 We have also tried very hard to involve Republican
15 Senators and their staffs, and we have had some success.
16 Senator Snowe has made some very constructive suggestions
17 which we have incorporated into the bill.

18 I think it is important that Trade Adjustment
19 Assistance be seen as a useful thing to do, and a useful
20 piece of legislation to improve, regardless of where we
21 are on other trade-related issues. So, I think this is
22 long overdue.

23 There are improvements that are contained in this
24 bill, and I compliment you for moving ahead with it. I
25 look forward to getting this out of the committee so that

1 we can consider it on the floor.

2 Thank you, Senator.

3 Next on my list, is Senator Thomas, Senator Hatch,
4 Kyl, Rockefeller, and Thompson.

5 Senator Thomas, if you wish.

6 Senator Thomas. I have no statement.

7 The Chairman. Senator Hatch, do you wish to make a
8 statement?

9 Senator Hatch. I will just defer.

10 The Chairman. All right.

11 Senator Kyl?

12 Senator Kyl. I have no statement.

13 The Chairman. Senator Gramm?

14 Senator Gramm. I got here last.

15 The Chairman. You are not last. You are fourth
16 here. Do you want to speak?

17 Senator Gramm. Yes, I do.

18 The Chairman. All right.

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1 OPENING STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM
2 TEXAS

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4 Senator Gramm. Mr. Chairman, first of all, let me
5 say, I think we are falling into a pattern here, in that
6 everything that we are doing is partisan. It is not a
7 pattern we have had in this committee. I do not think it
8 is useful. I do not see why these issues have to be
9 partisan.

10 I do not understand moving forward on legislation
11 that is aimed at dealing with the very small dark side of
12 trade, trying to deal with people who lose their job from
13 expanded trade, without moving forward to promote jobs
14 through expanding trade. It makes absolutely no sense to
15 me.

16 I cannot imagine that Lloyd Bentsen, Pat Moynihan, or
17 anyone who has ever led this committee before would not
18 be moving forward on fast track authority. It is vitally
19 important to us economically. It frightens me that we
20 are becoming more and more protectionist. We all have
21 all these convenient excuses. But when it gets right
22 down to it, increasingly the Congress is becoming
23 protectionist. I think it is very harmful.

24 You said, Mr. Chairman, that Germany spends three
25 times as much per unemployed worker as we do. I think it

1 is also interesting to note they have three times as many
2 people unemployed. I think there is a relationship.

3 I think it is very good politics to say, let us
4 provide health insurance for unemployed people, even if
5 they did not have health insurance when they were
6 employed.

7 But I think the cold reality is, there are about 15
8 million people between 55 and 65, most of them who work
9 primarily to get health insurance.

10 I think that we are going to have an impact on long-
11 term unemployment if we continue to add these benefits.
12 I am opposed to the Trade Adjustment Assistance bill. I
13 think you are going to get stubborn opposition to it. I
14 think we could have worked out a compromise.

15 I would say to Senator Bingaman, I do not know of any
16 efforts to make this bipartisan. I can only speak for
17 one member, but nobody ever approached me about it. I do
18 not think anybody is more dedicated to trade.

19 The Chairman. Senator, at the proper time I will
20 address that. There are lots of features in this bill
21 that are bipartisan.

22 Senator Gramm. Well, the overall bill is one that I
23 am adamantly opposed to, that massively expands spending
24 and benefits, and is not set in the context of expanding
25 trade. It is one thing to provide assistance for people

1 who lose their jobs when you are expanding trade, but it
2 is another thing to expand benefits when you are not
3 expanding trade, because we are not getting the economic
4 growth to generate the revenues to pay for the benefits
5 we are providing.

6 In terms of Senator Bob Graham's bill, I am for it.
7 I intend to support it. I would say, I hope we do not
8 load it up with extraneous matters that will end up
9 delaying its passage. I think it could pass by unanimous
10 consent, the way it is now.

11 I am very much opposed to a sugar amendment that may
12 be offered. I just want to remind my colleagues that, in
13 the *Heartland* case, people talk as if this is a
14 technicality. The Clinton Administration ruled that the
15 sweetener blend that was imported was sugar, and it went
16 to federal court. In the Court of International Trade,
17 they ruled that the action by the Clinton Administration
18 was arbitrary, capricious, an abuse of discretion, and
19 otherwise not in accordance with law.

20 So, I would just urge my colleagues, if we want to
21 pass the Andean Trade bill, which I do, that if we can
22 pass it the way Senator Graham has written it and not put
23 a bunch of controversial matters in it, I think we can
24 get it through the Senate this year. I think if we load
25 it up with controversial issues like this sugar issue,

1 then I think we are going to have a very hard time
2 passing it and we are going to have stubborn opposition.

3 So, Mr. Chairman, I just want to urge again that we
4 get back to the tradition of bipartisanship. I think we
5 ought to do it on the stimulus package. You tried to go
6 that alone. That did not get anywhere. We are going
7 forward on a partisan basis on Trade Adjustment
8 Assistance. I do not believe that is going anywhere.

9 I think, in the end, if we want to get something
10 done, I do not know anybody that is really hard core
11 against Trade Adjustment Assistance. I think everybody
12 is for a stimulus package of some kind.

13 So, I just, again, do not understand why we do not
14 sit down and recognize that, with this Senate split
15 51/49, we ought to simply sit down and negotiate these
16 things out. I wish we could do it, because I think we
17 waste a lot of time. I think we create ill will that
18 spills over into other issues and does not serve our
19 interests.

20 I thank you for recognizing me.

21 Senator Bingaman. Mr. Chairman, let me just say, I
22 think, on the Trade Adjustment Assistance, there has been
23 a genuine effort to get input from all members, all
24 Republican members, as well as Democratic members. There
25 has certainly been a great many staff meetings where

1 Republican staff have been urged to participate.

2 Some have, and many others have not, on the basis
3 that they did not want to do anything on Trade Adjustment
4 Assistance until some agreement was made on fast track.
5 That is one point of view. I do not agree with it.

6 But to say that this Trade Adjustment Assistance has
7 proceeded on a partisan basis because certain Republican
8 members refused to participate because they wanted
9 something else done as well, fast track, I think that is
10 just a distortion of the facts.

11 Senator Gramm. When the Ranking Member of the
12 committee opposes the bill, you call that a bipartisan
13 bill?

14 Senator Bingaman. Well, there are quite a few
15 provisions in here that the Ranking Member, in fact,
16 sponsored and we incorporated into the bill.

17 Senator Gramm. With 200 provisions, at least by
18 accident one of them is good.

19 The Chairman. All right. Let us proceed. I want
20 to give other Senators a chance to give their statements.

21 Senator Rockefeller?

22 Senator Rockefeller. No.

23 The Chairman. Senator Thompson?

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1 OPENING STATEMENT OF HON. FRED THOMPSON, A U.S. SENATOR
2 FROM TENNESSEE
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4 Senator Thompson. Thank you, Mr. Chairman.

5 Mr. Chairman, I, too, support the Andean Trade
6 Preferences Act. Many of us have visited that part of
7 the world and have been very impressed with the efforts
8 that they have been making. They have had tremendous
9 drug and other problems. Instead of foreign aid to those
10 parts of the country, we need to concentrate on assisting
11 them in doing things where they can help themselves.

12 I think that this is a right thing to do, taking down
13 barriers and allowing them to keep up their efforts that
14 are a benefit not only to them, but to this country. So
15 I applaud Senator Graham and his approach to this, and
16 will be fully supportive of it.

17 I would just like to make one comment with regard to
18 the trade promotion authority issue. I do not usually
19 quote directly out of newspapers. I usually like to take
20 credit for it myself. But this was so recent, I probably
21 could not get away with it.

22 In this morning's *Wall Street Journal*, Henry M.
23 Paulson, Jr., the chairman and chief executive officer of
24 Goldman Sachs Group, points out that, "Since 1990, the
25 European Union completed negotiations on 20 free trade

1 agreements and is currently negotiating 15 more. Mexico
2 now has 8 agreements with 32 countries. Out of 130
3 preferential trade agreements and investment agreements
4 in the world, the U.S. is a party to three."

5 He goes ahead to say, "This bipartisan action, if we
6 would address trade promotion authority, would inspire
7 confidence in the global capital markets. It would allow
8 America to be seen as continuing to lead the open trade
9 and globalization that has been so vital to the
10 prosperity of both developed and developing countries.

11 It would send a powerful message that the President
12 and Congress speak with one voice and are committed to
13 advancing freer trade as part of the war on terror.
14 Indeed, approval of trade promotion authority would
15 signal that the U.S. is not only seeking a military
16 coalition, but an economic one." I think that is so
17 timely. It could not be said better, and urge its
18 consideration by my colleagues.

19 Thank you, Mr. Chairman.

20 The Chairman. Thank you very much, Senator.

21 Senator Lott?

22 Senator Lott. I will pass for now.

23 The Chairman. All right.

24 Senator Snowe?

25

1 OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, A U.S.
2 SENATOR FROM MAINE

3

4 Senator Snowe. Thank you, Mr. Chairman.

5 I will defer at this point on any extensive comments,
6 but let me just say this as far as the Trade Adjustment
7 Assistance is concerned.

8 I do think it is important that we address this most
9 vital program, not only with respect to extending the
10 authorization, but also improving upon the benefits that
11 are provided to workers who have lost their jobs as a
12 result of imports or plant relocation.

13 My State is testimony to the vital necessity of this
14 program. It is absolutely essential. We have lost more
15 than 11,000 manufacturing jobs since 1994 and the
16 inception of NAFTA. Just in this last year alone, we
17 have lost 5,600 manufacturing jobs.

18 In the last couple of months, we have lost three
19 major shoe companies, one most recently of two weeks.
20 Their last manufacturing site in the United States is in
21 Maine and they are closing their facility due to foreign
22 competition. It is an endless litany of closures.

23 The only mitigating factor, as I can see at this
24 point, is the ability to provide this kind of assistance
25 under the Trade Adjustment Assistance program. So, I do

1 think it is vital that we do that and to improve upon it.
2 I know there are many provisions in here that the
3 administration supports with the consolidation of this,
4 the basic program, along with NAFTA's Trade Adjustment
5 Assistance program. So, I appreciate working with you,
6 Mr. Chairman.

7 I know the author, Senator Bingaman, over the last
8 few months, has tried to incorporate a number of even my
9 ideas, and also some of the administration's. I know we
10 do have disagreements on some of the other issues, like
11 the health care. I have expressed that. I am pleased to
12 hear that whatever provisions provided in the economic
13 stimulus package will be provided in here and replace the
14 provisions of 75 percent.

15 But I do think that it is important that we move
16 forward with the Trade Adjustment Assistance. I would
17 prefer to get this legislation done this year. I think
18 the workers of my State and across this country have felt
19 the ill effects and adverse consequences of many of our
20 trade agreements.

21 I know there are some positive benefits somewhere in
22 America as a result of these many trade agreements that
23 have been negotiated and passed by Congress, but
24 certainly it has not been felt in my State. We have lost
25 thousands and thousands of jobs. Those who will get

1 other jobs do not get them at the wages of their previous
2 employment. That is the reality that we are experiencing
3 in the State of Maine.

4 That is why this Trade Adjustment Assistance program
5 provides a lifeline for employment and for benefits to
6 people, and to get their footing back into the employment
7 area so that they can have some kind of financial
8 security for the future.

9 I also should mention that I do have serious concerns
10 about the Andean Trade Agreement. Again, this goes back
11 to some of our basic industries in the State of Maine, in
12 shoes and textiles. It obviously gives preferential
13 treatment to textile and apparel imports by reducing
14 those tariffs to zero. Also, on shoes, it reduces the
15 tariff to 4 percent.

16 It does it in a way where there is not even a phase-
17 in period of any extended kind. Also, it gives a
18 preferential treatment that is going to obviously invite
19 more companies to move their operations offshore, and
20 more lost jobs.

21 I think this kind of unilateral concession, this kind
22 of agreement, is going to open the door and set a
23 precedent for other countries demanding the same kind of
24 preferential treatment when it comes to imported
25 footwear. So, I do have some serious concerns and will

1 be voting against that agreement.

2 Thank you.

3 The Chairman. Thank you, Senator.

4 Senator Lincoln?

5 Senator Lincoln. I will pass.

6 The Chairman. Senator Torricelli?

7 Senator Torricelli. No comments.

8 The Chairman. The first order of business this
9 morning will be the Andean Trade Promotion and Drug
10 Eradication Act. The Chairman's mark is before the
11 committee.

12 The sponsor of the underlying bill is Senator Graham
13 of Florida. I wonder, Senator, if you wish to make a
14 statement at this time regarding ATPA?

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1 OPENING STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM
2 FLORIDA

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4 Senator Graham. Thank you, Mr. Chairman.

5 Just a slight background on this legislation. Ten
6 years ago, the Congress extended preferential trade
7 benefits to four countries in the Andean region,
8 Colombia, Ecuador, Peru, and Bolivia.

9 It was done at the time in order to accomplish
10 several objections. One, was to facilitate the
11 diversification of the economies of these countries which
12 had traditionally been very narrowly focused, typically,
13 on a single agricultural crop, such as bananas or coffee.

14 Second, was to recognize the very fragile situation
15 that existed in the Andean region. Last March, with
16 Senator Kyl, Senator Rockefeller, and others, we visited
17 three of the countries in this region, two of which are
18 participants in this program, and I think had a firsthand
19 opportunity to see the kind of threats from drug
20 trafficking, guerrillas, and terrorism that afflict these
21 near neighbors of the United States.

22 This legislation does two things. One, it extends
23 the Andean Trade Preference Act, which will currently
24 expire in December of this year, until 2006. Second, it
25 will make some enhancements in the legislation, such as

1 apparel.

2 Last year, we passed the Caribbean Basin enhancement
3 legislation which gave to the countries of the Caribbean
4 and Central America the same apparel assembly treatment
5 that NAFTA provided for Mexico. This will provide to the
6 Andean countries the same preferences that we do to
7 Mexico.

8 A second area of enhanced benefit relates to canned
9 tuna, which will primarily benefit Ecuador. We have been
10 encouraging Ecuador to diversify its economy. One of the
11 ways that it has been doing so has been through the
12 fisheries industry.

13 It now represents about 20 percent of the U.S. market
14 in canned tuna. This would provide to Ecuador and to the
15 other Andean pact countries the same access to the U.S.
16 market as we currently provide through NAFTA to Mexico.

17 Mr. Chairman, I appreciate your bringing this matter
18 to our attention. I hope that we can move expeditiously
19 so that there will not be a break in this relationship
20 between the United States and these four neighbors,
21 important neighbors, neighbors who have struggled to be
22 as much like the United States in their economy as
23 possible, to the extent that Ecuador has adopted the U.S.
24 dollar as its monetary unit.

25 When you go to Keto, you do not pay in pesos or any

1 other currency. You pull out United States dollars.
2 That is the degree of economic integration that that
3 country has achieved with the United States.

4 So, I urge the adoption of this legislation. It will
5 recognize the success of the last 10 years in increasing
6 the commercial relationship between the United States and
7 these countries and what that commercial relationship has
8 done in terms of stabilizing the countries and increasing
9 their economic diversity and growth.

10 The Chairman. Thank you, Senator.

11 There is a modification to the Chairman's mark, and I
12 would like the staff to describe the modification.

13 Dr. Mastel. Mr. Chairman, the modification is very
14 simple. It is based on Senator Kerry's amendment. It
15 provides for an alternative procedure for administering
16 the wool tariff refunds, which were provided under CBI at
17 Goha last year.

18 Some of the records were lost in the World Trade
19 Center crisis and cannot be retrieved, so we worked with
20 Customs to create an alternative mechanism to recreate
21 that data. We know of no opposition on the committee,
22 and it is supported by the Customs Service.

23 The Chairman. The mark is hereby modified and is
24 open to amendments.

25 Senator Breaux?

1 Senator Breaux. Mr. Chairman, thank you very much,
2 and my colleagues. In my cooperative spirit, I have now
3 been reduced to only two amendments, one on molasses and
4 one on fish. I would like to offer the fish amendment at
5 this time.

6 I have a couple of charts. I do not want to spend a
7 lot of time on this. I think Senator Graham has done a
8 terrific job on this legislation and I support the
9 legislation, except in one area.

10 I have what I would consider a compromise amendment
11 to offer dealing with the tuna fishing industry in
12 Ecuador. I have got some charts. They are hard to read,
13 I guess, for everybody else, but I think everybody has
14 the chart.

15 Number one, Ecuador has done very, very well under
16 the current system with regard to exporting of tuna in
17 cans to the United States. Under the current system, the
18 first chart shows that the number of factories in Ecuador
19 is up 229 percent. Their capacity in production is up
20 400 percent.

21 Their employment in the fishing industry is up 257
22 percent. Their exports to the United States, under the
23 current system, are up 567 percent. What is the current
24 system? They pay about an 11 percent tariff on imported
25 canned tuna coming to the United States.

1 In addition to the fact that they are doing extremely
2 well under the current system, they do not let our boats
3 fish in the eastern Pacific. U.S. fishing boats cannot
4 fish off of Ecuador. They cannot get a permit under the
5 Inter-American Tropical Tuna Commission. We cannot get
6 permits.

7 So, number one, we cannot fish off their waters.
8 They have been sending a huge amount of canned tuna into
9 the United States, increasing jobs over there and doing
10 very well under the current system, when our boats cannot
11 fish off their coast.

12 So, in addition, what does it mean to America? The
13 second chart I have talks about the number of people in
14 our industry in this country. We have got American
15 Samoa, which is a very poor American territory with
16 American citizens that produce tuna and process it that
17 would be tremendously adversely affected if we give this
18 type of special deal to Ecuador.

19 We have canneries in California which would be
20 immensely hurt, and in Puerto Rico, which has about 20
21 percent unemployment in many areas right now, where we
22 have a processing plant.

23 I think we ought to be concerned about Ecuador. But
24 I think we ought to be concerned about Puerto Rico, where
25 there are American citizens, and concerned about American

1 Samoa, which are Americans. These areas would be
2 decimated if we give this extra-special treatment to one
3 country who already is doing extremely well.

4 A final point. When we give special privileges, in
5 the final chart, Ecuador, under the Inter-American
6 Tropical Tuna Commission has to follow the rules of
7 catching tuna in a dolphin-safe manner, which our boats
8 have to do.

9 Since 1998, Ecuador has had over 900 violations of
10 the tuna dolphin protection regime. Over 900. The host
11 country is supposed to prosecute those violations. Do
12 you know how many they have prosecuted? Three. Out of
13 900 violations, they have prosecuted three. I think that
14 what they have now is a wonderful situation without the
15 legislation.

16 However, having said that, my amendment would say,
17 all right, let us do something to help them even further.
18 What my amendment says, is we figure out what 20 percent
19 of the U.S. consumption is and we will give to the Andean
20 countries duty-free treatment on an additional 20
21 percent.

22 That is the last bar chart. The blue up on top shows
23 you that that's how much would come in duty-free, and the
24 rest of it would continue to come in under the current
25 system.

1 This helps Ecuador because it requires it to be
2 produced by Ecuadorian fishermen, which they do not have
3 to do now. Other countries could export it now to
4 Ecuador and they could transship it into this country,
5 and their people would not benefitted from it. So my
6 amendment says they get the duty-free if it is caught by
7 Ecuadorians and processed in their processing plants.

8 I think this is a good compromise. If you want every
9 dolphin-friendly group against you, give this special
10 privilege to a country which has 900 violations under the
11 Tuna-Dolphin Protection Act. I think we have got to take
12 care of Americans, first, help them, and this is a good
13 compromise.

14 The Chairman. Senator Graham?

15 Senator Graham. I would like to close, Mr.
16 Chairman.

17 The Chairman. All right.

18 Senator Torricelli?

19 Senator Torricelli. Mr. Chairman, I want to
20 strongly support the amendment. I think Senator Breaux
21 actually has understated the case. It is not simply that
22 American tuna fishermen have been barred from these
23 waters. In the past, they have had their boats
24 confiscated and they have been fired upon.

25 It is not my sense that this is how you reward a

1 country that seizes our boats, that fires upon our
2 fishermen. Now we will give them the complete rights to
3 access to our market? If anything, I think this
4 amendment is still too generous. But, nevertheless, I
5 will support it.

6 I also think the intellectually honest thing to do,
7 is if you are against it, you should just repeal the
8 dolphin protections in American law. If we are going to
9 allow them to come into our country having violated these
10 dolphin protections, then repeal it for our fishermen.
11 Obviously, none of us want to do that.

12 I think it is a well thought through amendment and I
13 strongly support it, though I actually regret they get
14 the additional 20 percent without having to do further
15 dolphin protections.

16 Senator Gramm. Mr. Chairman?

17 The Chairman. Senator Gramm?

18 Senator Gramm. Mr. Chairman, I hear about all of
19 these Americans who are going to be helped by this
20 amendment. But what about all the Americans who eat tuna
21 fish? I do not eat it, myself. I do not like it. But a
22 lot of people do like it.

23 It seems to me that it is an amazing thing that, in
24 all these trade debates, it is single-entry bookkeeping
25 that we use. We always talk about somebody somewhere who

1 would be better off if we made all these poor people who
2 were eating cold tuna fish worse off by raising their
3 prices.

4 I mean, you are either for this bill or you are not.
5 The idea that we are all going to try to play favorites
6 with our individual interests in opposition to trade, if
7 we follow that route we end up killing off trade.

8 So, I am against the sugar amendment that is coming
9 up, even though my State is a sugar producer. I just
10 think it is bad policy to follow. If we are going to
11 list all the things our State does and say, I am for
12 trade except where it is going to negatively affect a
13 producer in my State, then we are sort of back to
14 building a wall around America and going and hiding under
15 a rock somewhere.

16 I think, quite frankly, that more tuna coming into
17 America means lower tuna prices, and that helps working
18 people. So for that reason I am against it. I think the
19 Graham bill is a reasonable approach. Not only do I not
20 like tuna fish, I do not notice it being the preferred
21 diet of the rich and powerful that so many are opposed to
22 giving tax cuts to.

23 It seems to me, this is the equivalent of a tax on
24 poor people's food. I just think that if you really are
25 concerned about these people, instead of the producers,

1 that you would be against this amendment. Therefore, I
2 am strongly against it.

3 Senator Torricelli. Would the Senator yield?

4 Senator Gramm. Yes.

5 Senator Torricelli. Does the Senator have any idea
6 of what a can of tuna actually costs? I recognize he
7 does not eat it. [Laughter].

8 Senator Gramm. Let me tell you what I do know.
9 What I know with absolute certainty, is if the Breaux
10 amendment passes it will cost more than it does now. As
11 a result, poor people who are forced to eat tuna will be
12 worse off.

13 They will not be able to buy lunches for their
14 children. They could be deprived of health care.
15 [Laughter]. They could suffer malnutrition. Food banks
16 would find it more difficult to provide basic sustenance.
17 Does anybody care about all of those people?

18 Senator Torricelli. Mr. Chairman, at this point in
19 Senator Graham's argument, the better course probably
20 would be just to rest my case because the apparent
21 weaknesses come through. [Laughter]. But I also, like
22 Senator Gramm, have no idea what a can of tuna costs.
23 But the Senator from Arkansas appears to have some
24 expertise in this matter.

25 Senator Lincoln. We eat tuna at our house. I am

1 sorry.

2 Senator Torricelli. She has told me that, on sale,
3 you can buy a can of tuna in this country for 39 cents.
4 It appears to me that that is a little bit more than the
5 price of canning it.

6 Senator Gramm. Well, is that too low? I mean,
7 should it be raised?

8 Senator Torricelli. The idea that keeping our
9 industry alive, these jobs in America, keeping it
10 dolphin-friendly, with good environmental protection and
11 not giving some reward to people who fired on our boats,
12 all that in a product that is 39 cents, does anybody
13 honestly believe here, if you keep all those protections,
14 somehow there is going to be a dramatic drop in the cost
15 of a product which is already discounted to such basic
16 levels?

17 I think Senator Breaux and Senator Graham have both
18 made good arguments in favor of the amendment and I hope
19 members will support it.

20 Senator Thompson. Mr. Chairman?

21 The Chairman. Senator Thompson?

22 Senator Thompson. Mr. Chairman, maybe somebody can
23 further illuminate us on this Safe Dolphin issue. What
24 has been said today seems to be directly contrary to what
25 I understand to be the case.

1 Ecuador is the only nation in all of Latin America
2 and the Caribbean to be certified by the U.S. Department
3 of Commerce as in compliance with the U.S. Marine Mammal
4 Protection Act, and in compliance with the Eastern
5 Pacific Tuna Conservation measures. Environmental groups
6 active on the Safe Dolphin issue support the inclusion of
7 tuna in this legislation.

8 To quote the Earth Island Institute--it is an outfit
9 I am sure Senator Gramm is very familiar with.
10 [Laughter]. They are big supporters of mine. The Earth
11 Island Institute says this: "By reducing tuna tariffs for
12 Ecuador, Congress can reward that country for their
13 efforts to protect dolphins.

14 Furthermore, by reducing tuna tariffs and by ensuring
15 that other nations fully comply with the U.S. Marine
16 Mammal Protection Act to protect dolphins in the marine
17 ecosystem before they can export tuna, Congress can
18 provide incentives to these other nations to protect
19 marine mammals."

20 Senator Breaux. Will the Senator yield?

21 Senator Thompson. Yes.

22 Senator Breaux. Well, they are in compliance in the
23 sense that they have people who are on the boats who are
24 supposed to monitor what they do. So, they are in
25 compliance. But what they have seen them do in the last

1 two years, is over 900 violations.

2 They are in compliance because they have people on
3 their boats watching what they do. But what they have
4 reported to the Inter-American Tropical Tuna Commission
5 is that they have over 900 violations. I would suggest,
6 let us reward them when they start performing as they are
7 supposed to perform.

8 My amendment gives them 20 percent more duty-free
9 tuna than they have had before. But they are only in
10 compliance in the sense that they have observers on their
11 boat. But what the observers tell us about what they are
12 doing, is what the problem is.

13 Senator Thompson. Well, that is interesting
14 anecdotal evidence that the Senator has that I do not
15 have, and have not heard of until today. I do not know
16 what 900 compared to what is. I do not know, in light of
17 that, why the Earth Island Institute and other
18 environmental groups active in the Safe Dolphin program
19 would be opposing the Senator's amendment.

20 On the tuna issue, I thought what we were dealing
21 with here was canned tuna. While these graphics are very
22 dramatic with regard to duty-free, the canned tuna
23 imports are much less impressive.

24 It does not hurt me to find that Ecuador may be doing
25 well under free trade. With regard to this other

1 anecdotal evidence about our boats getting shot at and so
2 forth, and Ecuador is occasionally doing some bad things,
3 I hope we do not hold these standards to the People's
4 Republic of China or we would not be doing much trade
5 with them.

6 So it kind of boils down to whether or not we want to
7 engage in additional protectionist activities with regard
8 to this little country who is under the gun in terms of
9 drug traffic and everything else that is happening in
10 Colombia above it, and trying its best, and complying
11 with these international regimes, whether or not we want
12 to have a narrow protectionist interest to keep them out.
13 We are for free trade, except here, and except there, and
14 except the other little narrow places that we want to
15 carve out. So, I oppose this amendment.

16 The Chairman. All right. Senator Murkowski, then
17 we are about ready to close on the amendment.

18 Senator Murkowski. I want to ask about the voodoo
19 economics that we have been kicking around here. In
20 fairness to Senator Gramm, there is a peculiar situation
21 price-wise with what the food banks end up with. They do
22 not end up with much tuna.

23 Senator Gramm. They cannot afford it.

24 Senator Murkowski. No. Tuna is relatively modestly
25 priced for the protein content. But if you go over to

1 Thailand--and I have been over there--and watch how they
2 handle the tuna, it is amazing. These operators, in
3 these 21 canneries that are located a couple of hours out
4 of Bangkok, operate with as many as 800 to 1,000 women.

5 They take the tuna as it is frozen whole when it
6 comes out of the ship, because it is all frozen, they put
7 it in huge retorts and they steam it. That is how it is
8 cooked. Then these women hand-fillet it. They get paid
9 \$3 an hour. I was told that that industry is getting
10 ready to move to Indonesia, where they pay \$1 an hour.

11 Now, that is the difference relative to why tuna is
12 relatively inexpensive. We have got a dependent,
13 American Samoa, who is trying to compete over there, and
14 these are U.S. fishermen. It is tough competition, but
15 it is ultimately associated with the end product, how it
16 is processed. But processing in American Samoa simply
17 costs more, that is all there is to it. We have to
18 protect that, because that is those folks' whole
19 livelihood.

20 Now, the contrast to that--and I know something about
21 this--is the Alaska salmon, pink salmon particularly. We
22 process it in America. It is high priced. It goes into
23 the food bank because we cannot produce it and sell it
24 cheaper as it would compare in a protein content with
25 tuna.

1 So you have got the natural inequity. If we are
2 going to have any salmon produced, it is going to have to
3 carry a minimum price. The excess is what we sell to the
4 food banks.

5 I do not know what that does to anybody, other than
6 to simply highlight that this foreign tuna goes wherever
7 labor is cheapest, because that is the source relative to
8 their competitive position. If they could get it done
9 for \$1 a day per person, they will move the whole
10 industry there.

11 I am supporting Senator Breaux.

12 Senator Gramm. It is just an economics war.

13 The Chairman. All right. We are ready to vote on
14 the amendment.

15 Senator Graham?

16 Senator Graham. Mr. Chairman, I would like to ask
17 if the representative of the U.S. Trade office could
18 comment as to whether the administration supports
19 providing the same tariff and quota provisions for the
20 Andean countries as it relates to canned tuna as we
21 currently are providing to Mexico.

22 Mr. Allgeier. Yes. Thank you. We have been
23 comfortable with the Chairman's mark in the treatment of
24 the canned tuna which is, as you pointed out, in parity
25 with the NAFTA treatment and in the Caribbean Basin Trade

1 Promotion Act.

2 Senator Graham. Mr. Chairman, what we are talking
3 about here, is we have three groups of nations with which
4 the United States has a special trade relationship. They
5 all happen to be our neighbors.

6 One of those groups is basically a single nation,
7 Mexico. The other are the 20 to 25 countries that
8 participate as part of the Caribbean Basin, the Caribbean
9 and Central America, and the third grouping are the four
10 Andean Trade Pact countries.

11 As we have made changes in the laws over the last
12 decade to benefit one group or the other, NAFTA for
13 Mexico, the recent CBI enhancement for the Caribbean and
14 Central America, we have created distortions.

15 One of the reasons that we changed the CBI bill in
16 2000 was to create a greater parity between those
17 countries and Mexico. This will do the same thing for
18 the four Andean countries.

19 I think that is an important principle that we ought
20 to maintain, that we are going to treat our neighbors
21 with equal respect and economic dignity.

22 The United States consumes about 46 million cases of
23 canned tuna a year. Of that amount, 30 million cases
24 come from the United States or one of its commonwealths
25 or protectorates, primarily American Samoa.

1 One of the interesting things, is that the largest
2 single producer of canned tuna in American Samoa, which
3 is the H.J. Heinz Company, Starkist, supports the
4 inclusion of this provision in this legislation. They
5 have stated repeatedly that passage will not affect
6 American Samoan operations. They are the largest
7 employer of persons in this industry in American Samoa.

8 Second, and I will not repeat the statement that
9 Senator Thompson has just made, but Ecuador is the only
10 nation--the only nation--in Latin America or the
11 Caribbean to be certified by the U.S. Department of
12 Commerce as in compliance with the U.S. Marine Mammal
13 Protection Act.

14 If we do not feel that act provides sufficient
15 protections for dolphins, then we ought to change the
16 law. But the law that we currently have, and we have
17 invested the responsibility for its administration with
18 the U.S. Department of Commerce, this is the only country
19 in the western hemisphere south of the United States
20 which is in compliance with a law that we passed.

21 As Senator Thompson quoted, the environmental groups
22 who were most interested in the passage of the Safe
23 Dolphin Act, and who are the most protective of its
24 implementation, support the provision that is in the
25 underlying bill as it relates to Ecuador.

1 We had a hearing on this bill last summer and the
2 witnesses who came to testify on behalf of the
3 environmental community favored what we are doing to
4 recognize the efforts that Ecuador has made to protect
5 dolphins by giving them and their neighboring countries,
6 if and when they get into the business and become
7 compliant, the opportunity to have the same treatment as
8 Mexico, which, incidentally, does not meet the U.S.
9 standards for certification of Safe Dolphins.

10 It is rather ironic that we are providing special
11 trade benefits which are identical to what we are
12 suggesting here for Ecuador to Mexico, and 25 countries
13 in the Caribbean and Central America, none of which meet
14 the U.S. Department of Commerce standards for compliance,
15 yet we are now considering disadvantaging the one country
16 which does meet our standards. Somebody can explain that
17 to me.

18 The situation in the Andean Pact countries, and
19 specifically in Ecuador, is one in which we in the United
20 States can take pride, but also have a continuing basis
21 of concern. Ecuador is one of the poorest nations in the
22 western hemisphere. It is also one of the most
23 threatened.

24 The violence in Colombia, the drug, guerilla,
25 terrorist violence is now moving across the border.

1 Those of us who have had an opportunity to visit the
2 region have heard and see it firsthand.

3 Ecuador is making a valiant effort to enhance its,
4 and the region's, security against drugs, guerrillas, and
5 terrorists. When we had to remove our military bases
6 from Panama and lost some important security assets, we
7 looked to countries in the Caribbean and in Latin America
8 to make available alternative sites. Frankly, we got
9 rebuffed in a lot of places.

10 One place we did not get rebuffed was in Ecuador. We
11 have our principal security base for anti-drug, anti-
12 guerilla, and anti-terrorist activities in this whole
13 region based at Mantua in Ecuador.

14 Here is a country which is attempting to be the
15 strongest of partners with the United States in a very
16 important national security issue.

17 As I indicated earlier, how far can a country go in
18 terms of indicating its desire to be commercially linked
19 with the United States than to adopt our monetary system?
20 They now are effectively as much under the control of the
21 Central Bank of the United States as we are because their
22 monetary system is regulated, as is ours. Their monetary
23 system is the United States dollar.

24 So, friends, we have an important, extremely
25 supportive neighbor which is trying to diversify its

1 economy from its old reliance on bananas and sugar. They
2 have found, as one way to do this, to increase their
3 employment in the canning of tuna.

4 That may not sound like high-tech to a lot of people,
5 but for Ecuador it is a very significant move towards
6 stabilizing and growing one of the poorest economies in
7 Latin America.

8 All we are doing here is saying, let us treat these
9 four Andean countries in the same way that we are
10 treating Mexico, the Caribbean, and Central America.
11 This country has complied with our environmental
12 standards, supported our war on drugs and terrorism,
13 provided us security bases, linked its economy inexorably
14 to the economy of the United States.

15 I believe that we should recognize these positive
16 actions by extending parity treatment in the area of
17 canned tuna to our Andean Pact neighbors and not slap
18 them in the face for all the good deeds that they have
19 done by continuing them in a second-class status.

20 So, I urge that the Breaux amendment be defeated and
21 that we move forward and pass the Andean Trade Pact
22 Extension and Enhancement legislation.

23 The Chairman. Senator Breaux, why do you not close?

24 Senator Breaux. I will just close very quickly.

25 Well, some of the good deeds they have been doing for

1 us, are shooting at our American boats and our American
2 fishermen, thank you very much. I do not think we ought
3 to be crying for Argentina, or for Ecuador. Maybe for
4 Argentina, but certainly not for Ecuador. Their exports,
5 under the current system, have gone from \$15 million a
6 year to over \$100 million a year. That is a 567 percent
7 increase in exports under the current system. Here is a
8 nation that, yes, they are in compliance because they
9 have observers on their boats. But the observers have
10 told us that they have had over 900 violations in the
11 last three years. They have prosecuted three of them.

12 All right. I will take that into consideration and
13 say, look, let us do something else for them. I am
14 willing, in this amendment. That is what Senator
15 Torricelli said is too generous. But it allows them to
16 export duty-free, no duty, less than the duty that
17 Senator Graham would impose on the 5 percent of the
18 NAFTA.

19 I say, for 20 percent of their product, they can have
20 it duty-free completely, and the rest comes under the old
21 system, which they have done quite well. I think this is
22 a good, fair compromise, and should be supported.

23 The Chairman. Questions on the amendment?

24 [No response]

25 The Chairman. All those in favor say aye.

1 [A chorus of ayes]
2 The Chairman. Those opposed, no.
3 [A chorus of nays]
4 The Chairman. The Chair is in doubt. The Clerk
5 will call the roll.
6 The Clerk. Mr. Rockefeller?
7 Senator Rockefeller. Aye.
8 The Clerk. Mr. Daschle?
9 The Chairman. Aye, by proxy.
10 The Clerk. Mr. Breaux?
11 Senator Breaux. Aye.
12 The Clerk. Mr. Conrad?
13 The Chairman. Aye, by proxy.
14 The Clerk. Mr. Graham?
15 Senator Graham. No.
16 The Clerk. Mr. Jeffords?
17 Senator Jeffords. No.
18 The Clerk. Mr. Bingaman?
19 Senator Bingaman. No.
20 The Clerk. Mr. Kerry?
21 [No response]
22 The Clerk. Mr. Torricelli?
23 Senator Torricelli. Aye.
24 The Clerk. Mrs. Lincoln?
25 Senator Lincoln. Aye.

1 The Clerk. Mr. Grassley?
2 Senator Grassley. No.
3 The Clerk. Mr. Hatch?
4 Senator Grassley. Aye, by proxy.
5 The Clerk. Mr. Murkowski?
6 Senator Murkowski. Aye.
7 The Clerk. Mr. Nickles?
8 Senator Grassley. No, by proxy.
9 The Clerk. Mr. Gramm?
10 Senator Gramm. No.
11 The Clerk. Mr. Lott?
12 Senator Grassley. No, by proxy.
13 The Clerk. Mr. Thompson?
14 Senator Thompson. No.
15 The Clerk. Ms. Snowe?
16 Senator Snowe. Aye.
17 The Clerk. Mr. Kyl?
18 Senator Kyl. No.
19 The Clerk. Mr. Thomas?
20 Senator Thomas. Aye.
21 The Clerk. Mr. Chairman?
22 The Chairman. Aye.
23 The Clerk. Mr. Chairman, the tally is 11 ayes, 9
24 nays.
25 The Chairman. The amendment is adopted.

1 Before proceeding to the next matter on the agenda, I
2 would like to ask a question of Ambassador Allgeier.

3 Mr. Ambassador, in renewing and expanding ATPA, it is
4 important that the President determine whether the Andean
5 countries meeting the eligibility criteria for receiving
6 trade benefits do so. These criteria include an
7 obligation to honor arbitral awards and judgments in
8 favor of U.S. citizens and companies.

9 It has come to my attention that several U.S.
10 companies have won large arbitral awards against the
11 Government of Colombia, but have not been paid.
12 Accordingly, the companies have petitioned USTR to limit
13 Colombia's benefits under the current ATPA program.

14 My question is, how does the USTR intend to address
15 these complaints in the context of renewal and expansion
16 of ATPA?

17 Mr. Allgeier. Thank you, Mr. Chairman.

18 We, of course, have looked closely at these two
19 cases. There are two that have been brought to our
20 attention. I think it is Sythe Energy and Nortel. We
21 have raised this with the Colombians.

22 Specifically, Ambassador Zoellick and Secretary Evans
23 recently wrote to President Pastrana to raise these two
24 cases to his attention, and our understanding is that he
25 has instructed his officials to look into that and to

1 respond to us how they are dealing with that. We
2 certainly seek prompt and proper settlement of those
3 arbitral awards, and others.

4 The Chairman. If you could do that, I, for one,
5 would certainly appreciate that.

6 Mr. Allgeier. Absolutely.

7 The Chairman. We will now move to TAA. We will
8 take up the Trade Adjustment Assistance bill.

9 Senator Graham. Mr. Chairman, are we going to vote
10 on ATPA?

11 The Chairman. Yes.

12 Senator Kyl. Mr. Chairman, if I could have a minute,
13 I would like to speak to that.

14 The Chairman. To the ATPA?

15 Senator Kyl. Yes. To the Andean bill that we are on
16 right now.

17 The Chairman. Correct. Right. All right.

18 Senator Kyl. Mr. Chairman, I think this amendment
19 has bipartisan support. I know there are several
20 Senators in support. Because of the vote coming up, I
21 will be very brief.

22 This is actually an amendment to remove a tariff,
23 because the reason for the tariff has ceased to exist.
24 This is on steam generators. It would be removed for a
25 period of four years.

1 The purpose is to recognize the fact that the only
2 steam generators that are now produced are outside this
3 country, and therefore any reason to have a tariff does
4 not exist.

5 It is possible that, after the year 2006, some
6 entities in Canada or the United States might be able to
7 begin producing these, and therefore the removal is
8 temporary through the year 2006. The cost is \$33
9 million.

10 There is much more that I could say about this. But
11 in view, I think, of the strong support and the fact we
12 have the vote coming up, let me just see if there is any
13 other discussion. If so, I would be happy to try to
14 answer any questions.

15 Senator Bingaman. Mr. Chairman?

16 The Chairman. Senator Bingaman?

17 Senator Bingaman. Let me just say a word in support
18 of Senator Kyl's amendment. I think it is very important
19 that we pass this. As he said, there is no domestic
20 capability to produce these steam generators, so we are
21 not putting at risk anybody or any jobs in this country.

22 Clearly, the additional tariff that is in place that
23 this amendment tries to deal with is just going on to the
24 cost of electricity that is being produced at these power
25 plants, which is not in anyone's best interests. So, I

1 urge support for Senator Kyl's amendment.

2 Senator Murkowski. Senator Baucus?

3 The Chairman. Senator Murkowski?

4 Senator Murkowski. Yes. I would like to speak very
5 briefly.

6 I believe when Westinghouse broke up and went
7 basically out of business, that was the last provider
8 here in the United States of steam generators. So, there
9 is a limited market in the nuclear plants, as these
10 plants require replacement of the steam turbines. Canada
11 is the only producer.

12 So, I would encourage relief in this regard, and
13 support the Kyl amendment.

14 The Chairman. This is not an easy matter. Let me
15 just remind the committee of what the process is for
16 tariffs, and miscellaneous tariffs.

17 The ordinary channel for considering proposals of
18 this nature is in the Miscellaneous Tariff bill, which
19 this committee brings up and passes every two years.
20 Generally, each Congress, the Ways and Means and Finance
21 Committees, collects these duty suspensions and similar
22 bills.

23 The bills are then put into a single vehicle and the
24 public is given an opportunity to comment. The
25 International Trade Commission reports on any impact that

1 particular bills may be expected to have on U.S.
2 industry.

3 That's the customary and common practice with respect
4 to these bills. Those bills that are noncontroversial in
5 nature and de minimis in cost are included in the bill
6 and are eventually voted on by the Congress.

7 This proposal, though, is expensive. In addition to
8 ATPA expansion not being, I think, an appropriate
9 vehicle, this proposals costs \$23 billion. I do not know
10 the degree to which it has been vetted and has gone
11 through the ITC, or whomever, which I think is an
12 important consideration.

13 Senator Murkowski. Senator Baucus, is it not a fact
14 that there is a limitation on the miscellaneous, so this
15 would not qualify? It seems to me this was looked at
16 previously. All it takes is \$250,000.

17 Senator Kyl. It is \$500,000.

18 Senator Murkowski. No, no. The miscellaneous
19 level. It would not fit in there, is my point. You
20 indicated that is where it belonged. Maybe you can
21 enlighten us.

22 Senator Kyl. I can answer that question. Senator
23 Murkowski is correct. Recognizing that this was not a
24 wise tariff for us to have, we did all we could do in the
25 Miscellaneous Tariff bill last year, which was to reduce

1 it by the \$500,000 limit. We reduced it from 5.2 percent
2 to 4.9 percent, but that is all of the relief that we
3 could get because of the de minimis rules there.

4 So, that is why, to temporarily remove it from 4.9
5 down to zero for four years, we have to do it on a bill
6 like this. This is a perfectly legitimate bill to do it
7 on.

8 The point here, also, is if we are going to seek to
9 have energy conservation and improve our energy
10 efficiency, this will add a lot of megawatts of power,
11 because power companies that otherwise would defer
12 retiring an old generator and bringing on a new one will
13 have an economic incentive to do so that they would not
14 have otherwise.

15 So, we can produce more electricity for the same cost
16 in this country, and actually for a reduced cost if we
17 were able to reduce the tariff on it. As I say, it is
18 only for a period of four years, after which it is
19 possible that somebody in the United States or Canada
20 might have the capacity to produce these.

21 The Chairman. I might ask the staff to respond to
22 the usual process by which we take up these bills, and
23 the status of this amendment.

24 Dr. Mastel. Most of the debate here has been
25 correct. I would just note, we have been informed from a

1 number of Senators' offices about opposition to this
2 amendment, for a variety of reasons. Also, it is
3 possible to waive the de minimis rule in the
4 Miscellaneous Tariff bill. We have done that in the
5 past. So, it is possible to fit a bill.

6 Senator Murkowski. Well, you did not do it on this
7 one previously. So who decides whether you are going to
8 waive it or not?

9 Dr. Mastel. That is a matter for the Senate and the
10 House to consider. The committee considers it.

11 The Chairman. I would hope, Senator, that you could
12 withdraw your amendment at this time. There seems to be
13 some question as to the proprietary.

14 Senator Kyl. Mr. Chairman, I do not want to withdraw
15 it. Last time, what happened was, I was told in no
16 uncertain terms, all the relief you can get out of the
17 committee is 5.2 to 4.9. We are bound by this. Nobody
18 said you can waive it, or that we will offer to waive it.

19 This ball just keeps getting kicked down the road
20 here. It seems to me there is nothing wrong with having
21 this committee vote. There is strong support for this
22 because it affects the power grid all over the country.

23 I am very surprised that there would be a suggestion
24 that there have been expressions of opposition. Most of
25 the Senators will benefit directly from this because of

1 the efficiency that producers in their State will achieve
2 as a result of being able to bring new generators in.

3 Let me just make this final point. I know the usual
4 argument around here: there is always another opportunity
5 to do something. I have been trying now for two years to
6 get this done.

7 Just as I get ready to kick the ball, somebody pulls
8 it away from me. I have read enough *Peanuts* cartoons,
9 that I think I have got the message. I have got to do it
10 when we can get it done. There is nothing wrong with
11 doing it in this bill.

12 . Senator Murkowski. Senator Baucus, one other point
13 here. There was something touched on by Senator Kyl that
14 I think needs elaboration. Senator Bingaman and I, I
15 think, would agree. The contribution of the nuclear
16 industry is very meaningful in this country. It provides
17 about 20 percent of the power generated. These reactors
18 are beginning to have a need for additional equipment to
19 replace old equipment, and that is what this is.

20 You have got no air problems associated with nuclear
21 power plants. To a large degree, I suspect that the
22 opposition is basically opposed to nuclear power. There
23 is a segment out there that is very much opposed and has
24 milked it for all it is worth, and they will continue to
25 do that.

1 It is kind of like a cash cow. They can generate
2 membership, they can generate dollars. But we need these
3 facilities. We need to keep them safe.

4 This provides something that is needed. These are
5 steam turbine generators that basically go on the
6 reactors. If you cannot get them under reasonable
7 circumstances, you are going to see some of these plants
8 shut down.

9 If you shut them down, then what are you going to
10 replace them with? Maybe natural gas, maybe coal, maybe
11 oil. But that is a reality here. I think to sunset it
12 is certainly appropriate, because it gives the U.S.
13 industry the capability of determining whether they want
14 to get into this market or not. When we had Westinghouse
15 here, that was a different story. GE has chosen not to
16 get into it.

17 The Chairman. I might, again, ask the Senator if he
18 would consider withdrawing it, for these reasons.

19 This has not had the vetting of the ITC, this
20 amendment. I might say, this is the first time I have
21 heard of this amendment.

22 Senator Kyl. Oh, come on.

23 The Chairman. No. The Senator has not spoken to me
24 about this amendment. I have not heard about it until
25 just now. There has not been a hearing. It is a large

1 size. There is a usual process.

2 I pledge to the Senator, although I know he is a bit
3 suspect about what I might say, that at a later time on a
4 bill on the floor, he has my full assurances that I will
5 cooperate and work with the Senator to see if we can find
6 an appropriate time. But, under the circumstances, I
7 would have to oppose this amendment. It has not been
8 properly vetted, there has not been a hearing, and it is
9 a large size. I just do not think that would be
10 appropriate.

11 Senator Breaux. Mr. Chairman?

12 The Chairman. Senator Breaux?

13 Senator Breaux. I think a lot of us probably have
14 constituents on both sides of these issues. I certainly
15 do. The problem, from one perspective, is that under
16 NAFTA, these steam generators can come in to the United
17 States without any tariff on them because they are a
18 NAFTA country and we have a NAFTA agreement with Canada.

19 So companies can buy steam generators from Canada
20 without any duty on it because we have an agreement with
21 Canada. It is the NAFTA agreement. We negotiated that.
22 That is how they get it in duty-free.

23 For other countries, with Senator Kyl's amendment,
24 for the first time to say they can come in, too, duty-
25 free, I think, is premature. We do not have an agreement

1 with these other countries. I mean, when you give a
2 country the right to come in duty-free, free trade, we
3 should get something in return for it. That is what we
4 did with Canada. We sell over there, they sell over here
5 duty-free.

6 But companies that make steam generators and other
7 countries like Korea, Germany, and other countries that
8 we do not have agreements with yet, they should not just
9 be arbitrarily generously given this free trade privilege
10 without us getting something in return for it. If we can
11 negotiate with them, give them that privilege, all right.
12 But just do not do it, I think, without getting something
13 in return for it.

14 Senator Bingaman. Mr. Chairman?

15 Senator Bingaman. Mr. Chairman, let me just say
16 that I do not see this amendment as doing a favor for
17 Germany, or anybody. I think it is a help to the U.S.,
18 essentially people who are buying electricity in this
19 country.

20 I mean, you are essentially saying that we are going
21 to take this additional cost, which is frankly not a
22 large amount. You indicated this is a large item. This
23 is \$23 million over five years. That is less than \$5
24 million a year, which is not too much in the context of
25 things we deal with around here.

1 But, essentially, all you are saying here is that we
2 are going to take this extra cost off of the power
3 generators, that then turn around and sell their
4 electricity to everybody in the country who needs
5 electricity.

6 So, I think it makes real good sense, from the point
7 of view of our energy needs, as Senator Kyl said. I
8 think it is a good policy, I think, primarily, as I see
9 it, if not exclusively, to benefit us.

10 The fact that it is limited means that if someone in
11 this country wants to gear up to produce these
12 generators, they will be back in the old situation after
13 the year 2006 so they will have a competitive advantage
14 at that point. All we are saying is, during this interim
15 period we should not add this additional tariff.

16 Senator Murkowski. Let me respond to the Chairman
17 for a moment on the ITC question. He suggested this has
18 not been addressed. When we lowered the tariff from 5.2
19 percent to 4.9, the tariff issued was appropriately
20 vetted by the court. We know this factually. They did
21 address the steam generator issue.

22 The Chairman. But not this amendment.

23 Senator Murkowski. Well, the basic issue is what we
24 are talking about, and that is what is in the amendment.

25 The Chairman. Well, this is a far greater amount.

1 Senator Murkowski. Well, to suggest they have not
2 and are unfamiliar with it is incorrect.

3 The Chairman. But they have not addressed this
4 amendment.

5 Senator Murkowski. They have addressed what is in
6 the amendment, and it is the question of steam generators
7 coming into the United States to replace those that are
8 worn out. I mean, that is the basic premise. They did
9 drop the tariff from 5.2 to 4.9. To suggest it has not
10 been addressed is incorrect.

11 Senator Gramm. Mr. Chairman, I will be brief.

12 I can understand if you have got some established
13 political vested interest that can benefit by imposing
14 higher costs on society that there would be a political
15 base for letting them engage in piracy through
16 protectionism. But when nobody is producing it, who is
17 paying this tax? Every user of electricity in America is
18 paying the tax. Who is the beneficiary of the tax? It
19 seems to me there is no beneficiary.

20 So why not take this opportunity to do something
21 good? The only opposition to this thing is people who
22 want to make it harder to generate energy from a certain
23 part of our energy sector. What is going to happen, is
24 that people will operate less efficiently and less
25 safely.

1 So from the point of view of safety, utility rates,
2 the public interest, why would any nation ever erect
3 tariffs against products that it does not produce? That
4 would be like doing, in peace time, what an enemy would
5 want to do to you in war time, which would be to blockade
6 your ports. It just does not make any sense.

7 The Chairman. I reluctantly still ask the Senator
8 to withdraw it. There has not been debate or a hearing
9 on this amendment. I know he is not going to withdraw.
10 But to honor the process, I think that we should not
11 accept this amendment at this time.

12 The Clerk will call the roll.

13 The Clerk. Mr. Rockefeller?

14 Senator Rockefeller. No.

15 The Clerk. Mr. Daschle?

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Breaux?

18 Senator Breaux. No.

19 The Clerk. Mr. Conrad?

20 The Chairman. Yes, by proxy.

21 The Clerk. Mr. Graham?

22 Senator Graham. Yes.

23 The Clerk. Mr. Jeffords?

24 Senator Jeffords. Yes.

25 The Clerk. Mr. Bingaman?

1 Senator Bingaman. Aye.
2 The Clerk. Mr. Kerry?
3 The Chairman. No, by proxy.
4 The Clerk. Mr. Torricelli?
5 Senator Torricelli. Aye.
6 The Clerk. Mrs. Lincoln?
7 Senator Lincoln. Aye.
8 The Clerk. Mr. Grassley?
9 Senator Grassley. Aye.
10 The Clerk. Mr. Hatch?
11 Senator Grassley. Aye, by proxy.
12 The Clerk. Mr. Murkowski?
13 Senator Murkowski. Aye.
14 The Clerk. Mr. Nickles?
15 Senator Grassley. Aye, by proxy.
16 The Clerk. Mr. Gramm?
17 Senator Gramm. Aye.
18 The Clerk. Mr. Lott?
19 Senator Kyl. Mr. Lott's staff has informed me he is
20 aye, by proxy.
21 The Clerk. Mr. Thompson?
22 Senator Thompson. Aye.
23 The Clerk. Ms. Snowe?
24 Senator Snowe. No.
25 The Clerk. Mr. Kyl?

1 Senator Kyl. Aye.

2 The Clerk. Mr. Thomas?

3 Senator Thomas. Aye.

4 The Clerk. Mr. Chairman?

5 The Chairman. No.

6 The Clerk. Mr. Chairman, the tally is 15 ayes, 6
7 nays.

8 The Chairman. The amendment is agreed to.

9 Are there any other amendments to this?

10 Senator Thompson. Mr. Chairman, I have a small
11 amendment I would like to take up.

12 The Chairman. All right. I might note for the
13 committee, there is, I would say, seven minutes left on
14 this vote. So if we could wrap this up soon, it would be
15 helpful.

16 Senator Thompson. I will be as brief as I can. It
17 is a small matter in many ways. It is \$2.5 million we
18 are dealing with here. But I think it is a matter of
19 fairness with regard to a program that we are all in
20 support of.

21 The Hunter Fan Company in Memphis, Tennessee imports
22 fans from Thailand duty-free under the General System of
23 Preferences program, which is designed to assist
24 developing countries.

25 Under the rules, if overall volumes of imports reach

1 a certain level the country is considered to be
2 competitive in that product and the duty-free treatment
3 no longer applies.

4 However, importers can apply for a waiver of this
5 competitive need limit if they can demonstrate that
6 allowing the increased imports will not affect domestic
7 production.

8 Mr. Chairman, in this case it will not affect
9 domestic production. I understand there is no domestic
10 production.

11 Hunter Fan has imported Thai ceiling fans at a level
12 above the limit and is required to pay a 4.7 duty on the
13 imports. It has filed a petition for a competitive need
14 limit with the U.S. Trade Representative, but the USTR
15 has not acted on the petition.

16 On September 30, 2001, Congress allowed the GSP
17 program to lapse. While Congress will likely
18 retroactively reinstate the program so that importers
19 will not be affected, USTR is unable to act on the Hunter
20 Fan petition while the program has lapsed.

21 USTR has indicated that it will grant Hunter Fan's
22 petition. That is not official, but that is what they
23 have told us. The Department of Commerce has determined
24 that there is no domestic production of the low-end
25 ceiling fans and that Hunter Fan imports from Thailand.

1 Any decrease in Thai imports will simply cause an
2 increase in imports from China. They will move their
3 business from Thailand to China, is what it will amount
4 to.

5 This provides a temporary waiver of the competitive
6 need limitation on the imports of ceiling fans from
7 Thailand until July 30, 2002, by which time USTR should
8 have acted to provide administrative relief.

9 The Chairman. Is there any debate?

10 Senator Breaux. I was just going to ask, are there
11 other industries that are adversely affected by what
12 Senator Thompson has raised?

13 Mr. Allgeier. There may be others who have a
14 similar situation. The Senator has identified a problem,
15 an anomaly in our GSP law where, under certain
16 circumstances, this item, if it had exceeded competitive
17 need, would have automatically, or nearly automatically,
18 gotten the waiver. But because it exceeded a different
19 indicia, it requires this process that the Senator
20 described.

21 Senator Breaux. You all would not oppose his
22 effort?

23 Mr. Allgeier. No, we do not oppose his effort.

24 The Chairman. The Chair is prepared to accept this
25 amendment. Unless there is further debate, without

1 objection the amendment is agreed to.

2 Senator Thompson. Thank you, Mr. Chairman.

3 The Chairman. I move the committee adopt the
4 Chairman's mark.

5 Senator Snowe. Mr. Chairman, can I just raise a
6 point?

7 The Chairman. Senator Snowe?

8 Senator Snowe. I will be very quick. Thank you,
9 Mr. Chairman.

10 I just think it is important for this committee, in
11 the future, to examine various issues with respect to
12 these trade agreements, and specifically in this
13 instance. We are talking about expanding an agreement
14 providing preferential treatment in a number of areas, in
15 some cases, significant and unprecedented, with no
16 reciprocity.

17 We also have an obligation to ensure that we demand
18 results from these trade agreements. In this instance,
19 we are talking about illicit drug trade and production.
20 That is a serious question with these countries. Albeit
21 it that they have made some improvements marginally,
22 clearly that has not been the case with Colombia.

23 Ecuador, in the paper today, is a major transit point
24 for drugs. This is a huge issue. I think that we have
25 an obligation to demand results and not have trade at any

1 cost. There is an obligation on our part to insist that
2 they meet the honor and intent of these agreements and to
3 address the serious issues when it comes to drug
4 production and drug trade.

5 Obviously, it has a serious impact on our country.
6 We are giving unusual and expansive preferential
7 treatment in a number of areas that is going to adversely
8 affect jobs in this country. We have a right, in return,
9 to demand those results.

10 As I understand it, based on the USTR report, the ITC
11 report, it has been minimal, if indirect, if there is a
12 corollary between this agreement and their improvement in
13 stopping drug trade and production.

14 In addition, they have not used to their advantage
15 the preferential treatments we have given in previous
16 agreements. Their exports to this country has remained
17 constant, at 10 percent.

18 So I just think we have an obligation, indeed, I
19 think it would be an oversight, not to mention this
20 issue. This was a primary goal and intent of this
21 agreement in 1991, was drug eradication.

22 That was the goal, to improve the economic conditions
23 in these countries so they did not resort to that as an
24 alternative. That has not been the case to the extent
25 that it should be. We have an obligation to encourage

1 that.

2 The Chairman. I would like to inform the committee
3 that there are about two minutes left on this vote. An
4 objection has been lodged to the committee holding the
5 hearing beyond the two-hour rule, which means that we
6 will not be able to conduct any business after 11:00. I
7 very much regret that. That means we cannot take action
8 on TAA today, at least not this morning. Maybe later on
9 today, if we can get an agreement.

10 So, I encourage Senators, if you can, to wrap up the
11 debate on this bill underlying the Andean Trade
12 Preferences Act so we can vote on it before we proceed
13 over to the floor.

14 Senator Murkowski. Yes. Perhaps I would encourage
15 the Chairman to try and find a way to follow this,
16 because there is no benefit to either side.

17 The Chairman. Correct.

18 Senator Murkowski. For heaven's sakes, you might
19 get it again tomorrow.

20 The Chairman. Right.

21 Senator Graham. Mr. Chairman, can I suggest we
22 vote?

23 The Chairman. I move that the committee adopt the
24 Chairman's mark, as amended, as a substitute for H.R.
25 3009 and report the bill favorably, as amended.

1 All those in favor say aye.

2 [A chorus of ayes]

3 The Chairman. Those opposed, no.

4 [No response]

5 The Chairman. The ayes have it. The bill is
6 reported favorably.

7 The committee is adjourned.

8 [Whereupon, at 10:48 p.m. the meeting was concluded.]

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I N D E X

A

STATEMENT OF:

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THE HONORABLE MAX BAUCUS
A United States Senator
from the State of Montana

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THE HONORABLE CHARLES GRASSLEY
A United States Senator
from the State of Iowa

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THE HONORABLE JEFF BINGAMAN
A United States Senator
from the State of New Mexico

20

THE HONORABLE PHIL GRAMM
A United States Senator
from the State of Texas

22

THE HONORABLE FRED THOMPSON
A United States Senator
from the State of Tennessee

27

THE HONORABLE OLYMPIA J. SNOWE
A United States Senator
from the State of Maine

29

THE HONORABLE BOB GRAHAM
A United States Senator
from the State of Florida

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Gilmour
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Bingaman

**TAA MARK-UP STATEMENT
Finance Committee
December 4, 2001**

Let me begin by thanking both Senator Baucus and Senator Grassley for having a mark-up on the TAA legislation today. I believe this legislation is extremely important, as it directly addresses the question of how Congress and the nation will assist those workers and communities negatively impacted by international trade. It is also long overdue, as Congress -- the Senate in particular -- has discussed reform of the trade adjustment assistance programs for a number of years now. I believe it is time to act, and I think we have a unique opportunity to act in that there is a clear interest in Congress and the

Administration to improve the trade adjustment assistance programs in a fundamental and a beneficial way.

For me, this mark-up represents the culmination of over two years of work, beginning when the Levi-Strauss plant closed in Roswell, New Mexico. This was followed by other closures in Albuquerque and Las Cruces and, more recently, my own hometown of Silver City. For the folks back in my state, trade adjustment assistance is the only real safety net they have when they lose their jobs as a result of trade. Sadly, in New Mexico – and in a good many places across the country – these folks cannot simply go across the street and look for the same work. The old jobs are gone, and they need

something new to make a living. These are people who have been dedicated to their companies and have played by the rules over the years. They deserve a program that creates skills, that moves them into new jobs faster, that provides opportunities for the future, that keeps families and communities intact. They deserve the recognition that they are important and we are prepared to help them. They deserve a chance to contribute to the economic welfare of the United States. We need to make sure they have a chance to do so.

There is no doubt that the trade adjustment assistance program as it now exists is flawed. I am sure many of you feel this is the case. This is no surprise given that the program has not been

significantly reformed since NAFTA was being discussed in 1993. Times have changed and it is time to revisit how the program has worked in the past and will work in the future.

This bill revises and enhances the program in ways that makes it compatible with the needs of today. Among other things, it addresses the problems of program efficiency and accountability. It improves coordination between agencies and the benefits they provide. It limits the duplication of services. It tightens response times to ensure that individuals get rapid and accurate information on the benefits available to them. It ends the inequities that exist between the NAFTA/TAA and the TAA programs and ensures that those covered under one program are

covered under the other. It recognizes that entire communities can be negatively impacted by trade, and it provides a funding mechanism that will allow them to adjust and recover. In short, we have dramatically improved and enhanced trade adjustment assistance, making it work more efficiently and effectively for all Americans.

I began work on this legislation with Senators Roth and Moynihan, as both of them understood the importance of trade adjustment assistance to the United States. Throughout the drafting of this legislation I have spoken with colleagues on both sides to the aisle asking for their ideas about what a revised trade adjustment assistance program would look like. Some have offered suggestions, others have not, but we have always been

prepared to discuss the issue. Senator Snowe will attest to this. She recently came to me with a list of ideas and I included every one of them in the legislation we have before us. Senator Collins asked to be a co-sponsor as well. This is a bi-partisan bill, and as Members look carefully at the provisions and see how it could help the people in their states, it will become even more bi-partisan. I look forward to working with other Members and the Administration to get the legislation passed.

Let me end by talking about an issue that will surely arise later. There are those in this room who directly link this legislation to fast-track legislation, but I want to emphasize that I have always felt this is a stand-alone bill worthy of passage in and of itself. If fast-track is passed,

then it is certainly true that trade adjustment assistance must be passed. American workers and communities must continue to have the protections they deserve, all the more so if we have a series of new trade agreements. But the reverse is not true. Trade adjustment assistance must be passed no matter what because even if fast-track fails, American workers and communities will continue to be negatively affected by trade. They deserve a program that works for them, we have an ongoing bi-partisan commitment to provide this program to them, and if you vote yes on this legislation today, they will have that program. I urge you to do so.

Thank you, Mr. Chairman.

**Finance Committee Markup
Trade Adjustment Assistance
Senator Olympia Snowe
November 29, 2001**

Thank you Mr. Chairman. I'm pleased we're having this opportunity to address this *crucial* program providing short-term training assistance to those who have lost their jobs due to imports or plant relocations.

As everyone knows, the current TAA and TAA-NAFTA programs expire this December, and while it's important that we extend their authorization, it's equally vital they be improved to reflect the pitfalls that have been encountered and to better address the needs of workers displaced by trade. Accordingly, not only does this mark reauthorize the program through September of 2006, but it also streamlines the delivery of these services by combining the NAFTA-TAA and TAA programs, expands TAA to include so-called "secondary" workers who are tangentially affected by trade as well as farmers and fishermen, and boosts funding for training from \$110 million to \$300 million.

Mr. Chairman, I can personally attest to the necessity of TAA. Since NAFTA's inception in 1994, Maine has lost over 11,800 manufacturing jobs, 3,000 textile jobs, 200 apparel jobs, and 4,600 footwear jobs. Nationally, since 1980, we've lost 391,000 textile jobs - a 46 percent decrease - and 718,500 jobs in apparels - a decrease of 56.8 percent. Corresponding numbers have occurred in Maine's textile and apparel industry, with 5,600 textile jobs lost and 2,300 apparel, representing a 31 percent and 50 percent decrease, respectively.

In fact, in Maine it's been a whole litany of closings from a variety of industries since NAFTA - Vishay Sprague Inc., in the electronics business, lost 1049 jobs...Carleton Woolen Mills lost 600 jobs...Dexter Shoe Company in the

town of Dexter lost 550 jobs...Kimberly-Clark lost 450 jobs while Mead Paper lost 472 jobs...and G.H. Bass footwear lost 355 jobs, as did Cole-Haan Manufacturing – while Eastland Shoe Manufacturing lost 250 jobs.

And just this month, Saucony, Inc. notified its 110 workers that it's closing its doors for good at the end of the year, joining the list of footwear manufactures who have been forced to close their doors due to foreign competition and becoming its *last* such manufacturing facility in America.

Overall, 107 plants in Maine have closed and requested TAA assistance since 1994 – impacting about 7,500 total workers. Since 1996, 6243 Mainers have received adjustment assistance. In fact, over the last several years, my state capital office in Augusta has heard at least once a week from the Maine Department of Labor concerning announced plant layoffs or closings – one time they received *seven* such e-mails just in one week. So we have to find a way to get this reauthorization done and done *right*.

The fact is, there are already areas of consensus, such as consolidating the TAA and NAFTA-TAA programs into a single, more efficient program, which I strongly support. I've also been pleased to work with Senators Baucus, Bingaman, and Grassley as well as the Administration in including provisions that should further help workers who have lost their job to imports.

For instance, the bill creates a new pilot program under the SBA that will test how TAA can help those seeking to start their own business, by assisting with development plans and potential funding. Nationally, 95 percent of businesses are small businesses – why not try something that hasn't been tried before with the TAA program to encourage even more entrepreneurs and add to the ranks of America's small businesses? That *should* be an option for displaced workers, and

I'm hopeful this pilot program will be a success.

This bill also takes additional steps to help dislocated workers attain new employment quicker with customized, employer-sponsored training programs. This is *not* a new precedent we're setting – currently, dislocated workers can receive such training under the Workforce Investment Act, or WIA, but by incorporating such an approach directly under the *TAA* umbrella, we make it a lot more readily-available and a lot easier to access.

And we speed-up assistance with a measure the Administration put forward that was similar to something the original Baucus/Bingaman legislation included, that decreases TAA petition time to 40 days. Under current law, the Secretary of Labor has 60 days to certify whether workers are eligible for TAA benefits. By reducing this time by 20 days, it removes a tremendous amount of uncertainty in waiting to see if one will even *qualify* for assistance and retraining – that's nearly *three whole weeks* that lives will no longer be put on hold.

Finally, the legislation establishes a performance accountability and reporting system that I support. A concern expressed to me by my state that has been addressed is that, without taking into account the economic conditions of the states, good systems could be erroneously judged bad due to an economic downturn of a state. By factoring-in this new criteria, we ensure that such a vital component of the overall picture is part of the equation.

Finally, I want to complement Senators Bingaman and Baucus on other provisions that will help us better assist those workers that continue to lose their jobs to imports and plant relocations – provisions like the community assistance for trade-impacted communities.

The EDA, which already provides grants to distressed communities mostly for construction projects, will have an expanded role through a new Office of Community Trade Adjustment that will work closely with state and local officials to develop a strategic plan when a community suffers massive layoffs. Through these plans that ensure full community participation, the EDA will offer grants that are targeted specifically to trade-impacted communities that could prove critical in getting these communities back on track.

Moreover, the mark addresses another issue that has created problems in my State this year – and that is the current budget for training assistance. Already this year, Maine has run short of training funds by \$2 million, forcing them to apply for a Department of Labor National Emergency Grant. This legislation increases the training budget to \$300 million, a substantial increase from the current \$110 million – part of which is to cover secondary workers who will now be entitled to TAA benefits.

And let me just clarify, as with the issue of customized training, the inclusion of secondary workers is not an entirely new precedent. In the past, secondary workers could receive benefits under the *NAFTA*-TAA program, paid for by the WIA. This has worked as far as its gone, but I believe the time has come to recognize that plant closings and lay-offs don't happen in a vacuum – there is a very definite ripple effect impacting tangential jobs and these workers ought to be covered under TAA as well.

On the down side, I must say I'm disappointed that the Chairman has now taken the step of replacing the health care provisions in the original legislation developed by Senator Bingaman with the provisions included in the Democrat economic stimulus bill. The original TAA bill developed by Senator Bingaman proposed a 50 percent tax credit for COBRA health coverage. The tax credit proposal offers the same approach taken in the Economic Stimulus plan offered by

the Senate Centrists, which I support.

Instead, the Chairman's Mark is offers a substitute that would create a new federal subsidy program and a Medicaid expansion to provide health coverage to displaced workers. Instead of facilitating the process, the health care issue has made it more difficult for us to move forward with TAA.

Mr. Chairman, inevitably there will be differing ideas as to how to improve the TAA program. But my hope is there is enough common ground and enough of a recognition of the value of TAA to American workers that we can move forward with a bill, and one I might add that is unencumbered by other major issues such as fast-track legislation, which should be considered separately and on its own merits. We cannot afford to bog this effort down – the clock is ticking and the unemployed need our help. Thank you, Mr. Chairman.



The Bush administration points to the flower industry in Colombia as proof that the Andean trade pact has encouraged farmers to plant legitimate crops instead of the coca and poppies used to make drugs. Reuters

Andean Trade Renewal Stalls

Critics Question Pact's Value in Fighting Drugs

NYT 11/29/01 p. A1

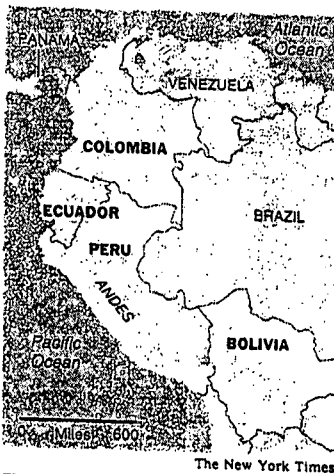
By ANTHONY DePALMA

The Bush administration wants to renew and expand a trade agreement with four financially troubled South American nations, but with just days to go before the pact expires, on Dec. 4, a last-minute split in Congress has put the deal into question.

For the last decade, the agreement, the Andean Trade Preference Act, has helped Bolivia, Colombia, Ecuador and Peru fight narcotics trafficking by lowering tariffs on flowers, clothing and other exports to the United States. The aim was to bolster local economies and encourage local farmers to plant legitimate market crops instead of the coca and poppies used to make cocaine and opium.

Despite opposition from American farmers and textile manufacturers, who say that the agreement has cost thousands of jobs, the Bush administration has been determined not only to renew it but to expand it to cover a broader range of products, including canned tuna and clothing made from fabrics produced in the four Andean nations. The House, with bipartisan support, approved a bill to do that on Nov. 16.

The Senate is scheduled to consider a similar bill in the next few days. But now a streamlined version of the bill that would extend



The trade agreement with four Andean countries ends Dec. 4. The New York Times

the current agreement for six months has been tucked into the economic stimulus package the Senate is considering.

That would allow for a more thorough review of the agreement in the next legislative session — the holiday recess is set to begin Dec. 6 — when the calendar presumably will be less crowded.

The leaders of the four Andean countries have made it clear that if the agreement is not renewed, they will find it difficult to stabilize their economies and offer their citizens a viable alternative to drug trafficking. They have also made

reauthorization a test of the administration's commitment to Latin America.

American companies, particularly textile manufacturers, have lobbied against renewing the agreement, saying that it has not been effective in combating drugs. They also say that expanding it to include other goods would be a setback for already battered American industries.

"What sense does it make for Washington to be pursuing a domestic economic stimulation package while at the same time pursuing trade policies that put more textile workers out of work?" said Carlos Moore, executive vice president of the American Textile Manufacturers Institute, an industry association.

In contrast to free-trade agreements, like the one the United States has with Mexico and Canada, the Andean Trade Preference Act lowers tariffs only on exports to the United States, not on imports from the United States. That, Mr. Moore said, has hurt the textile industry without giving American workers a chance to increase sales to the South American countries.

Expanding the products covered by the pact could cost America's textile industry thousands of jobs, Mr. Moore added. The House bill would expand the tariff benefits to

Continued on Page 7

Andes Trade Pact Stalls in Congress

Continued From Page W1

apparel made with cloth produced in the four Andean nations, particularly Pima cotton from Peru, a material known for its softness. In addition, Mr. Moore said, a lack of clarity in the interpretation of the provisions could allow them to dye and finish textiles.

The Senate version generally retains the current limit of tariff benefits to apparel made with cloth from the United States. The extension that has been written into the economic stimulus package does not change any provisions in the agreement.

All four Andean nations have a lot riding on a renewal of the pact, which was set in place in 1991, during the first Bush administration, as part of the war against drugs.

Since then, there have been some small successes. Peru and Bolivia have reduced their coca leaves harvest, though they have not ended the cultivation of coca plants. "Progress has been made," President Alejandro Toledo of Peru said in a recent interview, "but the problem has not been resolved."

Ecuador and Colombia cannot report even that modest advancement, and some United States senators, including Carl Levin, Democrat of Michigan, complained at hearings in August that the trade pact has not worked as envisioned, sometimes at the expense of American farmers.

According to the State Department's latest drug control report, Ecuador "continues to be a major transit area for drugs," and Colombia "produces and distributes more cocaine than any other country in the world."

Still, administration officials said, the legislation has made some inroads in supporting the development of a fresh-cut flower industry in Colombia. Every day, 30,000 boxes of Colombian roses, carnations and chrysanthemums arrive in the United States — by one estimate, constituting two-thirds of the country's fresh-cut flower supply. Officials in Washington assume this means that some Colombian farmers have switched from growing coca.

The trade pact also encouraged farmers in Peru to plant crops like asparagus that are uncommon there but can be exported to the United States. Peru has been so successful that asparagus growers in the United States are helping to lead the fight against what they see as unfair competition.

A concern that a renewed pact will cost textile jobs.

The four Andean nations would like the pact to be expanded to other goods. They also have asked that the same benefits be extended to a fifth country, Venezuela.

There is little support in Congress for inviting Venezuela along, in large part because of increasing irritation with President Hugo Chávez, who has befriended Fidel Castro of Cuba and has criticized United States policies, including its campaign in Afghanistan.

Some members of Congress are also skeptical about the value of using trade as a weapon in the war on drugs, and some are concerned about the effect of lowered tariffs on American businesses.

Besides, Congress has had its hands full since the terrorist attacks on Sept. 11, with little time or energy to focus on the Andean pact.

So little time is left to pass a bill in the Senate and reconcile it with the House version that some administration officials accept that the best Congress may be able to do is extend

the current pact for six months.

"That would basically hold things until we have the chance to do a substantive reauthorization where we move the deck chairs around," said one senior administration trade official.

The House bill that passed on Nov. 16 would extend the agreement for four years, to 2005. By then, the administration hopes to have in place a Free Trade Area of the Americas, covering all 34 democracies in the Western Hemisphere.

To get a hemispheric trade pact, the Bush administration believes it first needs so-called trade promotion authority, once called fast track authority. When a president has this power, Congress agrees to vote on negotiated trade agreements without amending them.

For a time, it was not clear that Congress would be ready to act on either trade promotion authority or the renewal of Andean trade preferences, and if so, which would come first.

The agreements reached at the World Trade Organization meeting in Qatar earlier this month seemed to breathe new life into the administration's push for trade deals to fight drugs and terrorism.

But after Thanksgiving, Congress was left with so many issues to deal with before it recesses on Dec. 6 that there might not be time for a vote on trade promotion authority, which still faces substantial opposition.

To the nations of South America, struggling to deal with a severe economic slowdown, the attention that Congress gives to the bills is seen as affirmation of the United States' interest in the hemisphere.

"The world's strategic posture has been scrambled since Sept. 11," said Luigi R. Einaudi, assistant secretary general of the Organization of American States. "And the rest of the world is worrying that the United States will relegate them to the back burner."

November 28, 2001

AMENDMENT LIST

TRADE ADJUSTMENT ASSISTANCE

NOVEMBER 29, 2001

AMENDMENTS FILED IN SENATE FINANCE COMMITTEE		
NO.	SENATOR	SUMMARY
# 1	Breaux #1	Breaux/Thomas Amendment. Maintains the integrity of the tariff-rate quotas on sugars, syrups and sugar-containing products by stopping circumvention as soon as it becomes apparent.
# 2	Jeffords #1	Jeffords/Breaux #1. Advanceable, refundable tax credit for COBRA. Credit equal to 50 percent of the individual's share of premium.
# 3	Jeffords #2	Jeffords/Breaux #2. Advanceable, refundable tax credit for COBRA. Credit equal to 75 percent of the individual's share of premium.
# 4	Grassley #1	To provide that the Senate Finance Committee consider and mark-up Trade Promotion authority legislation by Monday, December 10, 2001.
# 5	Grassley #2	Extend the trade negotiating and trade agreement implementing authority of the Omnibus Trade and Competitiveness Act of 1988 through December 31, 2004 (S. 136) to harmonize and enhance Trade Adjustment Assistance and to provide Trade Adjustment Assistance to U.S. farmers and fisherman (S. 1100)
# 6	Grassley #3	To provide that Customs Service user fees shall only be used for Customs Service operations and programs, and that legislation authorizing funds for the Customs Service be passed this year.
# 7	Hatch #1	To provide the President with trade negotiating authority (S. 1269, 105 th Congress – the Reciprocal Trade Agreements Act of 1997) through October 1, 2005, to harmonize and enhance Trade Adjustment Assistance and to provide Trade Adjustment Assistance to U.S. farmers and fisherman.
# 8	Murkowski #1	(S. 1209) Trade Adjustment Assistance Reform Act of 2001
# 9	Murkowski #2	(S.1209) Insert the text of S. 1104, conformed as appropriate.
# 10	Murkowski #3	(S. 1209) Country of Origin Labeling of Fish and Shellfish Product
# 11	Murkowski #4	(S. 1209) Generator Tariff Elimination Act
# 12	Gramm # 1	Trade Promotion Authority
# 13	Gramm #2	U.S. Customs Service Authorization
# 14	Kyl # 1	Kyl and Thompson #1. Steam Generator tariff relief.

①

Breaux/Thomas Amendment

Amendment: Maintains the integrity of the tariff-rate quotas on sugars, syrups, and sugar-containing products by stopping circumvention as soon as it becomes apparent; not later than 30 days after the date of enactment and on a regular basis thereafter, requires the Secretary of Agriculture to identify imports of articles that are circumventing tariff-rate quotas on sugars, syrups, or sugar containing products imposed under Chapters 17, 18, 19, or 21 of the Harmonized Tariff Schedule of the United States and report to the President the articles found to be circumventing the tariff-rate quotas; requires the President to proclaim that any article identified by the Secretary shall be included in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule. No imports are affected unless and until the Secretary identifies circumvention and the President issues a proclamation. Imports of sugar-related products for legitimate commercial applications in the United States, such as molasses used for animal feed or for rum, would not be affected by this legislation.

Effective date: Effective upon date of signature into law.

Current Law: None. There is no explicit statutory authority to stop circumvention of the sugar tariff rate quotas. Various procedures have had to be used for this purpose, such as reclassification of goods under the Harmonized Tariff Schedule and proclaiming changes in the Harmonized Tariff Schedule under authority to implement trade agreements.

Reason for Change: There is no authority to stop circumvention of the sugar tariff rate quota. The federal government and the sugar industry must take years and often spend large sums in litigation to find some way of preventing circumvention once it is discovered. During the process, the sugar program is undermined, U.S. sugar growers are damaged, as are processors, refiners, and legitimate exporters of sugar to the United States. The Department of Agriculture is the federal agency responsible for administering the U.S. sugar program, including the sugar import quotas, which are set annually by the Department. It makes sense to have USDA also in charge of identifying any circumvention of the import levels which it establishes and providing those findings to the President for appropriate action.

Cost: None. Potential exists to bring in revenue should circumvention be identified and a proclamation issued by the President.

S.1209

Jeffords-Breaux Amendment 1

Current Law

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), requires an employer with 20 or more employees to offer the option of continued health insurance coverage at group rates to qualified employees and their families who are faced with loss of coverage due to certain events (e.g., termination, reduction of hours, retirement, death of an insured spouse). The coverage generally lasts for 18 months, but can last up to 36 months, depending on the nature of the event. The employer is not required to pay for this coverage; rather, the beneficiary can be required to pay up to 102 percent of the premium. Employers who fail to provide the continued health insurance option are subject to tax and other penalties. COBRA applies to employers who purchase group health plans for their employees, as well as those who self-insure.

Chairman's Mark

Section 106 would provide a 75 percent federal subsidy for COBRA premiums for individuals eligible for trade adjustment assistance who are also eligible for COBRA coverage. Individuals would be eligible to receive such subsidies for up to 12 months. The Secretary of Treasury, in consultation with the Secretary of Labor, would administer the program through direct payment arrangements with a group health plan, an issuer of health insurance coverage, an administrator or an employer.

Description of Proposal

The amendment would replace Section 106 with an advanceable, refundable tax credit for COBRA coverage. Under the proposal, individuals eligible for trade adjustment assistance, who are also eligible for COBRA coverage, would be eligible for a refundable or advanceable tax credit for a portion of their COBRA health insurance premiums. The credit for each coverage month would be equal to 50 percent of the individual's share of the premium for COBRA insurance. The credit would be available for up to twelve months of COBRA coverage.

Notification of eligibility for the credit would be required to be included in the general COBRA notice provided by a group health plan to an employee. Failure to include notification of eligibility for the credit, would be considered a failure to provide a proper COBRA notice. The individual would claim the credit by electing COBRA coverage.

In the event an individual elected to receive an advanceable credit, the individual would notify the group health plan. The advanced credit would be provided by means of a reduction in the premiums charged the individual for COBRA coverage by the sponsor of the group health plan, insurer, or multi-employer plans.

The amount of any advanced credit would be applied against the plan sponsor or insurer's income tax or estimated tax liability, against its employees' income tax withholding liability, or against its FICA tax liability.

3

S. 1209

Jeffords-Breaux Amendment 2

Current Law

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), requires an employer with 20 or more employees to offer the option of continued health insurance coverage at group rates to qualified employees and their families who are faced with loss of coverage due to certain events (e.g., termination, reduction of hours, retirement, death of an insured spouse). The coverage generally lasts for 18 months, but can last up to 36 months, depending on the nature of the event. The employer is not required to pay for this coverage; rather, the beneficiary can be required to pay up to 102 percent of the premium. Employers who fail to provide the continued health insurance option are subject to tax and other penalties. COBRA applies to employers who purchase group health plans for their employees, as well as those who self-insure.

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The amount of any advanced credit would be applied against the plan sponsor or insurer's income tax or estimated tax liability, against its employees' income tax withholding liability, or against its FICA tax liability.

4

Senator Grassley Amendment 1

Amendment: To provide that the Senate Finance Committee consider and mark-up Trade Promotion Authority legislation by Monday, December 10, 2001.

5

Grassley Amendment # 2

Amendment: Extend the trade negotiating and trade agreement implementing authority of the Omnibus Trade and Competitiveness Act of 1988 through December 31, 2004 (S. 136), to harmonize and enhance Trade Adjustment Assistance and to provide Trade Adjustment Assistance to U.S. farmers and fisherman (S. 1100).

Effective Date: Date of Enactment

Current Law: Trade negotiating and trade agreement implementing authority expired in April 1994.

Reason for Change: The amendment would provide the President with the authority he needs to negotiate strong trade agreements on behalf of America's farmers and workers through the end of 2004. Past experience demonstrates that international trade agreements create good jobs for American workers. U.S. goods exports to NAFTA partners supported 2.6 million jobs in 1998, an increase of 31 percent from 1993, prior to passage of NAFTA. In addition, passage of the Uruguay Round Agreements created dramatic export growth. Over the last decade, exports accounted for between one-quarter and one-third of U.S. economic growth. Export jobs typically pay 13 to 18 percent more than the average U.S. wage.

The amendment would also harmonize and enhance the current Trade Adjustment Assistance program so that it more effectively meets the needs of dislocated workers. Finally, the amendment extends TAA to farmers and fisherman not currently covered by Trade Adjustment Assistance.

6

Senator Grassley Amendment

Amendment: To provide that Customs Service user fees shall only be used for Customs Service operations and programs, and that legislation authorizing funds for the Customs Service be passed this year.

1 **"SEC. 245. AUTHORIZATION OF APPROPRIATIONS.**

2 "There are authorized to be appropriated to the De-
3 partment of Labor for each of the fiscal years 2002
4 through 2006 such sums as may be necessary to carry
5 out the purposes of this chapter."

6 (b) **REPEAL OF NAFTA TRANSITIONAL ADJUST-**
7 **MENT ASSISTANCE PROGRAM.—**

8 (1) **IN GENERAL.—**Subchapter D of chapter 2
9 of title II of such Act (19 U.S.C. 2331) is hereby
10 repealed.

11 (2) **CONFORMING AMENDMENTS.—**

12 (A) Section 225(b) of the Trade Act of
13 1974 (19 U.S.C. 2275(b)) is amended by strik-
14 ing "or subchapter D" in paragraphs (1) and
15 (2).

16 (B) Section 249A of such Act (19 U.S.C.
17 2322) is hereby repealed.

18 (C) The table of contents for such Act is
19 amended—

20 (i) by striking the item relating to sec-
21 tion 249A; and

22 (ii) by striking the items relating to
23 subchapter D of chapter 2 of title II.

24 (c) **TERMINATION.—**Section 285(c) of such Act (19
25 U.S.C. 2271 note) is amended to read as follows:

1 “(c) No assistance, vouchers, allowances, or other
2 payments may be provided under chapter 2, and no tech-
3 nical assistance may be provided under chapter 3, after
4 September 30, 2006.”

5 **SEC. 3. FILING OF PETITIONS AND PROVISION OF RAPID**
6 **RESPONSE ASSISTANCE; EXPEDITED REVIEW**
7 **OF PETITIONS BY SECRETARY OF LABOR.**

8 (a) FILING OF PETITIONS AND PROVISION OF RAPID
9 RESPONSE ASSISTANCE.—Section 221(a) of the Trade
10 Act of 1974 (19 U.S.C. 2271(a)) is amended to read as
11 follows:

12 “(a) PETITIONS FOR CERTIFICATION.—

13 “(1) IN GENERAL.—A petition for certification
14 of eligibility to apply for adjustment assistance for
15 a group of workers under this chapter may be filed
16 with the Governor of the State in which such work-
17 ers’ firm or subdivision is located by any of the fol-
18 lowing:

19 “(A) A group of workers (including work-
20 ers in an agricultural firm or subdivision of any
21 agricultural firm).

22 “(B) A certified or recognized union or
23 other duly authorized representative of such
24 workers.

1 “(C) An employer of such workers, a One-
2 Stop operator or a One-Stop partner (as de-
3 fined in section 101 of the Workforce Invest-
4 ment Act of 1998 (29 U.S.C. 2801)), including
5 a State employment security agency, or a State
6 dislocated worker unit established under title I
7 of such Act, on behalf of such workers.

8 “(2) ACTION ON RECEIPT OF PETITION.—Upon
9 receipt of a petition filed under paragraph (1), the
10 Governor shall—

11 “(A) immediately transmit the petition to
12 the Secretary of Labor (in this chapter referred
13 to as the ‘Secretary’);

14 “(B) ensure that rapid response assistance,
15 and appropriate core and intensive services (as
16 described in section 134 of the Workforce In-
17 vestment Act of 1998 (29 U.S.C. 2864)) au-
18 thorized under other Federal laws are made
19 available to the workers covered by the petition
20 to the extent authorized under such laws; and

21 “(C) assist the Secretary in the review of
22 the petition by verifying such information and
23 providing such other assistance as the Secretary
24 may request.

1 “(3) NOTICE OF RECEIPT.—Upon receipt of the
2 petition, the Secretary shall promptly publish notice
3 in the Federal Register that the Secretary has re-
4 ceived the petition and initiated an investigation.”.

5 (b) EXPEDITED REVIEW OF PETITIONS BY SEC-
6 RETARY OF LABOR.—Section 223(a) of the Trade Act of
7 1974 (19 U.S.C. 2273(a)) is amended in the first sentence
8 by striking “60 days” and inserting “40 days”.

9 **SEC. 4. ADDITION OF SHIFT IN PRODUCTION AS BASIS FOR**
10 **ELIGIBILITY FOR TRADE ADJUSTMENT AS-**
11 **SISTANCE.**

12 Section 222(a) of the Trade Act of 1974 (19 U.S.C.
13 2272(a)) is amended to read as follows:

14 “(a) ELIGIBILITY.—A group of workers (including
15 workers in any agricultural firm or subdivision of an agri-
16 cultural firm) shall be certified by the Secretary as eligible
17 to apply for adjustment assistance under this chapter pur-
18 suant to a petition filed under section 221 if the Secretary
19 determines that—

20 “(1) a significant number or proportion of the
21 workers in such workers’ firm or an appropriate sub-
22 division of the firm have become totally or partially
23 separated, or are threatened to become totally or
24 partially separated; and

1 “(2)(A)(i) the sales or production, or both, of
2 such firm or subdivision have decreased absolutely;

3 “(ii) imports of articles like or directly competi-
4 tive with articles produced by such firm or subdivi-
5 sion have increased; and

6 “(iii) the increase in imports described in clause
7 (ii) contributed importantly to such workers’ separa-
8 tion or threat of separation and to the decline in the
9 sales or production of such firm or subdivision; or

10 “(B) there has been a shift in production by
11 such workers’ firm or subdivision to a foreign coun-
12 try of articles like or directly competitive with arti-
13 cles which are produced by such firm or subdivision
14 and that shift in production contributed importantly
15 to such workers’ separation or threat of separa-
16 tion.”.

17 **SEC. 5. ENROLLMENT IN TRAINING REQUIREMENT.**

18 Section 231(a)(5) of the Trade Act of 1974 (19
19 U.S.C. 2291(a)(5)) is amended to read as follows:

20 “(5) Such worker—

21 “(A) is enrolled in a training program ap-
22 proved by the Secretary under section 236(a)
23 and the enrollment occurs no later than the lat-
24 est of—

1 “(i) the last day of the 13th week
2 after the worker's most recent total sepa-
3 ration from adversely affected employment
4 which meets the requirements of para-
5 graphs (1) and (2);

6 “(ii) the last day of the 8th week after
7 the week in which the Secretary issues a
8 certification covering the worker;

9 “(iii) 45 days after the later of the
10 dates specified in clause (i) or (ii), if the
11 Secretary determines there are extenuating
12 circumstances that justify an extension in
13 the enrollment period; or

14 “(iv) the last day of such period after
15 the termination of a waiver of the enroll-
16 ment in training requirement issued pursu-
17 ant to subsection (c) as the Secretary de-
18 termines is appropriate;

19 “(B) has, after the date on which the worker
20 became totally separated, or partially separated,
21 from the adversely affected employment, completed a
22 training program approved by the Secretary under
23 section 236(a); or

1 “(C) has received a written statement under
2 subsection (c)(1) after the date described in sub-
3 paragraph (B).”.

4 **SEC. 6. WAIVERS OF TRAINING REQUIREMENTS.**

5 Section 231(c) of the Trade Act of 1974 (19 U.S.C.
6 2291(c)) is amended to read as follows:

7 “(c) WAIVER OF TRAINING REQUIREMENTS.—

8 “(1) IN GENERAL.—The Secretary may issue a
9 written statement to a worker waiving the enroll-
10 ment requirement described in subsection (a)(5)(A)
11 if the Secretary determines that such training re-
12 quirement is not feasible or appropriate for the
13 worker, because of 1 or more of the following:

14 “(A) The worker has been provided a writ-
15 ten notice that the worker will be recalled by
16 the firm from which the qualifying separation
17 occurred and that such recall will occur within
18 6 months of the qualifying separation.

19 “(B) The worker is within 2 years of meet-
20 ing all requirements for entitlement to old-age
21 insurance benefits under title II of the Social
22 Security Act (42 U.S.C. 401 et seq.) (except for
23 making an application for such benefits) as of
24 the date of the most recent separation of the

1 worker that meets the requirements of sub-
2 section (a) (1) and (2).

3 “(C) The worker is unable to participate in
4 training due to the health of the worker, except
5 that a waiver under this subparagraph shall not
6 be construed to exempt a worker from require-
7 ments relating to the availability for work, ac-
8 tive search for work, or refusal to accept work
9 under Federal or State unemployment com-
10 pensation laws.

11 “(D) The first available enrollment date
12 for the approved training of the worker is with-
13 in 45 days after the date of the determination
14 made under this paragraph, or, if later, there
15 are extenuating circumstances for the delay in
16 enrollment, as determined pursuant to guide-
17 lines issued by the Secretary.

18 “(E) There are insufficient funds available
19 for training under this chapter, taking into ac-
20 count the limitations under section
21 236(a)(2)(A).

22 “(2) DURATION OF WAIVER.—The Secretary
23 shall specify the duration of the waiver under para-
24 graph (1) and shall periodically review the waiver to
25 determine whether the basis for issuing the waiver

1 remains applicable. If at any time the Secretary de-
2 termines such basis is no longer applicable to the
3 worker, the Secretary shall revoke the waiver.

4 “(3) DELEGATION TO STATE.—Pursuant to the
5 agreement entered into under section 239, the Sec-
6 retary may authorize a cooperating State or State
7 agency to carry out activities described in paragraph
8 (1) (except for the determination under subpara-
9 graph (E) of paragraph (1)). Such agreement shall
10 include a requirement that the State or State agency
11 maintain and make available to the Secretary the
12 written statements provided pursuant to paragraph
13 (1) and a statement of the reasons for the waiver.

14 “(4) COLLECTION OF INFORMATION.—The Sec-
15 retary shall collect and maintain information identi-
16 fying the number of workers who received waivers
17 and the average duration of such waivers issued
18 under this subsection during the preceding year.”.

19 **SEC. 7. PROVISION OF TRADE READJUSTMENT ALLOW-**
20 **ANCES DURING BREAKS IN TRAINING.**

21 Section 233(f) of the Trade Act of 1974 (19 U.S.C.
22 2293(f)) is amended in the matter preceding paragraph
23 (1) by striking “14 days” and inserting “30 days”.

1 **SEC. 8. INCREASE IN ANNUAL TOTAL AMOUNT OF PAY-**
2 **MENTS FOR TRAINING.**

3 Section 236(a)(2)(A) of the Trade Act of 1974 (19
4 U.S.C. 2296(a)(2)(A)) is amended by striking
5 "\$80,000,000" and all that follows through \$70,000,000
6 and inserting "\$150,000,000".

7 **SEC. 9. AUTHORITY OF STATES WITH RESPECT TO COSTS**
8 **OF APPROVED TRAINING AND SUPPLE-**
9 **MENTAL ASSISTANCE.**

10 (a) **COSTS OF APPROVED TRAINING.**—Section 236(a)
11 of the Trade Act of 1974 (19 U.S.C. 2296(a)) is amended
12 by adding at the end the following new paragraph:

13 “(10) For purposes of carrying out paragraph
14 (1)(F), the Secretary shall authorize any cooperating
15 State or State agency to establish, pursuant to
16 guidelines issued by the Secretary, a uniform limit
17 on the cost of training to be paid to an adversely af-
18 fected worker under this section from funds provided
19 under this chapter.”

20 (b) **SUPPLEMENTAL ASSISTANCE.**—Section 236(b) of
21 such Act (19 U.S.C. 2296(b)) is amended by inserting
22 after the first sentence the following sentence: “The Sec-
23 retary shall authorize any cooperating State or State agen-
24 cy to take into account the cost of the training approved
25 for an adversely affected worker under subsection (a) in
26 determining the appropriate amount of supplemental as-

1 sistance to be provided to such worker under this sub-
2 section.”

3 **SEC. 10. PROVISION OF EMPLOYER-BASED TRAINING.**

4 (a) Section 236(a)(5)(A) of the Trade Act of 1974
5 (19 U.S.C. 2296(a)(5)(A)) is amended to read as follows:

6 “(A) employer-based training, including—

7 “(i) on-the-job training, and

8 “(ii) customized training.”

9 (b) Section 236(c)(8) of such Act (19 U.S.C.
10 2296(c)(8)) is amended to read as follows:

11 “(8) the employer is provided reimbursement of
12 not more than 50 percent of the wage rate of the
13 participant, for the cost of providing the training
14 and additional supervision related to the training.”

15 (c) Section 236 of such Act (19 U.S.C. 2296) is
16 amended by adding at the end the following new sub-
17 section:

18 “(f) CUSTOMIZED TRAINING.—For purposes of ap-
19 proval of training under subsection (a)(1), the term ‘cus-
20 tomized training’ means training—

21 “(1) that is designed to meet the special re-
22 quirements of an employer or group of employers,

23 “(2) that is conducted with a commitment by
24 the employer or group of employers to employ an in-

1 dividual upon successful completion of the training,
2 and

3 “(3) for which the employer pays for not less
4 than 50 percent of the cost of such training.”.

5 **SEC. 11. ELIMINATION OF QUARTERLY REPORT.**

6 Section 236(d) of the Trade Act of 1974 (19 U.S.C.
7 2296(d)) is amended by striking the last sentence.

8 **SEC. 12. COORDINATION WITH TITLE I OF THE WORKFORCE**
9 **INVESTMENT ACT OF 1998.**

10 (a) **COORDINATION WITH ONE-STOP DELIVERY SYS-**
11 **TEMS IN THE PROVISION OF EMPLOYMENT SERVICES.—**

12 Section 235 of the Trade Act of 1974 (19 U.S.C. 2295)
13 is amended by inserting “, including the services provided
14 through One-Stop delivery systems described in section
15 134(c) of the Workforce Investment Act of 1998 (29
16 U.S.C. 2864(c))” before the period at the end of the first
17 sentence.

18 (b) **REQUIREMENTS FOR CO-ENROLLMENT AND CO-**
19 **ORDINATION IN THE PROVISION OF TRAINING SERVICES**
20 **WITH TITLE I OF THE WORKFORCE INVESTMENT ACT**
21 **OF 1998.—**

22 (1) **AGREEMENTS WITH STATES.—**Section
23 239(e) of such Act (19 U.S.C. 2311(e)) is amended
24 to read as follows:

1 “(e) COORDINATION THROUGH CO-ENROLLMENT
2 AND USE OF INDIVIDUAL TRAINING ACCOUNTS UNDER
3 WORKFORCE INVESTMENT ACT.—Any agreement entered
4 into under this section shall provide for the coordination
5 of the administration of the provisions for employment
6 services, training, and supplemental assistance under sec-
7 tions 235 and 236 of this chapter with the provisions re-
8 lating to dislocated worker employment and training ac-
9 tivities (including supportive services) under chapter 5 of
10 title I-B of the Workforce Investment Act of 1998 (29
11 U.S.C. 2861–2864) upon such terms and conditions, as
12 established by the Secretary after consultation with the
13 States, that are consistent with this section. Such terms
14 and conditions shall, at a minimum, include requirements
15 that—

16 “(1) adversely affected workers applying for as-
17 sistance under this chapter be co-enrolled in the dis-
18 located worker program authorized under chapter 5
19 of title I-B of the Workforce Investment Act of
20 1998 (29 U.S.C. 2861–2864);

21 “(2) that training under section 236 shall be
22 provided in accordance with the provisions relating
23 to consumer choice requirements and the use of indi-
24 vidual training accounts under subparagraphs (F)
25 and (G) of section 134(d)(4) of the Workforce In-

1 vestment Act of 1998 (29 U.S.C. 2864(d)(4) (F)
2 and (G)), including—

3 “(A) the requirement that only providers
4 eligible under section 122 of the Workforce In-
5 vestment Act of 1998 (29 U.S.C. 2842) shall be
6 eligible to provide training, and

7 “(B) that the exceptions to the use of indi-
8 vidual training accounts described in section
9 134(d)(4)(G)(ii) of the Workforce Investment
10 Act of 1998 (29 U.S.C. 2864(d)(4)(G)(ii)) shall
11 be applicable; and

12 “(3) that common reporting systems and ele-
13 ments, including common elements relating to par-
14 ticipant and performance data, shall be used by the
15 program authorized under this chapter and the dis-
16 located worker program authorized under chapter 5
17 of title I-B of the Workforce Investment Act of
18 1998 (29 U.S.C. 2861–2864).”

19 (2) INFORMATION TO BE PROVIDED.—Section
20 239(g) of such Act (19 U.S.C. 2311(g)) is
21 amended—

22 (A) by striking “In order to” and inserting
23 “(1) In order to”; and

24 (B) by adding at the end the following new
25 paragraph:

1 “(2) The agreement under this section shall
2 also provide that the cooperating State agency shall
3 be a One-Stop partner as described in subpara-
4 graphs (A) and (B)(viii) of section 121(b)(1) of the
5 Workforce Investment Act of 1998 (29 U.S.C.
6 2841(b)(1) (A) and (B)(viii)) in the One-Stop deliv-
7 ery system established under section 134(c) of such
8 Act (29 U.S.C. 2864(c)) for the appropriate local
9 workforce investment areas, and shall carry out the
10 responsibilities relating to such partners.”

11 (3) TRAINING REQUIREMENTS.—Section
12 236(a)(1) of such Act (19 U.S.C. 2296(a)(1)) is
13 amended—

14 (A) in the matter preceding subparagraph
15 (A), by inserting “, pursuant to an interview,
16 evaluation, assessment, or case management of
17 the worker,” after “Secretary determines”; and

18 (B) in the second sentence of such para-
19 graph, by striking “, directly or through a
20 voucher system” and inserting “through indi-
21 vidual training accounts pursuant to the agree-
22 ment under section 239(e)(2)”.

1 **SEC. 13. PERFORMANCE ACCOUNTABILITY SYSTEM.**

2 Section 239 of the Trade Act of 1974 (19 U.S.C.
3 2311) is amended by adding at the end the following new
4 subsection:

5 “(h) **PERFORMANCE ACCOUNTABILITY.**—

6 “(1) **IN GENERAL.**—Any agreement entered
7 into under this section shall include performance
8 measures that the cooperating State or State agency
9 is expected to achieve.

10 “(2) **PERFORMANCE MEASURES.**—The perform-
11 ance measures shall consist of indicators of perform-
12 ance and levels of performance applicable to each in-
13 dicator.

14 “(A) **INDICATORS.**—The indicators of per-
15 formance shall be the indicators of performance
16 specified in subparagraphs (A)(i) and (B) of
17 section 136(b)(2) of the Workforce Investment
18 Act of 1998 (29 U.S.C. 2871(b)(2) (A)(i) and
19 (B)).

20 “(B) **LEVELS OF PERFORMANCE.**—The
21 levels of performance for each State shall be de-
22 termined by the Secretary, after consultation
23 with the State, taking into account—

24 “(i) the adjusted levels of performance
25 applicable to the dislocated worker pro-
26 gram carried out in the State under chap-

1 ter 5 of title I-B of the Workforce Invest-
2 ment Act of 1998 (29 U.S.C. 2861-2864);

3 "(ii) the factors described in clause
4 (iv) of section 136(b)(3)(A) of such Act
5 (29 U.S.C. 2871(b)(3)(A)(iv)); and

6 "(iii) such other factors as the Sec-
7 retary determines are appropriate.

8 "(3) REPORT.—

9 "(A) IN GENERAL.—Any agreement under
10 this section shall also include a requirement
11 that the State annually report to the Secretary
12 the level of performance achieved with respect
13 to each indicator under the program carried out
14 under this chapter in the preceding fiscal year,
15 and the State shall submit such additional re-
16 ports regarding the performance of programs as
17 the Secretary may require, except that the Sec-
18 retary shall not require the submission of such
19 additional reports more than once each quarter
20 unless specifically requested by Congress or a
21 committee of Congress.

22 "(B) PUBLIC AVAILABILITY.—The Sec-
23 retary shall make the information contained in
24 the annual reports available to the general pub-
25 lic through publication and other appropriate

1 methods and shall provide appropriate congress-
2 sional committees with copies of such reports.”.

3 **SEC. 14. AVAILABILITY OF CONTINGENCY FUNDS, RES-**
4 **ERVATION FOR FEDERAL ADMINISTRATION,**
5 **AND EXPENDITURE PERIOD.**

6 Section 245 of the Trade Act of 1974 (19 U.S.C.
7 2317), as amended by section 2, is amended—

8 (1) by striking “There are authorized” and in-
9 serting:

10 “(a) IN GENERAL.—There are authorized”; and

11 (2) by adding at the end the following sub-
12 sections:

13 “(b) CONTINGENCY FUNDS.—Subject to the limita-
14 tion contained in section 236(a)(2), if in any fiscal year
15 the funds available to carry out the programs under this
16 chapter are exhausted, there shall be made available from
17 funds in the Treasury not otherwise appropriated amounts
18 sufficient to carry out such programs for the remainder
19 of the fiscal year.

20 “(c) RESERVATION FOR FEDERAL ADMINISTRA-
21 TION.—The Secretary is authorized to reserve up to 2 ½
22 percent of the funds appropriated each fiscal year to carry
23 out activities under this chapter, excluding the amounts
24 appropriated for the payment of trade readjustment allow-
25 ances, to pay the costs of Federal administration of this

1 chapter, including the costs of reviewing and processing
2 petitions under subchapter A.

3 “(d) PERIOD OF EXPENDITURE.—Funds obligated
4 for any fiscal year for a program or activity carried out
5 under this chapter may be expended by each State receiv-
6 ing such funds during that fiscal year and the succeeding
7 2 fiscal years.”.

8 **SEC. 15. REAUTHORIZATION OF ADJUSTMENT ASSISTANCE**
9 **FOR FIRMS.**

10 Section 256(b) of the Trade Act of 1974 (19 U.S.C.
11 2346(b)) is amended by striking “for the period beginning
12 October 1, 1999, and ending September 30, 2001” and
13 inserting “for each of fiscal years 2001 through 2006”.

14 **SEC. 16. WAGE SUPPLEMENT DEMONSTRATION.**

15 (a) DEMONSTRATION AUTHORIZED.—The Secretary
16 of Labor is authorized to carry out 1 or more demonstra-
17 tion projects relating to the provision of wage supplements
18 to participants in the trade adjustment assistance for
19 workers program authorized under title II of the Trade
20 Act of 1974. The demonstration shall be designed to ex-
21 amine whether the provision of a wage supplement to par-
22 ticipants who accept employment at wages that are less
23 than the wages the participants received for employment
24 prior to participation in the trade adjustment assistance
25 program will result in—

1 (1) increasing the rate of employment of par-
2 ticipants,

3 (2) accelerating the reemployment of partici-
4 pants,

5 (3) accelerating the period in which participants
6 regain their prior wage levels, and

7 (4) such other effects as the Secretary of Labor
8 determines are appropriate to examine.

9 (b) WAGE SUPPLEMENT.—For purposes of this sec-
10 tion, the term “wage supplement” means a payment that
11 is made to an adversely affected worker under title II of
12 the Trade Act of 1974 who—

13 (1) accepts employment at an average weekly
14 wage that is less than the average weekly wage the
15 worker received in the adversely affected employ-
16 ment,

17 (2) prior to such acceptance, is eligible for
18 trade readjustment allowances under such Act, and

19 (3) voluntarily accepts such payment in lieu of
20 any trade readjustment allowances that the worker
21 would otherwise be eligible to receive with respect to
22 the period covered by a certification made under
23 such Act that applies to such worker.

24 (c) SPECIAL CONSIDERATION.—In selecting dem-
25 onstration projects under this section, the Secretary shall

1 give special consideration to projects that would include
2 workers who were separated from employment relating to
3 the steel industry.

4 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
5 are authorized to be appropriated to carry out this section
6 \$10,000,000 for fiscal year 2002.

7 (e) **REPEAL OF PREVIOUS DEMONSTRATION AU-**
8 **THORITY.**—Section 246 of the Trade Act of 1974 (19
9 U.S.C. 2318) is hereby repealed.

10 **SEC. 17. EFFECTIVE DATE, PHASE-OUT, AND TRANSITION.**

11 (a) **EFFECTIVE DATE.**—Except as otherwise provided
12 in this section, this Act and the amendments made by this
13 Act shall take effect on the date of enactment of this Act.

14 (b) **PHASE-OUT OF ASSISTANCE PROVIDED UNDER**
15 **TAA AND NAFTA-TAA UNDER PETITIONS CERTIFIED**
16 **PRIOR TO THE EFFECTIVE DATE.**—Notwithstanding sub-
17 section (a), if before the effective date of this Act a worker
18 is certified as eligible to apply for assistance under sub-
19 chapter A or D of chapter 2 of title II of the Trade Act
20 of 1974 and the worker is otherwise eligible to receive as-
21 sistance in accordance with the requirements of such chap-
22 ter as in effect on the day before the effective date of this
23 Act, such worker shall continue to be eligible to receive
24 such assistance for any week for which the worker meets
25 such eligibility requirements.

1 (c) TRANSITION.—The Secretary of Labor shall take
2 such actions as the Secretary determines appropriate to
3 implement the amendments made by this Act and to pro-
4 vide for an orderly transition from the provisions of chap-
5 ter 2 of title II of the Trade Act of 1974 that were in
6 effect on the day before the date of enactment of this Act.

7

Hatch Amendment #1

Amendment: To provide the President with trade negotiating authority (S. 1269, 105th Congress - *The Reciprocal Trade Agreements Act of 1997*) through October 1, 2005, to harmonize and enhance Trade Adjustment Assistance and to provide Trade Adjustment Assistance to U.S. farmers and fisherman (S. 1100).

Effective Date: Date of Enactment

8

Murkowski Amendment 1

TO THE NOVEMBER 29, 2001 FINANCE COMMITTEE MARK-UP OF S. 1209.

AMENDMENT:

Delete the text of S. 1209 in its entirety and substitute S. 1100 in its entirety, as modified by the following text, conformed as and where appropriate.

SECTION 1. SHORT TITLE. 3

This Act may be cited as the "Trade Adjustment Assistance Reform Act of 2001".

SEC. 2. AUTHORIZATION OF CONSOLIDATED TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended to read as follows:

9

TO THE NOVEMBER 29, 2001 FINANCE COMMITTEE MARK-UP OF H.R. 3009.

AMENDMENT:

Insert at the appropriate place:

"COUNTRY OF ORIGIN LABELING OF FISH AND SHELLFISH PRODUCTS

(a) Definitions.-In this section:

- (1) the term "fish and shellfish" means any fish or shellfish, and any fillets, steaks, nuggets and any other flesh from fish or shellfish, whether fresh, chilled, frozen, canned, smoked or otherwise preserved;
- (2) the term "retailer of fish and shellfish" means an establishment which sells fish or shellfish, or both, directly to consumers, including fish and shellfish that are prepared for immediate consumption without additional preparation, except that;

(A) for the purposes of this section, a foodservice establishment engaged in selling fish and shellfish for consumption on the premises shall not be considered to be a retailer of fish and shellfish.

(b) Notice to consumers.-

- (1) a retailer of fish and shellfish shall inform consumers at the final point of sale of the country of origin of fish and shellfish offered for sale;
- (2) a retailer of fish and shellfish may provide country of origin information to consumers by means of a label, stamp, placard, mark or other clear and visible sign on the package, display holding unit, bin or other container containing the commodity at the final point of sale;
- (3) a retailer of fish and shellfish may designate the fish and shellfish as having United States origin only if the fish or shellfish was harvested and processed in the United States, or in the case of farm-raised fish and shellfish, was hatched, raised, harvested and processed in the United States;

- (4) in the case of fish and shellfish originating in the fifty United States in United States territories or United States possessions, country of origin information requirements under this section may be satisfied by providing information on the state, territory or possession of origin;
 - (5) a retailer of fish and shellfish that is prepackaged for retail sale in a manner that already provides information as to the country of origin of the packaged product, shall not be required to provide additional country of origin information to comply with this section.
- (c) **Regulations.-** The Secretary of Agriculture shall promulgate such regulations as are necessary to implement this section within one year of the date of enactment of this section.
- (d) **Enforcement.-**
- (1) Federal agencies having jurisdiction over retailers of fish and shellfish shall, at such time as the necessary regulations are adopted under subsection (c) of this section, adopt measures intended to ensure that the requirements of this section are followed by affected retailers of fish and shellfish;
 - (2) a violation of subsection (b) shall be deemed to be a violation under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et.seq.).”

TO THE NOVEMBER 29, 2001 FINANCE COMMITTEE MARK-UP OF S. 1209.

AMENDMENT:

Insert at the appropriate place:

"COUNTRY OF ORIGIN LABELING OF FISH AND SHELLFISH PRODUCTS

(a) DEFINITIONS.- In this section:

(1) COVERED COMMODITY- The term 'covered commodity' means

(A) a perishable agricultural commodity; and

(B) any fish or shellfish, and any fillets, steaks, nuggets and any other flesh from fish or shellfish, whether fresh, chilled, frozen, canned, smoked or otherwise preserved;

(2) FOOD SERVICE ESTABLISHMENT- The term 'food service establishment' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

(3) PERISHABLE AGRICULTURAL COMMODITY; RETAILER- The terms 'perishable agricultural commodity' and 'retailer' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(4) SECRETARY- The term 'Secretary' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(b) NOTICE OF COUNTRY OF ORIGIN.

(1) REQUIREMENT- Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

(2) UNITED STATES COUNTRY OF ORIGIN- A retailer of a covered commodity may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively harvested and processed in the United States, or in the case of farm-raised

fish and shellfish, was hatched, raised, harvested and processed in the United States;

(3) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS- Subsection (b)(1) shall not apply to a covered commodity if the covered commodity is prepared or served in a food service establishment; and

(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(c) METHOD OF NOTIFICATION-

(1) IN GENERAL- The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

(2) LABELED COMMODITIES- If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

(d) AUDIT VERIFICATION SYSTEM- The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under section (g).

(e) INFORMATION- Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

(f) ENFORCEMENT.

(1) Federal agencies having jurisdiction over retailers of covered commodities shall, at such time as the necessary regulations are adopted under subsection (g) of this section, adopt measures intended to ensure that the requirements of this section are followed by affected retailers;

(2) a violation of subsection (c) shall be deemed to be a violation under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et.seq.)."

(g) REGULATIONS.

(1) IN GENERAL- The Secretary may promulgate such regulations as are necessary to carry out this Title within one year of the date of enactment of this Title.

(2) PARTNERSHIPS WITH STATES- In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to carry out this Title.

(h) APPLICATION. This Title shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of the enactment of this Title.



TO THE NOVEMBER 29, 2001 FINANCE COMMITTEE MARK-UP OF S. 1209.

AMENDMENT:

Insert the following at the appropriate place:

“SHORT TITLE.

“This Section may be cited as the ‘Generator Tariff Elimination Act’.

“DUTY-FREE TREATMENT FOR CERTAIN BOILERS USED IN NUCLEAR FACILITIES.

“(a) IN GENERAL- Chapter 84 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 8402.11.00 and inserting the following new subheadings, with the article description for subheading 8402.11 having the same degree of indentation as the article description for subheading 8402.12.00:

“ 8402.11	Watertube boilers with a steam production exceeding 45 t per hour	
8402.11.10	For use in nuclear reactors	Free 45%
8402.11.20	Other	5.2% Free (A, CA, E, IL, J, MX) 45%

“(b) EFFECTIVE DATE-

“(1) IN GENERAL- The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

“(2) APPLICATION TO LIQUIDATIONS OR RELIQUIDATIONS- Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (3), any article described in subheading 8402.11.10 of the Harmonized Tariff Schedule of the United States, as added by subsection (a) that was entered, or withdrawn from warehouse for consumption--

“(A) on or after January 1, 2000, and

“(B) before the date that is 15 days after the date of the enactment of this Act,

“shall be liquidated or reliquidated as if such subheading 8402.11.10 applied to such entry or withdrawal, and the Secretary of the Treasury shall refund any excess duty paid with respect to such entry.

“(3) REQUESTS- Liquidation or reliquidation may be made under paragraph (2) with respect to any entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service--

“(A) to locate the entry; or

“(B) to reconstruct the entry if it cannot be located.”

12

Gramm Amendment # 1
(Trade Promotion Authority)

Amendment to TAA: Add legislation to establish objectives for negotiating, and procedures for implementing, certain trade agreements (S. 1104)

Effective Date: Date of enactment.

Current Law: Trade negotiating and trade agreement implementing authority last expired in April 1994.

Reason for Change: This amendment would promote trade and economic growth by reauthorizing trade promotion authority procedures through the end of 2005, thus allowing the President to pursue new bilateral and multilateral trade agreements. Currently, exports provide more than one-fourth of US economic growth. US experience under the NAFTA and the Uruguay Round Agreements clearly demonstrates that new trade liberalization efforts will have a significant positive effect on the US economy, creating high-paying US agriculture, manufacturing, and services jobs and increasing living standards for American families.

Cost: \$0 in FY 2002

13

Gramm Amendment # 2
(U.S. Customs Service authorization)

Chairman's Mark: Extends Customs merchandise processing and passenger processing fees but uses the fees to pay for unrelated activities.

Amendment: Authorize funds for Customs operations to enhance anti-terrorism and counter-drug smuggling efforts and reduce the wait time at ports of entry to no more than 20 minutes, as passed by the Senate on August 5, 1999 as H.R. 1833, with technical changes and updates embodied in S. 92 "the Drug Free Borders Act of 2001". In addition, the amendment would bar the use of Customs fees imposed by the Chairman's Mark for any purpose other than Customs operations.

Effective date: Date of enactment.

Reason for Change: Our current border enforcement strategy is burdened by insufficient staffing, a gross underuse of vital interdiction technology, and is effectively closing the door to legitimate trade. This language will help to shorten long traffic lines at ports of entry, while providing the Customs Service with the means necessary to secure our borders against terrorism and tackle the drug trafficking operations. It will also stop the diversion of fees imposed on Customs users to unrelated purposes.

14

Senators Kyl and Thompson Amendment #1

Amendment:

Steam Generator tariff relief.

Effective date:

January 1, 2002 through December 31, 2006.

Current Law:

Steam Generators are a major component of nuclear generating plants and have not been manufactured in the United States since the late 1990s. As a result, last year the Senate Finance Committee unanimously approved a partial reduction from 5.2 percent to 4.9 percent in the Steam Generator tariff as a part of the Miscellaneous Tariff Relief Act of 2000 (MTRA). The partial reduction, rather than elimination, was effected simply to maintain the de minimus revenue levels procedurally set by the MTRA.

Estimated Cost:

\$23 million

Calendar No. _____

107TH CONGRESS
1ST SESSION

S. 1209

[Report No. 107-____]

IN THE SENATE OF THE UNITED STATES

JULY 19, 2001

Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. DASCHLE, Mr. CONRAD, Mr. ROCKEFELLER, Mr. BREAUX, Mr. KERRY, Mr. TORRICELLI, Mrs. LINCOLN, Mr. JEFFORDS, Mr. BAYH, Mr. DAYTON, Mr. LIEBERMAN, Mr. DORGAN, Mr. DURBIN, Mr. SCHUMER, Mr. COCHRAN, Mr. CARPER, Ms. CANTWELL, Mr. DODD, Ms. STABENOW, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. NELSON of Nebraska, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Finance

NOVEMBER ____ (legislative day, _____), 2001

Reported by Mr. BAUCUS, with amendments

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **[INSERT TEXT OF S. 1209.IS LINE TYPED]**

2 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
4 “Trade Adjustment Assistance for Workers, Farmers,
5 Fishermen, Communities, and Firms Act of 2001”.

6 (b) **TABLE OF CONTENTS .—**

Sec. 1. Short title; table of contents.

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Sec. 101. Adjustment assistance for workers.

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

Sec. 201. Reauthorization of program.

TITLE III—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

Sec. 301. Purpose.

Sec. 302. Trade adjustment assistance for communities.

TITLE IV—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Sec. 401. Trade adjustment assistance for farmers.

TITLE V—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Sec. 501. Short title.

Sec. 502. Trade adjustment assistance for fishermen.

**TITLE VI—HEALTH INSURANCE COVERAGE OPTIONS FOR
INDIVIDUALS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE**

Sec. 601. Premium assistance for COBRA continuation coverage for individuals
and their families.

Sec. 602. State option to provide temporary medicaid coverage for certain unin-
sured individuals.

Sec. 603. State option to provide temporary coverage under medicaid for the
unsubsidized portion of COBRA continuation premiums.

Sec. 604. Definitions.

TITLE VII—CONFORMING AMENDMENTS AND EFFECTIVE DATE

Sec. 701. Conforming amendments.

TITLE VIII—SAVINGS PROVISIONS AND EFFECTIVE DATE

Sec. 801. Savings provisions.

Sec. 802. Effective date.

1 **TITLE I—TRADE ADJUSTMENT**
2 **ASSISTANCE FOR WORKERS**

3 **SEC. 101. ADJUSTMENT ASSISTANCE FOR WORKERS.**

4 Chapter 2 of title II of the Trade Act of 1974 (19
5 U.S.C. 2271 et seq.) is amended to read as follows:

6 **“CHAPTER 2—ADJUSTMENT ASSISTANCE**
7 **FOR WORKERS**

8 **“Subchapter A—General Provisions**

9 **“SEC. 221. DEFINITIONS.**

10 “In this chapter:

11 “(1) **ADDITIONAL COMPENSATION** .—The term
12 ‘additional compensation’ has the meaning given
13 that term in section 205(3) of the Federal-State Ex-
14 tended Unemployment Compensation Act of 1970
15 (26 U.S.C. 3304 note).

16 “(2) **ADVERSELY AFFECTED EMPLOYMENT** .—
17 The term ‘adversely affected employment’ means
18 employment in a firm or appropriate subdivision of
19 a firm, if workers of that firm or subdivision are eli-
20 gible to apply for adjustment assistance under this
21 chapter.

22 “(3) **ADVERSELY AFFECTED WORKER** .—

23 “(A) **IN GENERAL** .—The term ‘adversely
24 affected worker’ means a worker who is a mem-
25 ber of a group of workers certified by the Sec-

1 retary under section 231(a)(1) as eligible for
2 trade adjustment assistance.

3 “(B) ADVERSELY AFFECTED SECONDARY
4 WORKER.—The term ‘adversely affected worker’
5 includes an adversely affected secondary worker
6 who is a member of a group of workers em-
7 ployed at a downstream producer or a supplier,
8 that is certified by the Secretary under section
9 231(a)(2) as eligible for trade adjustment as-
10 sistance.

11 “(4) AVERAGE WEEKLY HOURS.—The term ‘av-
12 erage weekly hours’ means the average hours worked
13 by a worker (excluding overtime) in the employment
14 from which the worker has been or claims to have
15 been separated in the 52 weeks (excluding weeks
16 during which the worker was on leave for purposes
17 of vacation, sickness, maternity, military service, or
18 any other employer-authorized leave) preceding the
19 week specified in paragraph (5)(B)(ii).

20 “(5) AVERAGE WEEKLY WAGE.—

21 “(A) IN GENERAL.—The term ‘average
22 weekly wage’ means $\frac{1}{13}$ of the total wages paid
23 to an individual in the high quarter.

24 “(B) DEFINITIONS.—For purposes of com-
25 puting the average weekly wage—

1 “(i) the term ‘high quarter’ means the
2 quarter in which the individual’s total
3 wages were highest among the first 4 of
4 the last 5 completed calendar quarters im-
5 mediately before the quarter in which oc-
6 curs the week with respect to which the
7 computation is made; and

8 “(ii) the term ‘week’ means the week
9 in which total separation occurred, or, in
10 cases where partial separation is claimed,
11 an appropriate week, as defined in regula-
12 tions prescribed by the Secretary.

13 “(6) BENEFIT PERIOD.—The term ‘benefit pe-
14 riod’ means, with respect to an individual, the fol-
15 lowing:

16 “(A) STATE LAW.—The benefit year and
17 any ensuing period, as determined under appli-
18 cable State law, during which the individual is
19 eligible for regular compensation, additional
20 compensation, or extended compensation.

21 “(B) FEDERAL LAW.—The equivalent to
22 the benefit year or ensuing period provided for
23 under the applicable Federal unemployment in-
24 surance law.

1 “(7) BENEFIT YEAR.—The term ‘benefit year’
2 has the same meaning given that term in the Fed-
3 eral-State Extended Unemployment Compensation
4 Act of 1970 (26 U.S.C. 3304 note).

5 “(8) CONTRIBUTED IMPORTANTLY.—The term
6 ‘contributed importantly’ means a cause that is im-
7 portant but not necessarily more important than any
8 other cause.

9 “(9) COOPERATING STATE.—The term ‘cooper-
10 ating State’ means any State that has entered into
11 an agreement with the Secretary under section 222.

12 “(10) CUSTOMIZED TRAINING.—The term ‘cus-
13 tomized training’ means training undertaken by an
14 individual to specifications provided by and in close
15 consultation with an employer in consideration of
16 the employer’s commitment to hire the individual
17 upon successful completion of the agreed training
18 program.

19 “(11) DOWNSTREAM MANUFACTURER.—The term
20 ‘downstream producer’ means a firm that performs
21 additional, value-added production processes, includ-
22 ing a firm that performs final assembly, finishing, or
23 packaging of articles produced by another firm.

24 “(12) EXTENDED COMPENSATION.—The term
25 ‘extended compensation’ has the meaning given that

1 term in section 205(4) of the Federal-State Ex-
2 tended Unemployment Compensation Act of 1970
3 (26 U.S.C. 3304 note).

4 “(13) JOB FINDING CLUB.—The term ‘job find-
5 ing club’ means a job search workshop which in-
6 cludes a period of structured, supervised activity in
7 which participants attempt to obtain jobs.

8 “(14) JOB SEARCH PROGRAM.—The term ‘job
9 search program’ means a job search workshop or job
10 finding club.

11 “(15) JOB SEARCH WORKSHOP.—The term ‘job
12 search workshop’ means a short (1- to 3-day) sem-
13 inar, covering subjects such as labor market infor-
14 mation, résumé writing, interviewing techniques, and
15 techniques for finding job openings, that is designed
16 to provide participants with knowledge that will en-
17 able the participants to find jobs.

18 “(15) ON-THE-JOB TRAINING.—The term ‘on-
19 the-job training’ has the same meaning as that term
20 has in section 101(31) of the Workforce Investment
21 Act.

22 “(16) PARTIAL SEPARATION.—A partial separa-
23 tion shall be considered to exist with respect to an
24 individual if—

1 “(A) the individual has had a 20-percent
2 or greater reduction in the average weekly
3 hours worked by that individual in adversely af-
4 fected employment; and

5 “(B) the individual has had a 20-percent
6 or greater reduction in the average weekly wage
7 of the individual with respect to adversely af-
8 fected employment.

9 “(17) REGULAR COMPENSATION.—The term
10 ‘regular compensation’ has the meaning given that
11 term in section 205(2) of the Federal-State Ex-
12 tended Unemployment Compensation Act of 1970
13 (26 U.S.C. 3304 note).

14 “(18) SECRETARY.—The term ‘Secretary’
15 means the Secretary of Labor.

16 “(19) STATE.—The term ‘State’ includes each
17 State of the United States, the District of Columbia,
18 and the Commonwealth of Puerto Rico.

19 “(20) STATE AGENCY.—The term ‘State agen-
20 cy’ means the agency of the State that administers
21 the State law.

22 “(21) STATE LAW.—The term ‘State law’
23 means the unemployment insurance law of the State
24 approved by the Secretary under section 3304 of the
25 Internal Revenue Code of 1986.

1 “(22) SUPPLIER.—The term ‘supplier’ means a
2 firm that produces component parts for, or articles
3 considered to be a part of, the production process
4 for articles produced by a firm or subdivision cov-
5 ered by a certification of eligibility under section
6 231. The term ‘supplier’ also includes a firm that
7 provides services under contract to a firm or subdivi-
8 sion covered by such certification.

9 “(23) TOTAL SEPARATION.—The term ‘total
10 separation’ means the layoff or severance of an indi-
11 vidual from employment with a firm in which or in
12 a subdivision of which, adversely affected employ-
13 ment exists.

14 “(24) UNEMPLOYMENT INSURANCE.—The term
15 ‘unemployment insurance’ means the unemployment
16 compensation payable to an individual under any
17 State law or Federal unemployment compensation
18 law, including chapter 85 of title 5, United States
19 Code, and the Railroad Unemployment Insurance
20 Act (45 U.S.C. 351 et seq.).

21 “(25) WEEK.—Except as provided in paragraph
22 5(B)(ii), the term ‘week’ means a week as defined
23 in the applicable State law.

24 “(26) WEEK OF UNEMPLOYMENT.—The term
25 ‘week of unemployment’ means a week of total, part-

1 total, or partial unemployment as determined under
2 the applicable State law or Federal unemployment
3 insurance law.

4 **"SEC. 222. AGREEMENTS WITH STATES.**

5 "(a) IN GENERAL.—The Secretary is authorized on
6 behalf of the United States to enter into an agreement
7 with any State to facilitate the provision of services under
8 this chapter.

9 "(b) TERMS OF AGREEMENTS.—

10 "(1) IN GENERAL.—Any agreement entered
11 into under subsection (a) shall require that the deliv-
12 ery of services under this chapter take place under
13 terms and conditions as are established by the Sec-
14 retary in consultation with the State and set forth
15 in the agreement.

16 "(2) PROVISIONS OF AGREEMENTS.—Under an
17 agreement entered into under subsection (a), and as
18 an agent of the United States, the State shall—

19 "(A) facilitate the early filing of petitions
20 under section 231(b) for any group of workers
21 that the State considers are likely to be eligible
22 for benefits under this chapter;

23 "(B) assist the Secretary in the review of
24 any petition submitted from that State by

1 verifying the information and providing other
2 assistance as the Secretary may request;

3 “(C) provide to adversely affected workers
4 statewide rapid response activities under section
5 134(a)(2)(A) of the Workforce Investment Act
6 of 1998 (29 U.S.C. 2864(a)(2)(A)) in the same
7 manner and to the same extent as any other
8 worker eligible for those activities;

9 “(D) arrange for the provision of services
10 through the one-stop delivery system estab-
11 lished in section 134(c) of the Workforce In-
12 vestment Act of 1998 (29 U.S.C. 2864(c));

13 “(E) advise each worker who applies for
14 unemployment insurance of the available bene-
15 fits under this chapter and the procedures and
16 deadlines for applying for those benefits;

17 “(F) receive applications for services under
18 this chapter;

19 “(G) provide payments on the basis pro-
20 vided in this chapter;

21 “(H) afford adversely affected workers the
22 services provided under section 134(d) of the
23 Workforce Investment Act of 1998 (29 U.S.C.
24 2864(d)) in the same manner and to the same

1 extent as any other worker eligible for those
2 services;

3 “(I) advise each adversely affected worker
4 to apply for training under section 240, and of
5 the deadlines for benefits related to enrollment
6 in training under this chapter;

7 “(J) ensure that the State employees with
8 responsibility for carrying out an agreement en-
9 tered into under subsection (a)—

10 “(i) inform adversely affected workers
11 covered by a certification issued under sec-
12 tion 231(c) of the workers’ (and individual
13 member’s of the worker’s family) potential
14 eligibility for—

15 “(I) medical assistance under the
16 medicaid program established under
17 title XIX of the Social Security Act
18 (42 U.S.C. 1396a et seq.);

19 “(II) child health assistance
20 under the State children’s health in-
21 surance program established under
22 title XXI of that Act (42 U.S.C.
23 1397aa et seq.);

24 “(III) child care services for
25 which assistance is provided under the

1 Child Care and Development Block
2 Grant Act of 1990 (42 U.S.C. 9858 et
3 seq.); and

4 “(IV) other Federal and State
5 funded health care, child care, trans-
6 portation, and assistance programs
7 that the workers may be eligible for;
8 and

9 “(ii) provide such workers with infor-
10 mation regarding how to apply for such as-
11 sistance, services, and programs;

12 “(K) provide adversely affected workers re-
13 ferral to training approved under title I of the
14 Workforce Investment Act of 1998 (29 U.S.C.
15 2801 et seq.), or any other available Federal or
16 State program designed to assist dislocated
17 workers or unemployed individuals;

18 “(L) provide training services under this
19 chapter using organizations approved by the
20 Secretary to effectively assist workers eligible
21 for assistance under this chapter;

22 “(M) collect and transmit to the Secretary
23 any data as the Secretary shall reasonably re-
24 quire to assist the Secretary in assuring the ef-

1 fective and efficient performance of the pro-
2 grams carried out under this chapter; and

3 “(N) otherwise actively cooperate with the
4 Secretary and with other Federal and State
5 agencies in providing payments and services
6 under this chapter, including participation in
7 the performance measurement system estab-
8 lished by the Secretary under section 224.

9 “(c) OTHER PROVISIONS .—

10 “(1) APPROVAL OF TRAINING PROVIDERS .—The
11 Secretary shall ensure that the training services pro-
12 vided by cooperating States are provided by organi-
13 zations approved by the Secretary to effectively as-
14 sist workers eligible for assistance under this chap-
15 ter.

16 “(2) AMENDMENT , SUSPENSION , OR TERMI-
17 NATION OF AGREEMENTS .—Each agreement entered
18 into under this section shall provide the terms and
19 conditions upon which the agreement may be amend-
20 ed, suspended, or terminated.

21 “(3) EFFECT ON UNEMPLOYMENT INSUR-
22 ANCE.—Each agreement entered into under this sec-
23 tion shall provide that unemployment insurance oth-
24 erwise payable to any adversely affected worker will

1 not be denied or reduced for any week by reason of
2 any right to payments under this chapter.

3 “(4) COORDINATION OF WORKFORCE INVEST -
4 MENT ACTIVITIES.—In order to promote the coordi-
5 nation of Workforce Investment Act activities in
6 each State with activities carried out under this
7 chapter, each agreement entered into under this sec-
8 tion shall provide that the State shall submit to the
9 Secretary, in a form as the Secretary may require,
10 the description and information described in para-
11 graphs (8) and (14) of section 112(b) of the Work-
12 force Investment Act of 1998 (29 U.S.C. 2822(b)
13 (8) and (14)).

14 “(d) REVIEW OF STATE DETERMINATIONS.—

15 “(1) IN GENERAL.—A determination by a co-
16 operating State regarding entitlement to program
17 benefits under this chapter is subject to review in
18 the same manner and to the same extent as deter-
19 minations under the applicable State law.

20 “(2) APPEAL.—A review undertaken by a co-
21 operating State under paragraph (1) may be ap-
22 pealed to the Secretary pursuant to such regulations
23 as the Secretary may prescribe.

1 **"SEC. 223. ADMINISTRATION ABSENT STATE AGREEMENT.**

2 “(a) IN GENERAL.—In any State in which there is
3 no agreement in force under section 222, the Secretary
4 shall arrange, under regulations prescribed by the Sec-
5 retary, for the performance of all necessary functions
6 under this chapter, including providing a hearing for any
7 worker whose application for payment is denied.

8 “(b) FINALITY OF DETERMINATION.—A final deter-
9 mination under subsection (a) regarding entitlement to
10 program benefits under this chapter is subject to review
11 by the courts in the same manner and to the same extent
12 as is provided by section 205(g) of the Social Security Act
13 (42 U.S.C. 405(g)).

14 **"SEC. 224. DATA COLLECTION; EVALUATIONS; REPORTS.**

15 “(a) DATA COLLECTION.—The Secretary shall, pur-
16 suant to regulations prescribed by the Secretary, collect
17 any data necessary to meet the requirements of this chap-
18 ter.

19 “(b) PERFORMANCE EVALUATIONS.—The Secretary
20 shall establish an effective performance measuring system
21 to evaluate the following:

22 “(1) PROGRAM PERFORMANCE.—

23 “(A) speed of petition processing;

24 “(B) quality of petition processing;

25 “(C) cost of training programs;

1 “(D) coordination of programs under this
2 title with programs under the Workforce Invest-
3 ment Act (29 U.S.C. 2801 et seq.);

4 “(E) length of time participants take to
5 enter and complete training programs;

6 “(F) the effectiveness of individual con-
7 tractors in providing appropriate retraining in-
8 formation;

9 “(G) the effectiveness of individual ap-
10 proved training programs in helping workers
11 obtain employment;

12 “(H) best practices related to the provision
13 of benefits and retraining; and

14 “(I) other data to evaluate how individual
15 States are implementing the requirements of
16 this title.

17 “(2) PARTICIPANT OUTCOMES.—

18 “(A) reemployment rates;

19 “(B) types of jobs in which displaced work-
20 ers have been placed;

21 “(C) wage and benefit maintenance results;

22 “(D) training completion rates; and

23 “(E) other data to evaluate how effective
24 programs under this chapter are for partici-

1 pants, taking into consideration current eco-
2 nomic conditions in the State.

3 “(3) PROGRAM PARTICIPATION DATA.—

4 “(A) the number of workers receiving ben-
5 efits and the type of benefits being received;

6 “(B) the number of workers enrolled in,
7 and the duration of, training by major types of
8 training;

9 “(C) earnings history of workers that re-
10 flects wages before separation and wages in any
11 job obtained after receiving benefits under this
12 Act;

13 “(D) the cause of dislocation identified in
14 each certified petition; and

15 “(E) the number of petitions filed and
16 workers certified in each United States congres-
17 sional district.

18 “(c) STATE PARTICIPATION.—The Secretary shall
19 ensure, to the extent practicable, through oversight and
20 effective internal control measures the following:

21 “(1) STATE PARTICIPATION.—Participation by
22 each State in the performance measurement system
23 established under subsection (b).

1 “(2) MONITORING.—Monitoring by each State
2 of internal control measures with respect to perform-
3 ance measurement data collected by each State.

4 “(3) RESPONSE.—The quality and speed of the
5 rapid response provided by each State under section
6 134(a)(2)(A) of the Workforce Investment Act of
7 1998 (29 U.S.C. 2864(a)(2)(A)).

8 “(d) REPORTS.—

9 “(1) REPORTS BY THE SECRETARY.—

10 “(A) INITIAL REPORT.—Not later than 6
11 months after the date of enactment of this Act,
12 the Secretary shall submit to the Committee on
13 Finance of the Senate and the Committee on
14 Ways and Means of the House of Representa-
15 tives a report that—

16 “(i) describes the performance meas-
17 urement system established under sub-
18 section (b);

19 “(ii) includes analysis of data col-
20 lected through the system established
21 under subsection (b);

22 “(iii) includes information identifying
23 the number of workers who received waiv-
24 ers under section 235(e) and the average

1 duration of those during the preceding
2 year;

3 “(iv) describes and analyzes State
4 participation in the system;

5 “(v) analyzes the quality and speed of
6 the rapid response provided by each State
7 under section 134(a)(2)(A) of the Work-
8 force Investment Act of 1998 (29 U.S.C.
9 2864(a)(2)(A)); and

10 “(vi) provides recommendations for
11 program improvements.

12 “(B) ANNUAL REPORT.—Not later than 1
13 year after the date the report is submitted
14 under subparagraph (A), and annually there-
15 after, the Secretary shall submit to the Com-
16 mittee on Finance of the Senate and the Com-
17 mittee on Ways and Means of the House of
18 Representatives a report that includes the infor-
19 mation collected under clauses (ii) through (v)
20 of subparagraph (A).

21 “(2) STATE REPORTS.—Pursuant to regulations
22 prescribed by the Secretary, each State shall submit
23 to the Secretary a report that details its participa-
24 tion in the programs established under this chapter,
25 and that contains the data necessary to allow the

1 Secretary to submit the report required under para-
2 graph (1).

3 “(3) PUBLICAT ION.—The Secretary shall make
4 available to each State, and other public and private
5 organizations as determined by the Secretary, the
6 data gathered and evaluated through the perform-
7 ance measurement system established under para-
8 graph (1).

9 **“SEC. 225. STUDY BY SECRETARY OF LABOR WHEN INTER-**
10 **NATIONAL TRADE COMMISSION BEGINS IN-**
11 **VESTIGATION.**

12 “(a) NOTIFICA TION OF INVESTIGA TION.—Whenever
13 the International Trade Commission begins an investiga-
14 tion under section 202 with respect to an industry, the
15 Commission shall immediately notify the Secretary of that
16 investigation, and the Secretary shall immediately begin
17 a study of—

18 “(1) the number of workers in the domestic in-
19 dustry producing the like or directly competitive ar-
20 ticle who have been or are likely to be certified as
21 eligible for adjustment assistance under this chapter;
22 and

23 “(2) the extent to which the adjustment of
24 those workers to the import competition may be fa-
25 cilitated through the use of existing programs.

1 “(b) REPORT.—

2 “(1) IN GENERAL.—The Secretary shall provide
3 a report based on the study conducted under sub-
4 section (a) to the President not later than 15 days
5 after the day on which the Commission makes its re-
6 port under section 202(f).

7 “(2) PUBLICATION.—The Secretary shall
8 promptly make public the report provided to the
9 President under paragraph (1) (with the exception
10 of information which the Secretary determines to be
11 confidential) and shall have a summary of the report
12 published in the Federal Register.

13 **“Subchapter B—Certifications**

14 **“SEC. 231. CERTIFICATION AS ADVERSELY AFFECTED**
15 **WORKERS.**

16 “(a) ELIGIBILITY FOR CERTIFICATION.—

17 “(1) GENERAL RULE.—A group of workers (in-
18 cluding workers in any agricultural firm or subdivi-
19 sion of an agricultural firm) shall be certified by the
20 Secretary as adversely affected workers and eligible
21 for trade adjustment assistance benefits under this
22 chapter pursuant to a petition filed under subsection
23 (b) if the Secretary determines that—

24 “(A) a significant number or proportion of
25 the workers in the workers’ firm or an appro-

1 priate subdivision of the firm have become to-
2 tally or partially separated, or are threatened to
3 become totally or partially separated; and

4 “(B)(i)(I) the value or volume of imports
5 of articles like or directly competitive with arti-
6 cles produced by that firm or subdivision have
7 increased; and

8 “(II) the increase in the value or volume of
9 imports described in subclause (I) contributed
10 importantly to the workers’ separation or threat
11 of separation; or

12 “(ii)(I) there has been a shift in produc-
13 tion by the workers’ firm or subdivision to a
14 foreign country of articles like or directly com-
15 petitive with articles which are produced by
16 that firm or subdivision; and

17 “(II) the shift in production described in
18 subclause (I) contributed importantly to the
19 workers’ separation or threat of separation.

20 “(2) ADVERSELY AFFECTED SECONDARY WORK-
21 ER.—A group of workers (including workers in any
22 agricultural firm or subdivision of an agricultural
23 firm) shall be certified by the Secretary as adversely
24 affected and eligible for trade adjustment assistance
25 benefits under this chapter pursuant to a petition

1 filed under subsection (b) if the Secretary deter-
2 mines that—

3 “(A) a significant number or proportion of
4 the workers in the workers’ firm or an appro-
5 priate subdivision of the firm have become to-
6 tally or partially separated, or are threatened to
7 become totally or partially separated;

8 “(B) the workers’ firm (or subdivision) is
9 a supplier to a firm (or subdivision) or down-
10 stream producer to a firm (or subdivision) de-
11 scribed in paragraph (1)(B) (i) or (ii); and

12 “(C) a loss of business with a firm (or sub-
13 division) described in paragraph (1)(B) (i) or
14 (ii) contributed importantly to the workers’ sep-
15 aration or threat of separation determined
16 under subparagraph (A).

17 “(3) SPECIAL PROVISIONS.—

18 “(A) OIL AND NATURAL GAS PRO-
19 DUCERS.—For purposes of this section, any
20 firm, or appropriate subdivision of a firm, that
21 engages in exploration or drilling for oil or nat-
22 ural gas shall be considered to be a firm pro-
23 ducing oil or natural gas.

24 “(B) OIL AND NATURAL GAS IMPORTS.—
25 For purposes of this section, any firm, or ap-

1 appropriate subdivision of a firm, that engages in
2 exploration or drilling for oil or natural gas, or
3 otherwise produces oil or natural gas, shall be
4 considered to be producing articles directly
5 competitive with imports of oil and with imports
6 of natural gas.

7 “(C) TACONITE.—For purposes of this
8 Act, taconite pellets produced in the United
9 States shall be considered to be an article that
10 is like or directly competitive with imports of
11 semifinished steel slab.

12 “(D) SERVICE WORKER S.—

13 “(i) IN GENERAL.—Not later than 6
14 months after the date of enactment of the
15 Trade Adjustment Assistance for Workers,
16 Farmers, Communities, and Firms Act of
17 2001, the Secretary shall establish a pro-
18 gram to provide assistance under this
19 chapter to domestic operators of motor
20 carriers who are adversely affected by com-
21 petition from foreign owned and operated
22 motor carriers.

23 “(ii) DATA COLLECTION SYSTEM.—
24 Not later than 6 months after the date of
25 enactment of the Trade Adjustment Assist-

1 ance for Workers, Farmers, Communities,
2 and Firms Act of 2001, the Secretary shall
3 put in place a system to collect data on ad-
4 versely affected service workers that in-
5 cludes the number of workers by State, in-
6 dustry and cause of dislocation for each
7 worker.

8 “(iii) REPORT.—Not later than 2
9 years after the date of enactment of the
10 Trade Adjustment Assistance for Workers,
11 Farmers, Communities, and Firms Act of
12 2001, the Secretary shall report to Con-
13 gress the results of a study on means for
14 extending the programs in this chapter to
15 adversely affected service workers, includ-
16 ing legislative recommendations.

17 “(E) SMALL BUSINESS ADMINISTRATION
18 PILOT PROGRAM.—The Director of the SBA
19 shall create a pilot program to permit an indi-
20 vidual certified under this section, receiving
21 training under section 240 and trade adjust-
22 ment allowances under sections 235 through
23 238, to develop a self-employment plan con-
24 sistent with existing SBA business development
25 practices.

1 “(b) PETITIONS.—

2 “(1) IN GENERAL.—A petition for certification
3 of eligibility for trade adjustment assistance under
4 this chapter for a group of adversely affected work-
5 ers shall be filed with the Secretary and with the
6 Governor of the State in which the firm or subdivi-
7 sion of the firm employing the workers is located.

8 “(2) PERSONS WHO MAY FILE A PETITION.—A
9 petition under paragraph (1) may be filed by any of
10 the following:

11 “(A) WORKERS.—The group of workers
12 (including workers in an agricultural firm or
13 subdivision or any agricultural firm).

14 “(B) WORKER REPRESENTATIVES.—The
15 certified or recognized union or other duly ap-
16 pointed representative of the workers.

17 “(C) WORKER ADJUSTMENT AND RE-
18 TRAINING NOTIFICATION.—Any entity to which
19 notice of a plant closing or mass layoff must be
20 given under section 3 of the Worker Adjust-
21 ment and Retraining Notification Act (29
22 U.S.C. 2102).

23 “(D) OTHER.—Employers of workers de-
24 scribed in subparagraph (A), one-stop operators
25 or one-stop partners (as defined in section 101

1 of the Workforce Investment Act of 1998 (29
2 U.S.C. 2801)), or State employment agencies,
3 on behalf of the workers.

4 “(E) REQUEST TO INITIATE CERTIFI-
5 CATION.—The President, or the Committee on
6 Finance of the Senate or the Committee on
7 Ways and Means of the House of Representa-
8 tives (by resolution), may direct the Secretary
9 to initiate a certification process under this
10 chapter to determine the eligibility for trade ad-
11 justment assistance of a group of workers.

12 “(3) ACTIONS BY GOVERNOR.—

13 “(A) COOPERATING STATE.—Upon receipt
14 of a petition, the Governor of a cooperating
15 State shall ensure that the requirements of the
16 agreement entered into under section 222 are
17 met.

18 “(B) OTHER STATES.—Upon receipt of a
19 petition, the Governor of a State that has not
20 entered into an agreement under section 222
21 shall coordinate closely with the Secretary to
22 ensure that workers covered by a petition are—

23 “(i) provided with all available serv-
24 ices, including rapid response activities

1 under section 134 of the Workforce Invest-
2 ment Act (29 U.S.C. 2864);

3 “(ii) informed of the workers’ (and in-
4 dividual member’s of the worker’s family)
5 potential eligibility for—

6 “(I) medical assistance under the
7 medicaid program established under
8 title XIX of the Social Security Act
9 (42 U.S.C. 1396a et seq.);

10 “(II) child health assistance
11 under the State children’s health in-
12 surance program established under
13 title XXI of that Act (42 U.S.C.
14 1397aa et seq.);

15 “(III) child care services for
16 which assistance is provided under the
17 Child Care and Development Block
18 Grant Act of 1990 (42 U.S.C. 9858 et
19 seq.); and

20 “(IV) other Federal and State
21 funded health care, child care, trans-
22 portation, and assistance programs
23 that the workers may be eligible for;
24 and

1 “(iii) provided with information re-
2 garding how to apply for the assistance,
3 services, and programs described in clause
4 (ii).

5 “(c) ACTIONS BY SECRETARY.—

6 “(1) IN GENERAL.—As soon as possible after
7 the date on which a petition is filed under subsection
8 (b), but not later than 40 days after that date, the
9 Secretary shall determine whether the petitioning
10 group meets the requirements of subsection (a) and
11 if warranted, shall issue a certification of eligibility
12 for trade adjustment assistance under this sub-
13 chapter. In making the determination, the Secretary
14 shall consult with all petitioning entities.

15 “(2) PUBLICATION OF DETERMINATION.—Upon
16 making a determination under paragraph (1), the
17 Secretary shall promptly publish a summary of the
18 determination in the Federal Register together with
19 the reasons for making that determination.

20 “(3) DATE SPECIFIED IN CERTIFICATION.—
21 Each certification made under this subsection shall
22 specify the date on which the total or partial separa-
23 tion began or threatened to begin with respect to a
24 group of certified workers.

1 “(4) PROJECTED TRAINING NEEDS.—The Sec-
2 retary shall inform the State Workforce Investment
3 Board or equivalent agency, and other public or pri-
4 vate agencies, institutions, employers, and labor or-
5 ganizations, as appropriate, of each certification
6 issued under section 231 and of projections, if avail-
7 able, of the needs for training under section 240 as
8 a result of that certification.

9 “(d) SCOPE OF CERTIFICATION.—

10 “(1) IN GENERAL.—A certification issued under
11 subsection (c) shall cover adversely affected workers
12 in any group that meets the requirements of sub-
13 section (a), whose total or partial separation oc-
14 curred on or after the date on which the petition
15 was filed under subsection (b).

16 “(2) WORKERS SEPARATED PRIOR TO CERTIFI-
17 CATION.—A certification issued under subsection (c)
18 shall cover adversely affected workers whose total or
19 partial separation occurred not more than 1 year
20 prior to the date on which the petition was filed
21 under subsection (b).

22 “(e) TERMINATION OF CERTIFICATION.—

23 “(1) IN GENERAL.—If the Secretary deter-
24 mines, with respect to any certification of eligibility,
25 that workers separated from a firm or subdivision

1 covered by a certification of eligibility are no longer
2 adversely affected workers, the Secretary shall ter-
3minate the certification.

4 “(2) PUBLICATION OF TERMINATION.—The
5 Secretary shall promptly publish notice of any termi-
6 nation made under paragraph (1) in the Federal
7 Register together with the reasons for making that
8 determination.

9 “(3) APPLICATION.—Any determination made
10 under paragraph (1) shall apply only to total or par-
11 tial separations occurring after the termination date
12 specified by the Secretary.

13 **“SEC. 232. BENEFIT INFORMATION TO WORKERS.**

14 “(a) IN GENERAL.—The Secretary shall, in accord-
15 ance with the provisions of section 222 or 223, as appro-
16 priate, provide prompt and full information to adversely
17 affected workers covered by a certification issued under
18 section 231(c), including information regarding—

19 “(1) benefit allowances, training, and other em-
20 ployment services available under this chapter;

21 “(2) petition and application procedures under
22 this chapter;

23 “(3) appropriate filing dates for the allowances,
24 training, and services available under this chapter;
25 and

1 “(4) procedures for applying for and receiving
2 all other Federal benefits and services available to
3 separated workers during a period of unemployment.

4 “(b) ASSISTANCE TO GROUPS OF WORKERS.—

5 “(1) IN GENERAL.—The Secretary shall provide
6 any necessary assistance to enable groups of workers
7 to prepare petitions or applications for program ben-
8 efits.

9 “(2) ASSISTANCE FROM STATES.—The Sec-
10 retary shall ensure that cooperating States fully
11 comply with the agreements entered into under sec-
12 tion 222 and shall periodically review that compli-
13 ance.

14 “(c) NOTICE.—

15 “(1) IN GENERAL.—Not later than 15 days
16 after a certification is issued under section 231 (or
17 as soon as practicable after separation), the Sec-
18 retary shall provide written notice of the benefits
19 available under this chapter to each worker whom
20 the Secretary has reason to believe is covered by the
21 certification.

22 “(2) PUBLICATION OF NOTICE.—The Secretary
23 shall publish notice of the benefits available under
24 this chapter to workers covered by each certification
25 made under section 231 in newspapers of general

1 circulation in the areas in which those workers re-
2 side.

3 **“Subchapter C—Program Benefits**

4 **“PART I—GENERAL PROVISIONS**

5 **“SEC. 234. COMPREHENSIVE ASSISTANCE.**

6 “Workers covered by a certification issued by the Sec-
7 retary under section 231 shall be eligible for the following:

8 “(1) Trade adjustment allowances as described
9 in sections 235 through 238.

10 “(2) Employment services as described in sec-
11 tion 239.

12 “(3) Training as described in section 240.

13 “(4) Job search allowances as described in sec-
14 tion 241.

15 “(5) Relocation allowances as described in sec-
16 tion 242.

17 “(6) Supportive services and wage insurance as
18 described in section 243.

19 “(7) Health insurance coverage options as de-
20 scribed in title VI of the Trade Adjustment Assist-
21 ance for Workers, Farmers, Fishermen, Commu-
22 nities, and Firms Act of 2001.

1 **“PART II—TRADE ADJUSTMENT ALLOWANCES**

2 **“SEC. 235. QUALIFYING REQUIREMENTS FOR WORKERS.**

3 “(a) IN GENERAL.—Payment of a trade adjustment
4 allowance shall be made to an adversely affected worker
5 covered by a certification under section 231 who files an
6 application for the allowance for any week of unemploy-
7 ment that begins more than 60 days after the date on
8 which the petition that resulted in the certification was
9 filed under section 231, if the following conditions are met:

10 “(1) TIME OF TOTAL OR PARTIAL SEPARATION
11 FROM EMPLOYMENT.—The adversely affected work-
12 er’s total or partial separation before the worker’s
13 application under this chapter occurred—

14 “(A) on or after the date, as specified in
15 the certification under which the worker is cov-
16 ered, on which total or partial separation from
17 adversely affected employment began or threat-
18 ened to begin in the adversely affected employ-
19 ment;

20 “(B) before the expiration of the 2-year
21 period beginning on the date on which the cer-
22 tification under section 231 was issued; and

23 “(C) before the termination date (if any)
24 determined pursuant to section 231(e).

25 “(2) EMPLOYMENT REQUIRED.—

1 “(A) IN GENERAL.—The adversely affected
2 worker had, in the 52-week period ending with
3 the week in which the total or partial separa-
4 tion occurred, at least 26 weeks of employment
5 at wages of \$30 or more a week with a single
6 firm or subdivision of a firm.

7 “(B) UNAVAILABILITY OF DATA.—If data
8 with respect to weeks of employment with a
9 firm are not available, the worker had equiva-
10 lent amounts of employment computed under
11 regulations prescribed by the Secretary.

12 “(C) WEEK OF EMPLOYMENT.—For the
13 purposes of this paragraph any week shall be
14 treated as a week of employment at wages of
15 \$30 or more, if an adversely affected worker—

16 “(i) is on employer-authorized leave
17 for purposes of vacation, sickness, injury,
18 maternity, or inactive duty or active duty
19 military service for training;

20 “(ii) does not work because of a dis-
21 ability that is compensable under a work-
22 men’s compensation law or plan of a State
23 or the United States;

24 “(iii) had employment interrupted in
25 order to serve as a full-time representative

1 of a labor organization in that firm or sub-
2 division; or

3 “(iv) is on call-up for purposes of ac-
4 tive duty in a reserve status in the Armed
5 Forces of the United States, provided that
6 active duty is ‘Federal service’ as defined
7 in section 8521(a)(1) of title 5, United
8 States Code.

9 “(D) EXCEPTIONS.—

10 “(i) In the case of weeks described in
11 clause (i) or (iii) of subparagraph (C), or
12 both, not more than 7 weeks may be treat-
13 ed as weeks of employment under subpara-
14 graph (C).

15 “(ii) In the case of weeks described in
16 clause (ii) or (iv) of subparagraph (C), not
17 more than 26 weeks may be treated as
18 weeks of employment under subparagraph
19 (C).

20 “(3) UNEMPLOYMENT COMPENSATION.—The
21 adversely affected worker meets all of the following
22 requirements:

23 “(A) ENTITLEMENT TO UNEMPLOYMENT
24 INSURANCE.—The worker was entitled to (or
25 would be entitled to if the worker applied for)

1 unemployment insurance for a week within the
2 benefit period—

3 “(i) in which total or partial separa-
4 tion took place; or

5 “(ii) which began (or would have
6 begun) by reason of the filing of a claim
7 for unemployment insurance by the worker
8 after total or partial separation.

9 “(B) EXHAUSTION OF UNEMPLOYMENT IN-
10 SURANCE.—The worker has exhausted all rights
11 to any unemployment insurance to which the
12 worker was entitled (or would be entitled if the
13 worker had applied for any unemployment in-
14 surance).

15 “(C) NO UNEXPIRED WAITING PERIOD.—
16 The worker does not have an unexpired waiting
17 period applicable to the worker for any unem-
18 ployment insurance.

19 “(4) EXTENDED UNEMPLOYMENT COMPE NSA-
20 TION.—The adversely affected worker, with respect
21 to a week of unemployment, would not be disquali-
22 fied for extended compensation payable under the
23 Federal-State Extended Unemployment Compensa-
24 tion Act of 1970 (26 U.S.C. 3304 note) by reason

1 of the work acceptance and job search requirements
2 in section 202(a)(3) of that Act.

3 “(5) TRAINING.—The adversely affected worker
4 is enrolled in a training program approved by the
5 Secretary under section 240(a), and the enrollment
6 occurred not later than the latest of the periods de-
7 scribed in subparagraph (A), (B), or (C).

8 “(A) 16 WEEKS.—The worker enrolled not
9 later than the last day of the 16th week after
10 the worker’s most recent total separation that
11 meets the requirements of paragraphs (1) and
12 (2).

13 “(B) 8 WEEKS.—The worker enrolled not
14 later than the last day of the 8th week after the
15 week in which the Secretary issues a certifi-
16 cation covering the worker.

17 “(C) EXTENUATING CIRCUMSTANCES.—
18 Notwithstanding subparagraphs (A) and (B),
19 the adversely affected worker is eligible for
20 trade adjustment assistance if the worker en-
21 rolled not later than 45 days after the later of
22 the dates specified in subparagraph (A) or (B),
23 and the Secretary determines there are extenu-
24 ating circumstances that justify an extension in
25 the enrollment period.

1 “(b) FAILURE TO PARTICIPATE IN TRAINING.—

2 “(1) IN GENERAL.—Until the adversely affected
3 worker begins or resumes participation in a training
4 program approved under section 240(a), no trade
5 adjustment allowance may be paid under subsection
6 (a) to an adversely affected worker for any week or
7 any succeeding week in which—

8 “(A) the Secretary determines that—

9 “(i) the adversely affected worker—

10 “(I) has failed to begin participa-
11 tion in a training program the enroll-
12 ment in which meets the requirement
13 of subsection (a)(5); or

14 “(II) has ceased to participate in
15 such a training program before com-
16 pleting the training program; and

17 “(ii) there is no justifiable cause for
18 the failure or cessation; or

19 “(B) the waiver issued to that worker
20 under subsection (c)(1) is revoked under sub-
21 section (c)(2).

22 “(2) EXCEPTION.—The provisions of subsection
23 (a)(5) and paragraph (1) shall not apply with re-
24 spect to any week of unemployment that begins be-

1 fore the first week following the week in which the
2 certification is issued under section 231.

3 “(c) WAIVERS OF TRAINING REQUIREMENTS.—

4 “(1) ISSUANCE OF WAIVERS.—The Secretary
5 may issue a written statement to an adversely af-
6 fected worker waiving the requirement to be enrolled
7 in training described in subsection (a) if the Sec-
8 retary determines that the training requirement is
9 not feasible or appropriate for the worker, as indi-
10 cated by 1 or more of the following:

11 “(A) RECALL.—The worker has been noti-
12 fied that the worker will be recalled by the firm
13 from which the separation occurred.

14 “(B) MARKETABLE SKILLS.—The worker
15 has marketable skills as determined pursuant to
16 an assessment of the worker, which may include
17 the profiling system under section 303(j) of the
18 Social Security Act (42 U.S.C. 503(j)), carried
19 out in accordance with guidelines issued by the
20 Secretary.

21 “(C) RETIREMENT.—The worker is within
22 2 years of meeting all requirements for entitle-
23 ment to either—

24 “(i) old-age insurance benefits under
25 title II of the Social Security Act (42

1 U.S.C. 401 et seq.) (except for application
2 therefore); or

3 “(ii) a private pension sponsored by
4 an employer or labor organization.

5 “(D) HEALTH.—The worker is unable to
6 participate in training due to the health of the
7 worker, except that a waiver under this sub-
8 paragraph shall not be construed to exempt a
9 worker from requirements relating to the avail-
10 ability for work, active search for work, or re-
11 fusal to accept work under Federal or State un-
12 employment compensation laws.

13 “(E) ENROLLMENT UNAVAILABLE.—The
14 first available enrollment date for the approved
15 training of the worker is within 60 days after
16 the date of the determination made under this
17 paragraph, or, if later, there are extenuating
18 circumstances for the delay in enrollment, as
19 determined pursuant to guidelines issued by the
20 Secretary.

21 “(F) DURATION.—The duration of train-
22 ing appropriate for the individual to obtain suit-
23 able employment exceeds the individual’s max-
24 imum entitlement to basic and additional trade
25 adjustment allowances and, in addition, finan-

1 cial support available through other Federal or
2 State programs, including chapter 5 of subtitle
3 B of title I of the Workforce Investment Act of
4 1998 (29 U.S.C. 2861 et seq.), that would en-
5 able the individual to complete a suitable train-
6 ing program cannot be assured.

7 “(G) EMPLOYMENT AVAILABLE.—There is
8 employment (which may include technical and
9 professional employment) available for an ad-
10 versely affected worker that offers equivalent
11 wages to those that the adversely affected work-
12 er earned prior to separation.

13 “(H) NO BENEFIT.—The worker would
14 not benefit from any training, or no training
15 that is suitable for the worker is available at a
16 reasonable cost.

17 “(I) NO REASONABLE EXPECTATION OF
18 EMPLOYMENT.—There is no reasonable expecta-
19 tion of employment following completion of the
20 training.

21 “(J) TRAINING NOT AVAILABLE.—Training
22 approved by the Secretary is not reasonably
23 available to the worker from either govern-
24 mental agencies or private sources (which may
25 include area vocational education schools, as de-

1 fined in section 3 of the Carl D. Perkins Voca-
2 tional and Technical Education Act of 1998 (20
3 U.S.C. 2302), and employers).

4 “(K) WORKER NOT QUALIFIED.—The
5 worker is not qualified to undertake and com-
6 plete any training.

7 “(2) DURATION OF WAIVERS.—

8 “(A) IN GENERAL.—A waiver issued under
9 paragraph (1) shall be effective for not more
10 than 6 months after the date on which the
11 waiver is issued, unless the Secretary deter-
12 mines otherwise.

13 “(B) REVOCATION.—The Secretary shall
14 revoke a waiver issued under paragraph (1) if
15 the Secretary determines that the basis of a
16 waiver is no longer applicable to the worker.

17 “(3) AMENDMENTS UNDER SECTION 222.—

18 “(A) ISSUANCE BY COOPERATING
19 STATES.—Pursuant to an agreement under sec-
20 tion 222, the Secretary may authorize a cooper-
21 ating State to issue waivers as described in
22 paragraph (1) (except for the determination
23 under subparagraphs (F) and (G) of paragraph
24 (1)).

1 “(B) SUBMISSION OF STATEMENTS.—An
2 agreement under section 222 shall include a re-
3 quirement that the cooperating State submit to
4 the Secretary the written statements provided
5 pursuant to paragraph (1) and a statement of
6 the reasons for the waiver.

7 “(4) REASONABLE EXPECTATION OF EMPLOY-
8 MENT.—For purposes of applying subsection
9 (c)(1)(I), a reasonable expectation of employment
10 does not require that employment opportunities for
11 a worker be available, or offered, immediately upon
12 the completion of training approved under this sec-
13 tion.

14 “SEC. 236. WEEKLY AMOUNTS.

15 “(a) IN GENERAL.—Subject to subsections (b) and
16 (c), the trade adjustment allowance payable to an ad-
17 versely affected worker for a week of total unemployment
18 shall be an amount equal to the most recent weekly benefit
19 amount of the unemployment insurance payable to the
20 worker for a week of total unemployment preceding the
21 worker’s first exhaustion of unemployment insurance (as
22 determined for purposes of section 235(a)(3)(B)) reduced
23 (but not below zero) by—

24 “(1) any training allowance deductible under
25 subsection (c); and

1 “(2) any income that is deductible from unem-
2 ployment insurance under the disqualifying income
3 provisions of the applicable State law or Federal un-
4 employment insurance law.

5 “(b) ADJUSTMENT FOR WORKERS RECEIVING
6 TRAINING.—

7 “(1) IN GENERAL.—Any adversely affected
8 worker who is entitled to a trade adjustment allow-
9 ance and who is receiving training approved by the
10 Secretary, shall receive for each week in which the
11 worker is undergoing that training, a trade adjust-
12 ment allowance in an amount (computed for such
13 week) equal to the greater of—

14 “(A) the amount computed under sub-
15 section (a); or

16 “(B) the amount of any weekly allowance
17 for that training to which the worker would be
18 entitled under any other Federal law for the
19 training of workers, if the worker applied for
20 that allowance.

21 “(2) ALLOWANCE PAID IN LIEU OF.—Any trade
22 adjustment allowance calculated under paragraph
23 (1) shall be paid in lieu of any training allowance to
24 which the worker would be entitled under any other
25 Federal law.

1 “(3) COORDINATION WITH UNEMPLOYMENT IN-
2 SURANCE.—Any week in which a worker undergoing
3 training approved by the Secretary receives pay-
4 ments from unemployment insurance shall be sub-
5 tracted from the total number of weeks for which a
6 worker may receive trade adjustment allowance
7 under this chapter.

8 “(c) ADJUSTMENT FOR WORKERS RECEIVING AL-
9 LOWANCES UNDER OTHER FEDERAL LAW.—

10 “(1) REDUCTION IN WEEKS FOR WHICH AL-
11 LOWANCE WILL BE PAID.—If a training allowance
12 under any Federal law (other than this Act) is paid
13 to an adversely affected worker for any week of un-
14 employment with respect to which the worker would
15 be entitled (determined without regard to any dis-
16 qualification under section 235(b)) to a trade adjust-
17 ment allowance if the worker applied for that allow-
18 ance, each week of unemployment shall be deducted
19 from the total number of weeks of trade adjustment
20 allowance otherwise payable to that worker under
21 section 235(a) when the worker applies for a trade
22 adjustment allowance and is determined to be enti-
23 tled to the allowance.

24 “(2) PAYMENT OF DIFFERENCE.—If the train-
25 ing allowance paid to a worker for any week of un-

1 employment is less than the amount of the trade ad-
2 justment allowance to which the worker would be en-
3 titled if the worker applied for the trade adjustment
4 allowance, the worker shall receive, when the worker
5 applies for a trade adjustment allowance and is de-
6 termined to be entitled to the allowance, a trade ad-
7 justment allowance for that week equal to the dif-
8 ference between the training allowance and the trade
9 adjustment allowance computed under subsection
10 (b).

11 **“SEC. 237. LIMITATIONS ON TRADE ADJUSTMENT ALLOW-**
12 **ANCES.**

13 “(a) **AMOUNT PAYABLE.**—The maximum amount of
14 trade adjustment allowance payable to an adversely af-
15 fected worker, with respect to the period covered by any
16 certification, shall be the amount that is the product of
17 104 multiplied by the trade adjustment allowance payable
18 to the worker for a week of total unemployment (as deter-
19 mined under section 236) reduced by the total sum of the
20 unemployment insurance to which the worker was entitled
21 (or would have been entitled if the worker had applied for
22 unemployment insurance) in the worker’s first benefit pe-
23 riod described in section 235(a)(3)(A).

24 “(b) **DURATION OF PAYMENTS.**—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), a trade adjustment allowance shall not be
3 paid for any week occurring after the close of the
4 104-week period that begins with the first week fol-
5 lowing the week in which the adversely affected
6 worker was most recently totally separated—

7 “(A) within the period that is described in
8 section 235(a)(1); and

9 “(B) with respect to which the worker
10 meets the requirements of section 235(a)(2).

11 “(2) SPECIAL RULES.—

12 “(A) BREAK IN TRAINING.—For purposes
13 of this chapter, a worker shall be treated as
14 participating in a training program approved by
15 the Secretary under section 240(a) during any
16 week that is part of a break in a training that
17 does not exceed 30 days if—

18 “(i) the worker was participating in a
19 training program approved under section
20 240(a) before the beginning of the break in
21 training; and

22 “(ii) the break is provided under the
23 training program.

24 “(B) ON-THE-JOB TRAINING.—No trade
25 adjustment allowance shall be paid to a worker

1 under this chapter for any week during which
2 the worker is receiving on-the-job training, ex-
3 cept that a trade adjustment allowance shall be
4 paid if a worker is enrolled in a non-paid cus-
5 tomized training program.

6 “(c) ADJUSTMENT OF AMOUNTS PAYABLE.—
7 Amounts payable to an adversely affected worker under
8 this chapter shall be subject to adjustment on a week-to-
9 week basis as may be required by section 236.

10 “(d) YEAR-END ADJUSTMENT.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of this Act or any other provision of law,
13 if the benefit year of a worker ends within an ex-
14 tended benefit period, the number of weeks of ex-
15 tended benefits that the worker would, but for this
16 subsection, be entitled to in that extended benefit
17 period shall not be reduced by the number of weeks
18 for which the worker was entitled, during that ben-
19 efit year, to trade adjustment allowances under this
20 part.

21 “(2) EXTENDED BENEFITS PERIOD.—For the
22 purpose of this section the term ‘extended benefit
23 period’ has the same meaning given that term in the
24 Federal-State Extended Unemployment Compensa-
25 tion Act of 1970 (26 U.S.C. 3304 note).

1 **"SEC. 238. APPLICATION OF STATE LAWS.**

2 “(a) IN GENERAL.—Except where inconsistent with
3 the provisions of this chapter and subject to such regula-
4 tions as the Secretary may prescribe, the availability and
5 disqualification provisions of the State law under which
6 an adversely affected worker is entitled to unemployment
7 insurance (whether or not the worker has filed a claim
8 for such insurance), or, if the worker is not so entitled
9 to unemployment insurance, of the State in which the
10 worker was totally or partially separated, shall apply to
11 a worker that files an application for trade adjustment as-
12 sistance.

13 “(b) DURATION OF APPLICABILITY.—The State law
14 determined to be applicable with respect to a separation
15 of an adversely affected worker shall remain applicable for
16 purposes of subsection (a), with respect to a separation
17 until the worker becomes entitled to unemployment insur-
18 ance under another State law (whether or not the worker
19 has filed a claim for that insurance).

20 **"PART III—EMPLOYMENT SERVICES, TRAINING,**
21 **AND OTHER ALLOWANCES**

22 **"SEC. 239. EMPLOYMENT SERVICES.**

23 “The Secretary shall, in accordance with section 222
24 or 223, as applicable, make every reasonable effort to se-
25 cure for adversely affected workers covered by a certifi-
26 cation under section 231, counseling, testing, placement,

1 and other services provided for under any other Federal
2 law.

3 **“SEC. 240. TRAINING.**

4 **“(a) APPROVED TRAINING PROGRAMS.—**

5 **“(1) IN GENERAL.—**The Secretary shall ap-
6 prove training programs that include—

7 **“(A)** on-the-job training or customized
8 training;

9 **“(B)** any employment or training activity
10 provided through a one-stop delivery system
11 under chapter 5 of subtitle B of title I of the
12 Workforce Investment Act of 1998 (29 U.S.C.
13 2861 et seq.);

14 **“(C)** any program of adult education;

15 **“(D)** any training program (other than a
16 training program described in paragraph (3) for
17 which all, or any portion, of the costs of train-
18 ing the worker are paid—

19 **“(i)** under any Federal or State pro-
20 gram other than this chapter; or

21 **“(ii)** from any source other than this
22 section; and

23 **“(E)** any other training program that the
24 Secretary determines is acceptable to meet the
25 needs of an adversely affected worker.

1 In making the determination under subparagraph
2 (E), the Secretary shall consult with interested par-
3 ties.

4 “(2) TRAINING AGREEMENTS.—Before approv-
5 ing any training to which subsection (f)(1)(C) may
6 apply, the Secretary may require that the adversely
7 affected worker enter into an agreement with the
8 Secretary under which the Secretary will not be re-
9 quired to pay under subsection (b) the portion of the
10 costs of the training that the worker has reason to
11 believe will be paid under the program, or by the
12 source, described in clause (i) or (ii) of subsection
13 (f)(1)(C).

14 “(3) LIMITATION ON APPROVALS.—The Sec-
15 retary shall not approve a training program if all of
16 the following apply:

17 “(A) PAYMENT BY PLAN.—Any portion of
18 the costs of the training program are paid
19 under any nongovernmental plan or program.

20 “(B) RIGHT TO OBTAIN.—The adversely
21 affected worker has a right to obtain training
22 or funds for training under that plan or pro-
23 gram.

24 “(C) REIMBURSEMENT.—The plan or pro-
25 gram requires the worker to reimburse the plan

1 or program from funds provided under this
2 chapter, or from wages paid under the training
3 program, for any portion of the costs of that
4 training program paid under the plan or pro-
5 gram.

6 “(b) PAYMENT OF TRAINING COSTS.—

7 “(1) IN GENERAL.—Upon approval of a train-
8 ing program under subsection (a), and subject to the
9 limitations imposed by this section, an adversely af-
10 fected worker covered by a certification issued under
11 section 231 may be eligible to have payment of the
12 costs of that training, including any costs of an ap-
13 proved training program incurred by a worker before
14 a certification was issued under section 231, made
15 on behalf of the worker by the Secretary directly or
16 through a voucher system.

17 “(2) ON-THE-JOB TRAINING AND CUSTOMIZED
18 TRAINING.—

19 “(A) PROVISION OF TRAINING ON THE JOB
20 OR CUSTOMIZED TRAINING.—If the Secretary
21 approves training under subsection (a), the Sec-
22 retary shall, insofar as possible, provide or as-
23 sure the provision of that training on the job or
24 customized training, and any training on the
25 job or customized training that is approved by

1 the Secretary under subsection (a) shall include
2 related education necessary for the acquisition
3 of skills needed for a position within a par-
4 ticular occupation.

5 “(B) MONTHLY INSTALLMENTS.—If the
6 Secretary approves payment of any on-the-job
7 training or customized training under sub-
8 section (a), the Secretary shall pay the costs of
9 that training in equal monthly installments.

10 “(C) LIMITATIONS.—The Secretary may
11 pay the costs of on-the-job training or cus-
12 tomized training only if—

13 “(i) no employed worker is displaced
14 by the adversely affected worker (including
15 partial displacement such as a reduction in
16 the hours of nonovertime work, wages, or
17 employment benefits);

18 “(ii) the training does not impair con-
19 tracts for services or collective bargaining
20 agreements;

21 “(iii) in the case of training that
22 would affect a collective bargaining agree-
23 ment, the written concurrence of the labor
24 organization concerned has been obtained;

1 “(iv) no other individual is on layoff
2 from the same, or any substantially equiva-
3 lent, job for which the adversely affected
4 worker is being trained;

5 “(v) the employer has not terminated
6 the employment of any regular employee or
7 otherwise reduced the workforce of the em-
8 ployer with the intention of filling the va-
9 cancy so created by hiring the adversely af-
10 fected worker;

11 “(vi) the job for which the adversely
12 affected worker is being trained is not
13 being created in a promotional line that
14 will infringe in any way upon the pro-
15 motional opportunities of employed individ-
16 uals;

17 “(vii) the training is not for the same
18 occupation from which the worker was sep-
19 arated and with respect to which the work-
20 er’s group was certified pursuant to section
21 231;

22 “(viii) the employer certifies to the
23 Secretary that the employer will continue
24 to employ the worker for at least 26 weeks
25 after completion of the training if the

1 worker desires to continue the employment
2 and the employer does not have due cause
3 to terminate the employment;

4 “(ix) the employer has not received
5 payment under subsection (b)(1) with re-
6 spect to any other on-the-job training pro-
7 vided by the employer or customized train-
8 ing that failed to meet the requirements of
9 clauses (i) through (vi); and

10 “(x) the employer has not taken, at
11 any time, any action that violated the
12 terms of any certification described in
13 clause (viii) made by that employer with
14 respect to any other on-the-job training
15 provided by the employer or customized
16 training for which the Secretary has made
17 a payment under paragraph (1).

18 “(c) CERTAIN WORKERS ELIGIBLE FOR TRAINING
19 BENEFITS.—An adversely affected worker covered by a
20 certification issued under section 231, who is not qualified
21 to receive a trade adjustment allowance under section 235,
22 may be eligible to have payment of the costs of training
23 made under this section, if the worker enters a training
24 program approved by the Secretary not later than 6
25 months after the date on which the certification that cov-

1 ers the worker is issued or the Secretary determines that
2 one of the following applied:

3 “(1) Funding was not available at the time at
4 which the adversely affected worker was required to
5 enter training under paragraph (1).

6 “(2) The adversely affected worker was covered
7 by a waiver issued under section 235(c).

8 “(d) EXHAUSTION OF UNEMPLOYMENT INSURANCE
9 NOT REQUIRED.—The Secretary may approve training,
10 and pay the costs thereof, for any adversely affected work-
11 er who is a member of a group certified under section 231
12 at any time after the date on which the group is certified,
13 without regard to whether the worker has exhausted all
14 rights to any unemployment insurance to which the worker
15 is entitled.

16 “(e) SUPPLEMENTAL ASSISTANCE.—

17 “(1) IN GENERAL.—Subject to paragraphs (2)
18 and (3), when training is provided under a training
19 program approved by the Secretary under subsection
20 (a) in facilities that are not within commuting dis-
21 tance of a worker’s regular place of residence, the
22 Secretary may authorize supplemental assistance to
23 defray reasonable transportation and subsistence ex-
24 penses for separate maintenance.

1 “(2) TRANSPORTATION EXPENSES.—The Sec-
2 retary may not authorize payments for travel ex-
3 penses exceeding the prevailing mileage rate author-
4 ized under the Federal travel regulations.

5 “(3) SUBSISTENCE EXPENSES.—The Secretary
6 may not authorize payments for subsistence that ex-
7 ceed the lesser of—

8 “(A) the actual per diem expenses for sub-
9 sistence of the worker; or

10 “(B) an amount equal to 50 percent of the
11 prevailing per diem allowance rate authorized
12 under Federal travel regulations.

13 “(f) SPECIAL PROVISIONS ; LIMITATIONS .—

14 “(1) LIMITATION ON MAKING PAYMENTS .—

15 “(A) DISALLOWANCE OF OTHER PAY-
16 MENT.—If the costs of training an adversely af-
17 fected worker are paid by the Secretary under
18 subsection (b), no other payment for those
19 training costs may be made under any other
20 provision of Federal law.

21 “(B) NO PAYMENT OF REIMBURSABLE
22 COSTS.—No payment for the cost of approved
23 training may be made under subsection (b) if
24 those costs—

1 “(i) have already been paid under any
2 other provision of Federal law; or

3 “(ii) are reimbursable under any other
4 provision of Federal law and a portion of
5 those costs have already been paid under
6 that other provision of Federal law.

7 “(C) NO PAYMENT OF COSTS PAID ELSE-
8 WHERE.—The Secretary is not required to pay
9 the costs of any training approved under sub-
10 section (a) to the extent that those costs are
11 paid under any Federal or State program other
12 than this chapter.

13 “(D) EXCEPTION.—The provisions of this
14 paragraph shall not apply to, or take into ac-
15 count, any funds provided under any other pro-
16 vision of Federal law that are used for any pur-
17 pose other than the direct payment of the costs
18 incurred in training a particular adversely af-
19 fected worker, even if the use of those funds
20 has the effect of indirectly paying for or reduc-
21 ing any portion of the costs involved in training
22 the adversely affected worker.

23 “(2) UNEMPLOYMENT ELIGIBILITY.—A worker
24 may not be determined to be ineligible or disquali-
25 fied for unemployment insurance or program bene-

1 fits under this subchapter because the individual is
2 in training approved under subsection (a), because
3 of leaving work which is not suitable employment to
4 enter the training, or because of the application to
5 any week in training of provisions of State law or
6 Federal unemployment insurance law relating to
7 availability for work, active search for work, or re-
8 fusal to accept work.

9 “(3) DEFINITION.—For purposes of this section
10 the term ‘suitable employment’ means, with respect
11 to a worker, work of a substantially equal or higher
12 skill level than the worker’s past adversely affected
13 employment, and wages for such work at not less
14 than 80 percent of the worker’s average weekly
15 wage.

16 “(4) PAYMENTS AFTER REEMPLOYMENT.—

17 “(A) IN GENERAL.—In the case of an ad-
18 versely affected worker who secures reemploy-
19 ment, the Secretary may approve and pay the
20 costs of training (or shall continue to pay the
21 costs of training previously approved) for that
22 adversely affected worker, for the completion of
23 their training program or up to 26 weeks,
24 whichever is less, after the date the adversely
25 affected worker becomes reemployed.

1 “(B) TRADE ADJUSTMENT ALLOWANCE.—
2 An adversely affected worker who is reemployed
3 and is undergoing training approved by the Sec-
4 retary pursuant to subparagraph (A) may con-
5 tinue to receive trade adjustment allowance,
6 subject to the income offsets provided for in the
7 worker’s State unemployment compensation law
8 in accordance with the provisions of section
9 237.

10 “(5) FUNDING.—The total amount of payments
11 that may be made under this section for any fiscal
12 year shall not exceed \$300,000,000.

13 **“SEC. 241. JOB SEARCH ALLOWANCES.**

14 “(a) JOB SEARCH ALLOWANCE AUTHORIZED.—

15 “(1) IN GENERAL.—An adversely affected work-
16 er covered by a certification issued under section
17 231 may file an application with the Secretary for
18 payment of a job search allowance.

19 “(2) APPROVAL OF APPLICATIONS.—The Sec-
20 retary may grant an allowance pursuant to an appli-
21 cation filed under paragraph (1) when all of the fol-
22 lowing apply:

23 “(A) ASSIST ADVERSELY AFFECTED WORK-
24 ER.—The allowance is paid to assist an ad-
25 versely affected worker who has been totally

1 separated in securing a job within the United
2 States.

3 “(B) LOCAL EMPLOYMENT NOT AVAIL-
4 ABLE.—The Secretary determines that the
5 worker cannot reasonably be expected to secure
6 suitable employment in the commuting area in
7 which the worker resides.

8 “(C) APPLICATION.—The worker has filed
9 an application for the allowance with the Sec-
10 retary before—

11 “(i) the later of—

12 “(I) the 365th day after the date
13 of the certification under which the
14 worker is certified as eligible; or

15 “(II) the 365th day after the
16 date of the worker’s last total separa-
17 tion; or

18 “(ii) the date that is the 182d day
19 after the date on which the worker con-
20 cluded training, unless the worker received
21 a waiver under section 235(c).

22 “(b) AMOUNT OF ALLOWANCE .—

23 “(1) IN GENERAL.—An allowance granted
24 under subsection (a) shall provide reimbursement to
25 the worker of 90 percent of the cost of necessary job

1 search expenses as prescribed by the Secretary in
2 regulations.

3 “(A) MAXIMUM ALLOWANCE.—Reimburse-
4 ment may not exceed \$1,200 for any worker.

5 “(B) ALLOWANCE FOR SUBSISTENCE AND
6 TRANSPORTATION.—Reimbursement may not be
7 made for subsistence and transportation ex-
8 penses at levels exceeding those allowable under
9 section 240(e).

10 “(c) EXCEPTION.—Notwithstanding subsection (b),
11 the Secretary shall reimburse any adversely affected work-
12 er for necessary expenses incurred by the worker in par-
13 ticipating in a job search program approved by the Sec-
14 retary.

15 **“SEC. 242. RELOCATION ALLOWANCES.**

16 “(a) RELOCATION ALLOWANCE AUTHORIZED.—

17 “(1) IN GENERAL.—Any adversely affected
18 worker covered by a certification issued under sec-
19 tion 231 may file an application for a relocation al-
20 lowance with the Secretary, and the Secretary may
21 grant the relocation allowance, subject to the terms
22 and conditions of this section.

23 “(2) CONDITIONS FOR GRANTING ALLOW-
24 ANCE.—A relocation allowance may be granted if all
25 of the following terms and conditions are met:

1 “(A) ASSIST AN ADVERSELY AFFECTED
2 WORKER.—The relocation allowance will assist
3 an adversely affected worker in relocating with-
4 in the United States.

5 “(B) LOCAL EMPLOYMENT NOT AVAIL-
6 ABLE.—The Secretary determines that the
7 worker cannot reasonably be expected to secure
8 suitable employment in the commuting area in
9 which the worker resides.

10 “(C) TOTAL SEPARATION.—The worker is
11 totally separated from employment at the time
12 relocation commences.

13 “(D) SUITABLE EMPLOYMENT OB-
14 TAINED.—The worker—

15 “(i) has obtained suitable employment
16 affording a reasonable expectation of long-
17 term duration in the area in which the
18 worker wishes to relocate; or

19 “(ii) has obtained a bona fide offer of
20 such employment.

21 “(E) APPLICATION.—The worker filed an
22 application with the Secretary before—

23 “(i) the later of—

1 “(I) the 425th day after the date
2 of the certification under section 231;

3 or

4 “(II) the 425th day after the
5 date of the worker’s last total separa-
6 tion; or

7 “(ii) the date that is the 182d day
8 after the date on which the worker con-
9 cluded training, unless the worker received
10 a waiver under section 235(c).

11 “(b) AMOUNT OF ALLOWANCE.—The relocation al-
12 lowance granted to a worker under subsection (a)
13 includes—

14 “(1) 90 percent of the reasonable and necessary
15 expenses (including, but not limited to, subsistence
16 and transportation expenses at levels not exceeding
17 those allowable under section 240(e)) specified in
18 regulations prescribed by the Secretary, incurred in
19 transporting the worker, the worker’s family, and
20 household effects; and

21 “(2) a lump sum equivalent to 3 times the
22 worker’s average weekly wage, up to a maximum
23 payment of \$1,500.

24 “(c) LIMITATIONS.—A relocation allowance may not
25 be granted to a worker unless—

1 “(1) the relocation occurs within 182 days after
2 the filing of the application for relocation assistance;
3 or

4 “(2) the relocation occurs within 182 days after
5 the conclusion of training, if the worker entered a
6 training program approved by the Secretary under
7 section 240(a).

8 **“SEC. 243. SUPPORTIVE SERVICES; WAGE INSURANCE.**

9 “(a) SUPPORTIVE SERVICES.—

10 “(1) APPLICATION.—

11 “(A) IN GENERAL.—The State may, on be-
12 half of any adversely affected worker or group
13 of workers covered by a certification issued
14 under section 231—

15 “(i) file an application with the Sec-
16 retary for services under section 173 of the
17 Workforce Investment Act of 1998 (relat-
18 ing to National Emergency Grants); and

19 “(ii) provide other services under title
20 I of the Workforce Investment Act of
21 1998.

22 “(B) SERVICES.—The services available
23 under this paragraph include transportation,
24 child care, and dependent care that are nec-

1 essary to enable a worker to participate in ac-
2 tivities authorized under this chapter.

3 “(2) CONDITIONS.—The Secretary may approve
4 an application filed under paragraph (1)(A)(i) and
5 provide supportive services to an adversely affected
6 worker only if the Secretary determines that all of
7 the following apply:

8 “(A) NECESSITY.—Providing services is
9 necessary to enable the worker to participate in
10 or complete training.

11 “(B) CONSISTENT WITH WORKFORCE IN-
12 VESTMENT ACT.—The services are consistent
13 with the supportive services provided to partici-
14 pants under the provisions relating to dislocated
15 worker employment and training activities set
16 forth in chapter 5 of subtitle B of title I of the
17 Workforce Investment Act of 1998 (29 U.S.C.
18 2861 et seq.).

19 “(b) WAGE INSURANCE PROGRAM.—

20 “(1) IN GENERAL.—Not later than 1 year after
21 the date of enactment of this Act, the Secretary
22 shall establish a Wage Insurance Program under
23 which a State shall use the funds provided to the
24 State for trade adjustment allowances to pay to an
25 adversely affected worker certified under section 231

1 a wage subsidy of up to 50 percent of the difference
2 between the wages received by the adversely affected
3 worker from reemployment and the wages received
4 by the adversely affected worker at the time of sepa-
5 ration for a period not to exceed 2 years.

6 “(2) AMOUNT OF PAYMENT.—

7 “(A) WAGES UNDER \$40,000.—If the wages
8 the worker receives from reemployment are less
9 than \$40,000 a year, the wage subsidy shall be
10 50 percent of the difference between the
11 amount of the wages received by the worker
12 from reemployment and the amount of the
13 wages received by the worker at the time of
14 separation.

15 “(B) WAGES BETWEEN \$40,000 AND
16 \$50,000.—If the wages received by the worker
17 from reemployment are greater than \$40,000 a
18 year but less than \$50,000 a year, the wage
19 subsidy shall be 25 percent of the difference be-
20 tween the amount of the wages received by the
21 worker from reemployment and the amount of
22 the wages received by the worker at the time of
23 separation.

1 “(2) ELIGIBILITY.—An adversely affected work-
2 er may be eligible to receive a wage subsidy under
3 this subsection if the worker—

4 “(A) enrolls in the Wage Insurance Pro-
5 gram;

6 “(B) obtains reemployment not more than
7 26 weeks after the date of separation from the
8 adversely affected employment;

9 “(C) is at least 50 years of age;

10 “(D) earns not more than \$50,000 a year
11 in wages from reemployment;

12 “(E) is employed at least 30 hours a week
13 in the reemployment; and

14 “(F) does not return to the employment
15 from which the worker was separated.

16 “(3) AMOUNT OF PAYMENTS.—The payments
17 made under paragraph (1) to an adversely affected
18 worker may not exceed \$10,000 over the 2-year pe-
19 riod.

20 “(4) LIMITATION ON OTHER BENEFITS.—At
21 the time a worker begins to receive a wage subsidy
22 under this subsection the worker shall not be eligible
23 to receive any benefits under this Act other than the
24 wage subsidy unless the Secretary determines, pur-
25 suant to standards established by the Secretary, that

1 the worker has shown circumstances that warrant
2 eligibility for training benefits under section 240.

3 “(c) STUDIES OF ASSISTANCE AVAILABLE TO ECO-
4 NOMICALLY DISTRESSED WORKERS.—

5 “(1) STUDY BY THE GENERAL ACCOUNTING OF-
6 FICE.—

7 “(A) IN GENERAL.—The Comptroller Gen-
8 eral of the United States shall conduct a study
9 of all assistance provided by the Federal Gov-
10 ernment for workers facing job loss and eco-
11 nomic distress.

12 “(B) REPORT.—Not later than 1 year
13 after the date of enactment of this Act, the
14 Comptroller General shall submit to the Com-
15 mittee on Finance of the Senate and the Com-
16 mittee on Ways and Means of the House of
17 Representatives a report on the study con-
18 ducted under subparagraph (A). The report
19 shall include a description of—

20 “(i) all Federal programs designed to
21 assist workers facing job loss and economic
22 distress, including all benefits and services;

23 “(ii) eligibility requirements for each
24 of the programs; and

1 “(iii) procedures for applying for and
2 receiving benefits and services under each
3 of the programs.

4 “(C) DISTRIBUTION OF GAO REPORT.—
5 The report described in subparagraph (B) shall
6 be distributed to all one-stop partners author-
7 ized under the Workforce Investment Act of
8 1998.

9 “(2) STUDIES BY THE STATES.—

10 “(A) IN GENERAL.—Each State may con-
11 duct a study of its assistance programs for
12 workers facing job loss and economic distress.

13 “(B) GRANTS.—The Secretary may award
14 to each State a grant, not to exceed \$50,000,
15 to enable the State to conduct the study de-
16 scribed in subparagraph (A). Each study shall
17 be undertaken in consultation with affected par-
18 ties.

19 “(C) REPORT.—Not later than 1 year
20 after the date of the grant, each State that re-
21 ceives a grant under subparagraph (B) shall
22 submit to the Committee on Finance of the
23 Senate and the Committee on Ways and Means
24 of the House of Representatives the report de-
25 scribed in subparagraph (A).

1 ance of the agreement, to give a surety bond to the United
2 States in an amount the Secretary deems necessary, and
3 may provide for the payment of the cost of that bond from
4 funds for carrying out the purposes of this chapter.

5 **“SEC. 245. LIABILITIES OF CERTIFYING AND DISBURSING**
6 **OFFICERS.**

7 “(a) **LIABILITY OF CERTIFYING OFFICIALS.**—No
8 person designated by the Secretary, or designated pursu-
9 ant to an agreement entered into under section 222, as
10 a certifying officer, in the absence of gross negligence or
11 intent to defraud the United States, shall be liable with
12 respect to any payment certified by that person under this
13 chapter.

14 “(b) **LIABILITY OF DISBURSING OFFICERS.**—No dis-
15 burser officer, in the absence of gross negligence or intent
16 to defraud the United States, shall be liable with respect
17 to any payment by that officer under this chapter if the
18 payment was based on a voucher signed by a certifying
19 officer designated according to subsection (a).

20 **“SEC. 246. FRAUD AND RECOVERY OF OVERPAYMENTS.**

21 “(a) **IN GENERAL.**—

22 “(1) **OVERPAYMENT.**—If a cooperating State,
23 the Secretary, or a court of competent jurisdiction
24 determines that any person has received any pay-
25 ment under this chapter to which the person was not

1 entitled, including a payment referred to in sub-
2 section (b), that person shall be liable to repay that
3 amount to the cooperating State or the Secretary, as
4 the case may be.

5 “(2) EXCEPTION.—The cooperating State or
6 the Secretary may waive repayment if the cooper-
7 ating State or the Secretary determines, in accord-
8 ance with guidelines prescribed by the Secretary,
9 that all of the following apply:

10 “(A) NO FAULT.—The payment was made
11 without fault on the part of the person.

12 “(B) REPAYMENT CONTRARY TO EQ-
13 UITY.—Requiring repayment would be contrary
14 to equity and good conscience.

15 “(3) PROCEDURE FOR RECOVERY.—

16 “(A) RECOVERY FROM OTHER ALLOW-
17 ANCES AUTHORIZED.—Unless an overpayment
18 is otherwise recovered or waived under para-
19 graph (2), the cooperating State or the Sec-
20 retary shall recover the overpayment by deduc-
21 tions from any sums payable to that person
22 under this chapter, under any Federal unem-
23 ployment compensation law administered by the
24 cooperating State or the Secretary, or under
25 any other Federal law administered by the co-

1 operating State or the Secretary that provides
2 for the payment of assistance or an allowance
3 with respect to unemployment.

4 “(B) RECOVERY FROM STATE ALLOW-
5 ANCES AUTHORIZED.—Notwithstanding any
6 other provision of Federal or State law, the
7 Secretary may require a cooperating State to
8 recover any overpayment under this chapter by
9 deduction from any unemployment insurance
10 payable to that person under State law, except
11 that no single deduction under this paragraph
12 shall exceed 50 percent of the amount otherwise
13 payable.

14 “(b) INELIGIBILITY FOR FURTHER PAYMENTS.—Any
15 person, in addition to any other penalty provided by law,
16 shall be ineligible for any further payments under this
17 chapter if a cooperating State, the Secretary, or a court
18 of competent jurisdiction determines that one of the fol-
19 lowing applies:

20 “(1) FALSE STATEMENT.—The person know-
21 ingly made, or caused another to make, a false state-
22 ment or representation of a material fact, and as a
23 result of the false statement or representation, the
24 person received any payment under this chapter to
25 which the person was not entitled.

1 “(2) FAILURE TO DISCLOSE.—The person
2 knowingly failed, or caused another to fail, to dis-
3 close a material fact, and as a result of the non-
4 disclosure, the person received any payment under
5 this chapter to which the person was not entitled.

6 “(c) HEARING.—Except for overpayments deter-
7 mined by a court of competent jurisdiction, no repayment
8 may be required, and no deduction may be made, under
9 this section until a determination under subsection (a) by
10 the cooperating State or the Secretary, as the case may
11 be, has been made, notice of the determination and an
12 opportunity for a fair hearing has been given to the person
13 concerned, and the determination has become final.

14 “(d) RECOVERED FUNDS.—Any amount recovered
15 under this section shall be returned to the Treasury of
16 the United States.

17 “SEC. 247. CRIMINAL PENALTIES.

18 “Whoever makes a false statement of a material fact
19 knowing it to be false, or knowingly fails to disclose a ma-
20 terial fact, for the purpose of obtaining or increasing for
21 that person or for any other person any payment author-
22 ized to be furnished under this chapter or pursuant to an
23 agreement under section 222 shall be fined not more than
24 \$10,000, imprisoned for not more than 1 year, or both.

1 **“SEC. 248. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated to the De-
3 partment of Labor, for the period beginning October 1,
4 2001, and ending September 30, 2006, such sums as may
5 be necessary to carry out the purposes of this chapter.
6 Amounts appropriated under this section shall remain
7 available until expended.

8 **“SEC. 249. REGULATIONS.**

9 “The Secretary shall prescribe such regulations as
10 may be necessary to carry out the provisions of this chap-
11 ter.

12 **“SEC. 250. SUBPOENA POWER.**

13 “(a) **IN GENERAL.**—The Secretary may require by
14 subpoena the attendance of witnesses and the production
15 of evidence necessary to make a determination under the
16 provisions of this chapter.

17 “(b) **COURT ORDER.**—If a person refuses to obey a
18 subpoena issued under subsection (a), a competent United
19 States district court, upon petition by the Secretary, may
20 issue an order requiring compliance with such subpoena.”

21 **TITLE II—TRADE ADJUSTMENT**
22 **ASSISTANCE FOR FIRMS**

23 **SEC. 201. REAUTHORIZATION OF PROGRAM.**

24 (a) **IN GENERAL.**—Section 256(b) of chapter 3 of
25 title II of the Trade Act of 1974 (19 U.S.C. 2346(b)) is
26 amended to read as follows:

1 “(b) There are authorized to be appropriated to the
2 Secretary \$16,000,000 for each of fiscal years 2002
3 through 2006, to carry out the Secretary’s functions under
4 this chapter in connection with furnishing adjustment as-
5 sistance to firms. Amounts appropriated under this sub-
6 section shall remain available until expended.”.

7 (b) ELIGIBILITY CRITERIA.—Section 251(c) of Chap-
8 ter 3 of title II of the Trade Act of 1974 (19 U.S.C.
9 2341(c)(1)) is amended—

10 (1) in paragraph (1), by striking subparagraphs
11 (B) and (C) and inserting the following:

12 “(B) increases in value or volume of imports of
13 articles like or directly competitive with articles
14 which are produced by such firm contributed impor-
15 tantly to such total or partial separation, or threat
16 thereof, or

17 “(C) a shift in production by the workers’ firm
18 or subdivision to a foreign country of articles like or
19 directly competitive with articles which are produced
20 by that firm or subdivision contributed importantly
21 to the workers’ separation or threat of separation.”;
22 and

23 (2) in paragraph (2), by striking “paragraph
24 (1)(C)” and inserting “subparagraphs (B) and (C)
25 of paragraph (1)”.

1 **TITLE III—TRADE ADJUSTMENT**
2 **ASSISTANCE FOR COMMUNITIES**

3 **SEC. 301. PURPOSE.**

4 The purpose of this title is to assist communities with
5 economic adjustment through the integration of political
6 and economic organizations, the coordination of Federal,
7 State, and local resources, the creation of community-
8 based development strategies, and the provision of eco-
9 nomic transition assistance.

10 **SEC. 302. TRADE ADJUSTMENT ASSISTANCE FOR COMMU-**
11 **NITIES.**

12 Chapter 4 of title II of the Trade Act of 1974 (19
13 U.S.C. 2371 et seq.) is amended to read as follows:

14 **“CHAPTER 4—COMMUNITY ECONOMIC**
15 **ADJUSTMENT**

16 **“SEC. 271. DEFINITIONS.**

17 “In this chapter:

18 “(1) **CIVILIAN LABOR FORCE.**—The term ‘civil-
19 ian labor force’ has the meaning given that term in
20 regulations prescribed by the Secretary of Labor.

21 “(2) **COMMUNITY.**—The term ‘community’
22 means a county or equivalent political subdivision of
23 a State.

1 “(A) RURAL COMMUNITY.—The term
2 ‘rural community’ means a community that has
3 a rural-urban continuum code of 4 through 9.

4 “(B) URBAN COMMUNITY.—The term
5 ‘urban community’ means a community that
6 has a rural-urban continuum code of 0 through
7 3.

8 “(3) COMMUNITY ECONOMIC DEVELOPMENT CO-
9 ORDINATING COMMITTEE.—The term ‘Community
10 Economic Development Coordinating Committee’ or
11 ‘Committee’ means a community group established
12 under section 274 that consists of major groups sig-
13 nificantly affected by an increase in imports or a
14 shift in production, including local, regional, tribal,
15 and State governments, regional councils of govern-
16 ments and economic development, and business,
17 labor, education, health, religious, and other commu-
18 nity-based organizations.

19 “(4) DIRECTOR.—The term ‘Director’ means
20 the Director of the Office of Community Trade Ad-
21 justment.

22 “(5) ELIGIBLE COMMUNITY.—The term ‘eligible
23 community’ means a community certified under sec-
24 tion 273 as eligible for assistance under this chap-
25 ter.

1 “(6) JOB LOSS.—The term ‘job loss’ means the
2 total or partial separation of an individual, as those
3 terms are defined in section 221.

4 “(7) OFFICE.—The term ‘Office’ means the Of-
5 fice of Community Trade Adjustment established
6 under section 272.

7 “(8) RURAL-URBAN CONTINUUM CODE.—The
8 term ‘rural-urban continuum code’ means a code as-
9 signed to a community according to the rural-urban
10 continuum code system, as defined by the Economic
11 Research Service of the Department of Agriculture.

12 “(9) SECRETARY.—The term ‘Secretary’ means
13 the Secretary of Commerce.

14 **“SEC. 272. OFFICE OF COMMUNITY TRADE ADJUSTMENT.**

15 “(a) ESTABLISHMENT.—Within 6 months of the date
16 of enactment of the Trade Adjustment Assistance for
17 Workers, Farmers, Communities, and Firms Act of 2001,
18 there shall be established in the Economic Development
19 Administration of the Department of Commerce an Office
20 of Community Trade Adjustment.

21 “(b) PERSONNEL.—The Office shall be headed by a
22 Director, and such staff as may be necessary to carry out
23 the responsibilities described in this chapter.

24 “(c) COORDINATION OF FEDERAL RESPONSE.—The
25 Office shall—

1 “(1) provide leadership, support, and coordina-
2 tion for a comprehensive management program to
3 address economic dislocation in eligible communities;

4 “(2) establish an easily accessible, one-stop
5 clearinghouse for States and eligible communities to
6 obtain information regarding economic development
7 assistance available under Federal law;

8 “(3) coordinate the Federal response to an eli-
9 gible community—

10 “(A) by identifying all Federal, State, and
11 local resources that are available to assist the
12 eligible community in recovering from economic
13 distress;

14 “(B) by ensuring that all Federal agencies
15 offering assistance to an eligible community do
16 so in a targeted, integrated manner that en-
17 sures that an eligible community has access to
18 all available Federal assistance;

19 “(C) by assuring timely consultation and
20 cooperation between Federal, State, and re-
21 gional officials concerning community economic
22 adjustment;

23 “(D) by identifying and strengthening ex-
24 isting agency mechanisms designed to assist

1 communities in economic adjustment and work-
2 force reemployment;

3 “(E) by applying consistent policies, prac-
4 tices, and procedures in the administration of
5 Federal programs that are used to assist com-
6 munities adversely impacted by an increase in
7 imports or a shift in production;

8 “(F) by creating, maintaining, and using a
9 uniform economic database to analyze commu-
10 nity adjustment activities; and

11 “(G) by assigning a community economic
12 adjustment advisor to work with each eligible
13 community;

14 “(4) provide comprehensive technical assistance
15 to any eligible community in the efforts of that com-
16 munity to—

17 “(A) identify serious economic problems in
18 the community that result from an increase in
19 imports or shift in production;

20 “(B) integrate the major groups and orga-
21 nizations significantly affected by the economic
22 adjustment;

23 “(C) organize a Community Economic De-
24 velopment Coordinating Committee;

1 “(D) access Federal, State, and local re-
2 sources designed to assist in economic develop-
3 ment and trade adjustment assistance;

4 “(E) diversify and strengthen the commu-
5 nity economy; and

6 “(F) develop a community-based strategic
7 plan to address workforce dislocation and eco-
8 nomic development;

9 “(5) establish specific criteria for submission
10 and evaluation of a strategic plan submitted under
11 section 276(d);

12 “(6) administer the grant programs established
13 under sections 276 and 277; and

14 “(7) establish an interagency Trade Adjustment
15 Assistance Working Group, consisting of the rep-
16 resentatives of any Federal department or agency
17 with responsibility for economic adjustment assist-
18 ance, including the Department of Agriculture, the
19 Department of Defense, the Department of Edu-
20 cation, the Department of Labor, the Department of
21 Housing and Urban Development, the Department
22 of Health and Human Services, the Small Business
23 Administration, the Department of the Treasury, the
24 Department of Commerce, the Office of the United
25 States Trade Representative, and the National Eco-

1 nomic Council. The working group shall examine
2 other options for addressing trade impacts on com-
3 munities, such as:

4 “(A) Seeking legislative language directing
5 the Foreign Trade Zone (‘FTZ’) Board to expedite
6 consideration of FTZ applications from
7 communities or businesses that have been found
8 eligible for trade adjustment assistance.

9 “(B) Seeking legislative language to make
10 new markets tax credits available in commu-
11 nities impacted by trade.

12 “(C) Seeking legislative language to make
13 work opportunity tax credits available for hiring
14 unemployed workers who are certified eligible
15 for trade adjustment assistance.

16 “(D) Examining ways to assist trade im-
17 pacted rural communities and industries take
18 advantage of the Department of Agriculture’s
19 rural development program.

20 **“SEC. 273. NOTIFICATION AND CERTIFICATION AS AN ELI-
21 GIBLE COMMUNITY.**

22 “(a) NOTIFICATION.—The Secretary of Labor, not
23 later than 15 days after making a determination that a
24 group of workers is eligible for trade adjustment assist-
25 ance under section 231, shall notify the Governor of the

1 State in which the community in which the worker's firm
2 is located and the Director, of the Secretary's determina-
3 tion.

4 “(b) CERTIFICATION.—Not later than 30 days after
5 notification by the Secretary of Labor described in sub-
6 section (a), the Director shall certify as eligible for assist-
7 ance under this chapter a community in which 1 of the
8 following conditions apply:

9 “(1) NUMBER OF JOB LOSSES.—The Director
10 shall certify that a community is eligible for assist-
11 ance under this chapter if—

12 “(A) in an urban community, at least 500
13 workers have been certified for assistance under
14 section 231 in the most recent 36-month period
15 preceding the date of certification under this
16 section for which data are available; or

17 “(B) in a rural community, at least 300
18 workers have been certified for assistance under
19 section 231 in the most recent 36-month period
20 preceding the date of certification under this
21 section for which data are available.

22 “(2) PERCENT OF WORKFORCE UNEM-
23 PLOYED.—The Director shall certify that a commu-
24 nity is eligible for assistance under this chapter if
25 the unemployment rate for the community is at least

1 1 percent greater than the national unemployment
2 rate for the most recent 12-month period for which
3 data are available.

4 “(c) NOTIFICATION TO ELIGIBLE COMMUNITIES .—
5 Not later than 15 days after the Director certifies a com-
6 munity as eligible under subsection (b), the Director shall
7 notify the community—

8 “(1) of its determination under subsection (b);

9 “(2) of the provisions of this chapter;

10 “(3) how to access the clearinghouse established
11 under section 272(c)(2); and

12 “(4) how to obtain technical assistance provided
13 under section 272(c)(4).

14 **“SEC. 274. COMMUNITY ECONOMIC DEVELOPMENT COORDI-**
15 **NATING COMMITTEE.**

16 “(a) ESTABLISHMENT .—In order to apply for and re-
17 ceive benefits under this chapter, an eligible community
18 shall establish a Community Economic Development Co-
19 ordinating Committee certified by the Director as meeting
20 the requirements of subsection (b)(1).

21 “(b) COMPOSITION OF THE COMMITTEE .—

22 “(1) LOCAL PARTICIPATION .—The Community
23 Economic Development Coordinating Committee es-
24 tablished by an eligible community under subsection
25 (a) shall include representatives of those groups sig-

1 significantly affected by economic dislocation, such as
2 local, regional, tribal, and State governments, re-
3 gional councils of governments and economic devel-
4 opment, business, labor, education, health organiza-
5 tions, religious, and other community-based groups
6 providing assistance to workers, their families, and
7 communities.

8 “(2) FEDERAL PARTICIPATION.—Pursuant to
9 section 275(b)(3), the community economic adjust-
10 ment advisor, assigned by the Director to assist an
11 eligible community, shall serve as an ex officio mem-
12 ber of the Community Economic Development Co-
13 ordinating Committee, and shall arrange for partici-
14 pation by representatives of other Federal agencies
15 on that Committee as necessary.

16 “(3) EXISTING ORGANIZATION.—An eligible
17 community may designate an existing organization
18 in that community as the Community Economic De-
19 velopment Coordinating Committee if that organiza-
20 tion meets the requirements of paragraph (1) for the
21 purposes of this chapter.

22 “(c) DUTIES.—The Community Economic Develop-
23 ment Coordinating Committee shall—

1 “(1) ascertain the severity of the community
2 economic adjustment required as a result of the in-
3 crease in imports or shift in production;

4 “(2) assess the capacity of the community to
5 respond to the required economic adjustment and
6 the needs of the community as it undertakes eco-
7 nomic adjustment, taking into consideration such
8 factors as the number of jobs lost, the size of the
9 community, the diversity of industries, the skills of
10 the labor force, the condition of the current labor
11 market, the availability of financial resources, the
12 quality and availability of educational facilities, the
13 adequacy and availability of public services, and the
14 existence of a basic and advanced infrastructure in
15 the community;

16 “(3) facilitate a dialogue between concerned in-
17 terests in the community, represent the impacted
18 community, and ensure all interests in the commu-
19 nity work collaboratively toward collective goals
20 without duplication of effort or resources;

21 “(4) oversee the development of a strategic plan
22 for community economic development, taking into
23 consideration the factors mentioned under para-
24 graph (2), and consistent with the criteria estab-

1 lished by the Secretary for the strategic plan devel-
2 oped under section 276;

3 “(5) create an executive council of members of
4 the Community Economic Development Coordinating
5 Committee to promote the strategic plan within the
6 community and ensure coordination and cooperation
7 among all stakeholders; and

8 “(6) apply for any grant, loan, or loan guar-
9 antee available under Federal law to develop or im-
10 plement the strategic plan, and be an eligible recipi-
11 ent for funding for economic adjustment, for that
12 community.

13 **“SEC. 275. COMMUNITY ECONOMIC ADJUSTMENT ADVI-**
14 **SORS.**

15 “(a) **IN GENERAL.**—Pursuant to section
16 272(c)(3)(G), the Director shall assign a community eco-
17 nomic adjustment advisor to each eligible community.

18 “(b) **DUTIES.**—The community economic adjustment
19 advisor shall—

20 “(1) provide technical assistance to the eligible
21 community, assist in the development and implemen-
22 tation of a strategic plan, including applying for any
23 grant available under this or any other Federal law
24 to develop or implement that plan;

1 “(2) at the local and regional level, coordinate
2 the response of all Federal agencies offering assist-
3 ance to the eligible community;

4 “(3) serve as an ex officio member of the Com-
5 munity Economic Development Coordinating Com-
6 mittee established by an eligible community under
7 section 274;

8 “(4) act as liaison between the Community Eco-
9 nomic Development Coordinating Committee estab-
10 lished by the eligible community and all other Fed-
11 eral agencies that offer assistance to eligible commu-
12 nities, including the Department of Agriculture, the
13 Department of Defense, the Department of Edu-
14 cation, the Department of Labor, the Department of
15 Housing and Urban Development, the Department
16 of Health and Human Services, the Small Business
17 Administration, the Department of the Treasury, the
18 National Economic Council, and other offices or
19 agencies of the Department of Commerce;

20 “(5) report regularly to the Director regarding
21 the progress of development activities in the commu-
22 nity to which the community economic adjustment
23 advisor is assigned; and

24 “(6) perform other duties as directed by the
25 Secretary or the Director.

1 "SEC. 276. STRATEGIC PLANS.

2 "(a) IN GENERAL.—With the assistance of the com-
3 munity economic adjustment advisor, an eligible commu-
4 nity may develop a strategic plan for community economic
5 adjustment and diversification.

6 "(b) REQUIREMENTS FOR STRATEGIC PLAN.—A
7 strategic plan shall contain, at a minimum, the following:

8 "(1) A description and justification of the ca-
9 pacity for economic adjustment, including the meth-
10 od of financing to be used, the anticipated manage-
11 ment structure of the Community Economic Devel-
12 opment Coordinating Committee, and the commit-
13 ment of the community to the strategic plan over the
14 long term.

15 "(2) A description of, and a plan to accomplish,
16 the projects to be undertaken by the eligible commu-
17 nity.

18 "(3) A description of how the plan and the
19 projects to be undertaken by the eligible community
20 will lead to job creation and job retention in the
21 community.

22 "(4) A description of any alternative develop-
23 ment plans that were considered, particularly less
24 costly alternatives, and why those plans were re-
25 jected in favor of the proposed plan.

1 “(5) A description of any additional steps the
2 eligible community will take to achieve economic ad-
3 justment and diversification, including how the plan
4 and the projects will contribute to establishing or
5 maintaining a level of public services necessary to
6 attract and retain economic investment.

7 “(6) A description and justification for the cost
8 and timing of proposed basic and advanced infra-
9 structure improvements in the eligible community.

10 “(7) A description of the occupational and
11 workforce conditions in the eligible community, in-
12 cluding but not limited to existing levels of work-
13 force skills and competencies, and educational pro-
14 grams available for workforce training and future
15 employment needs.

16 “(8) A description of how the plan will adapt to
17 changing markets, business cycles, and other vari-
18 ables.

19 “(9) A graduation strategy through which the
20 eligible community demonstrates that the community
21 will terminate the need for Federal assistance.

22 “(c) GRANTS TO DEVELOP STRATEGIC PLANS.—

23 “(1) IN GENERAL.—The Director, upon receipt
24 of an application from a Community Economic De-
25 velopment Coordinating Committee on behalf of an

1 eligible community, shall award a grant to that com-
2 munity to be used to develop the strategic plan.

3 “(2) AMOUNT.—The amount of a grant made
4 under paragraph (1) shall be determined by the Sec-
5 retary, but may not exceed \$50,000 to each commu-
6 nity.

7 “(3) LIMIT.—Each community can only receive
8 1 grant for the purpose of developing a strategic
9 plan in any 5-year period.

10 “(d) SUBMISSION OF PLAN.—The strategic plan cre-
11 ated under subsection (a) shall be submitted to the Direc-
12 tor for evaluation and approval.

13 **“SEC. 277. GRANTS FOR ECONOMIC DEVELOPMENT.**

14 “The Director, upon receipt of an application from
15 the Community Economic Development Coordinating
16 Committee on behalf of an eligible community, may award
17 a grant to that community to carry out any project or
18 program included in the strategic plan approved under
19 section 276(d) that—

20 “(1) will be located in, or will create or preserve
21 high-wage jobs, in that eligible community; and

22 “(2) implements the strategy of that eligible
23 community to create high-wage jobs in sectors that
24 are expected to expand, including projects that—

1 “(A) encourage industries to locate in that
2 eligible community, if such funds are not used
3 to encourage the relocation of any employer in
4 a manner that causes the dislocation of employ-
5 ees of that employer at another facility in the
6 United States;

7 “(B) leverage resources to create or im-
8 prove Internet or telecommunications capabili-
9 ties to make the community more attractive for
10 business;

11 “(C) establish a funding pool for job cre-
12 ation through entrepreneurial activities;

13 “(D) assist existing firms in that commu-
14 nity to restructure or retool to become more
15 competitive in world markets and prevent job
16 loss; or

17 “(E) assist the community in acquiring the
18 resources and providing the level of public serv-
19 ices necessary to meet the objectives set out in
20 the strategic plan.

21 **“SEC. 278. AUTHORIZATION OF APPROPRIATIONS.**

22 “There are authorized to be appropriated to the De-
23 partment of Commerce, for the period beginning October
24 1, 2001, and ending September 30, 2006, such sums as

1 may be necessary to carry out the purposes of this chap-
2 ter.

3 **“SEC. 279. GENERAL PROVISIONS.**

4 “(a) **REPORT BY THE DIRECTOR.**—Not later than 6
5 months after the date of enactment of this Act and annu-
6 ally thereafter, the Director shall submit to the Committee
7 on Finance of the Senate and the Committee on Ways and
8 Means of the House of Representatives a report regarding
9 the programs established under this title.

10 “(b) **REGULATIONS.**—The Secretary shall prescribe
11 such regulations as are necessary to carry out the provi-
12 sions of this chapter.”.

13 “(c) **SUPPLEMENT NOT SUPPLANT.**—Funds appro-
14 priated under this chapter shall be used to supplement and
15 not supplant other Federal, State, and local public funds
16 expended to provide economic development assistance for
17 communities.”.

18 **TITLE IV—TRADE ADJUSTMENT**
19 **ASSISTANCE FOR FARMERS**

20 **SEC. 401. TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.**

21 (a) **IN GENERAL.**—Title II of the Trade Act of 1974
22 (19 U.S.C. 2251 et seq.) is amended by adding at the end
23 the following new chapter:

1 **“CHAPTER 6—ADJUSTMENT ASSISTANCE**
2 **FOR FARMERS**

3 **“SEC. 291. DEFINITIONS.**

4 “In this chapter:

5 “(1) AGRICULTURAL COMMODITY.—The term
6 ‘agricultural commodity’ means any agricultural
7 commodity (including livestock), except fish as de-
8 fined in section 299(1) of this Act, in its raw or nat-
9 ural state.

10 “(2) AGRICULTURAL COMMODITY PRODUCER.—

11 The term ‘agricultural commodity producer’ means
12 any person who is engaged in the production and
13 sale of an agricultural commodity in the United
14 States and who owns or shares the ownership and
15 risk of loss of the agricultural commodity, except
16 any person included within section 299(2) of this
17 Act.

18 “(3) CONTRIBUTED IMPORTANTLY.—

19 “(A) IN GENERAL.—The term ‘contributed
20 importantly’ means a cause which is important
21 but not necessarily more important than any
22 other cause.

23 “(B) DETERMINATION OF CONTRIBUTED
24 IMPORTANTLY.—The determination of whether
25 imports of articles like or directly competitive

1 with an agricultural commodity with respect to
2 which the petition under this chapter was filed
3 contributed importantly to a decline in the price
4 of the agricultural commodity shall be made by
5 the Secretary of Agriculture.

6 “(4) DULY AUTHORIZED REPRESENTATIVE.—

7 The term ‘duly authorized representative’ means an
8 association of agricultural commodity producers.

9 “(5) NATIONAL AVERAGE PRICE.—The term
10 ‘national average price’ means the national average
11 price paid to an agricultural commodity producer for
12 an agricultural commodity in a marketing year as
13 determined by the Secretary of Agriculture.

14 “(6) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of Agriculture.

16 **“SEC. 292. PETITIONS; GROUP ELIGIBILITY.**

17 “(a) IN GENERAL.—A petition for a certification of
18 eligibility to apply for adjustment assistance under this
19 chapter may be filed with the Secretary by a group of agri-
20 cultural commodity producers or by their duly authorized
21 representative. Upon receipt of the petition, the Secretary
22 shall promptly publish notice in the Federal Register that
23 the Secretary has received the petition and initiated an
24 investigation.

1 “(b) HEARINGS.—If the petitioner, or any other per-
2 son found by the Secretary to have a substantial interest
3 in the proceedings, submits not later than 10 days after
4 the date of the Secretary’s publication under subsection
5 (a) a request for a hearing, the Secretary shall provide
6 for a public hearing and afford such interested persons
7 an opportunity to be present, to produce evidence, and to
8 be heard.

9 “(c) GROUP ELIGIBILITY REQUIREMENTS.—The
10 Secretary shall certify a group of agricultural commodity
11 producers as eligible to apply for adjustment assistance
12 under this chapter if the Secretary determines—

13 “(1) that the national average price for the ag-
14 ricultural commodity, or a class of goods within the
15 agricultural commodity, produced by the group for
16 the most recent marketing year for which the na-
17 tional average price is available is less than 80 per-
18 cent of the average of the national average price for
19 such agricultural commodity, or such class of goods,
20 for the 5 marketing years preceding the most recent
21 marketing year; and

22 “(2) that increases in imports of articles like or
23 directly competitive with the agricultural commodity,
24 or class of goods within the agricultural commodity,

1 produced by the group contributed importantly to
2 the decline in price described in paragraph (1).

3 “(d) SPECIAL RULE FOR QUALIFIED SUBSEQUENT
4 YEARS.—A group of agricultural commodity producers
5 certified as eligible under section 293 shall be eligible to
6 apply for assistance under this chapter in any qualified
7 year after the year the group is first certified, if the Sec-
8 retary determines that—

9 “(1) the national average price for the agricul-
10 tural commodity, or class of goods within the agri-
11 cultural commodity, produced by the group for the
12 most recent marketing year for which the national
13 average price is available is equal to or less than the
14 price determined under subsection (c)(1); and

15 “(2) the requirements of subsection (c)(2) are
16 met.

17 “(e) DETERMINATION OF QUALIFIED YEAR AND
18 COMMODITY.—In this chapter:

19 “(1) QUALIFIED YEAR.—The term ‘qualified
20 year’, with respect to a group of agricultural com-
21 modity producers certified as eligible under section
22 293, means each consecutive year after the year in
23 which the group is certified that the Secretary
24 makes the determination under subsection (c) or (d),
25 as the case may be.

1 “(2) CLASSES OF GOODS WITHIN A COM-
2 MODITY.—In any case in which there are separate
3 classes of goods within an agricultural commodity,
4 the Secretary shall treat each class as a separate
5 commodity in determining group eligibility, the na-
6 tional average price, and level of imports under this
7 section and section 296.

8 **“SEC. 293. DETERMINATIONS BY SECRETARY OF AGRICULTURE.**
9 **CULTURE.**

10 “(a) IN GENERAL.—As soon as practicable after the
11 date on which a petition is filed under section 292, but
12 in any event not later than 60 days after that date, the
13 Secretary shall determine whether the petitioning group
14 meets the requirements of section 292 (c) or (d), as the
15 case may be and shall, if the group meets the require-
16 ments, issue a certification of eligibility to apply for assist-
17 ance under this chapter covering agricultural commodity
18 producers in any group that meet the requirements. Each
19 certification shall specify the date on which eligibility
20 under this chapter begins.

21 “(b) NOTICE.—Upon making a determination on a
22 petition, the Secretary shall promptly publish a summary
23 of the determination in the Federal Register, together with
24 the Secretary’s reasons for making the determination.

1 “(c) TERMINATION OF CERTIFICATION.—Whenever
2 the Secretary determines, with respect to any certification
3 of eligibility under this chapter, that the decline in price
4 for the agricultural commodity covered by the certification
5 is no longer attributable to the conditions described in sec-
6 tion 292, the Secretary shall terminate such certification
7 and promptly cause notice of such termination to be pub-
8 lished in the Federal Register, together with the Sec-
9 retary’s reasons for making such determination.

10 **“SEC. 294. STUDY BY SECRETARY OF AGRICULTURE WHEN**
11 **INTERNATIONAL TRADE COMMISSION BE-**
12 **GINS INVESTIGATION.**

13 “(a) IN GENERAL.—Whenever the International
14 Trade Commission (in this chapter referred to as the
15 ‘Commission’) begins an investigation under section 202
16 with respect to an agricultural commodity, the Commis-
17 sion shall immediately notify the Secretary of the inves-
18 tigation. Upon receipt of the notification, the Secretary
19 shall immediately conduct a study of—

20 “(1) the number of agricultural commodity pro-
21 ducers producing a like or directly competitive agri-
22 cultural commodity who have been or are likely to be
23 certified as eligible for adjustment assistance under
24 this chapter, and

1 “(2) the extent to which the adjustment of such
2 producers to the import competition may be facili-
3 tated through the use of existing programs.

4 “(b) REPORT.—Not later than 15 days after the day
5 on which the Commission makes its report under section
6 202(f), the Secretary shall submit a report to the Presi-
7 dent setting forth the findings of the study under sub-
8 section (a). Upon making his report to the President, the
9 Secretary shall also promptly make it public (with the ex-
10 ception of information which the Secretary determines to
11 be confidential) and shall have a summary of it published
12 in the Federal Register.

13 **“SEC. 295. BENEFIT INFORMATION TO AGRICULTURAL**
14 **COMMODITY PRODUCERS.**

15 “(a) IN GENERAL.—The Secretary shall provide full
16 information to producers about the benefit allowances,
17 training, and other employment services available under
18 this title and about the petition and application proce-
19 dures, and the appropriate filing dates, for such allow-
20 ances, training, and services. The Secretary shall provide
21 whatever assistance is necessary to enable groups to pre-
22 pare petitions or applications for program benefits under
23 this title.

24 “(b) NOTICE OF BENEFITS.—

1 “(1) IN GENERAL.—The Secretary shall mail
2 written notice of the benefits available under this
3 chapter to each agricultural commodity producer
4 that the Secretary has reason to believe is covered
5 by a certification made under this chapter.

6 “(2) OTHER NOTICE.—The Secretary shall pub-
7 lish notice of the benefits available under this chap-
8 ter to agricultural commodity producers that are
9 covered by each certification made under this chap-
10 ter in newspapers of general circulation in the areas
11 in which such producers reside.

12 “(3) OTHER FEDERAL ASSISTANCE.—The Sec-
13 retary shall also provide information concerning pro-
14 cedures for applying for and receiving all other Fed-
15 eral assistance and services available to workers fac-
16 ing economic distress.

17 **“SEC. 296. QUALIFYING REQUIREMENTS FOR AGRICUL-**
18 **TURAL COMMODITY PRODUCERS.**

19 “(a) IN GENERAL.—Payment of a trade adjustment
20 allowance shall be made to an adversely affected agricul-
21 tural commodity producer covered by a certification under
22 this chapter who files an application for such allowance
23 within 90 days after the date on which the Secretary
24 makes a determination and issues a certification of eligi-

1 bility under section 293, if the following conditions are
2 met:

3 “(1) The producer submits to the Secretary suf-
4 ficient information to establish the amount of agri-
5 cultural commodity covered by the application filed
6 under subsection (a) that was produced by the pro-
7 ducer in the most recent year.

8 “(2) The producer certifies that the producer
9 has not received cash benefits under any provision of
10 this title other than this chapter.

11 “(3) The producer’s net farm income (as deter-
12 mined by the Secretary) for the most recent year is
13 less than the producer’s net farm income for the lat-
14 est year in which no adjustment assistance was re-
15 ceived by the producer under this chapter.

16 “(4) The producer certifies that the producer
17 has met with an Extension Service employee or
18 agent to obtain, at no cost to the producer, informa-
19 tion and technical assistance that will assist the pro-
20 ducer in adjusting to import competition with re-
21 spect to the adversely affected agricultural com-
22 modity, including—

23 “(A) information regarding the feasibility
24 and desirability of substituting 1 or more alter-

1 native commodities for the adversely affected
2 agricultural commodity; and

3 “(B) technical assistance that will improve
4 the competitiveness of the production and mar-
5 keting of the adversely affected agricultural
6 commodity by the producer, including yield and
7 marketing improvements.

8 “(b) AMOUNT OF CASH BENEFITS.—

9 “(1) IN GENERAL.—Subject to the provisions of
10 section 298, an adversely affected agricultural com-
11 modity producer described in subsection (a) shall be
12 entitled to adjustment assistance under this chapter
13 in an amount equal to the product of—

14 “(A) one-half of the difference between—

15 “(i) an amount equal to 80 percent of
16 the average of the national average price of
17 the agricultural commodity covered by the
18 application described in subsection (a) for
19 the 5 marketing years preceding the most
20 recent marketing year, and

21 “(ii) the national average price of the
22 agricultural commodity for the most recent
23 marketing year, and

1 “(B) the amount of the agricultural com-
2 modity produced by the agricultural commodity
3 producer in the most recent marketing year.

4 “(2) SPECIAL RULE FOR SUBSEQUENT QUALI-
5 FIED YEARS.—The amount of cash benefits for a
6 qualified year shall be determined in the same man-
7 ner as cash benefits are determined under paragraph
8 (1) except that the average national price of the ag-
9 ricultural commodity shall be determined under
10 paragraph (1)(A)(i) by using the 5-marketing-year
11 period used to determine the amount of cash bene-
12 fits for the first certification.

13 “(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—
14 The maximum amount of cash benefits an agricultural
15 commodity producer may receive in any 12-month period
16 shall not exceed \$10,000.

17 “(d) LIMITATIONS ON OTHER ASSISTANCE.—An ag-
18 ricultural commodity producer entitled to receive a cash
19 benefit under this chapter—

20 “(1) shall not be eligible for any other cash
21 benefit under this title, and

22 “(2) shall be entitled to employment services
23 and training benefits under part III of subchapter C
24 of chapter 2.

1 **"SEC. 297. FRAUD AND RECOVERY OF OVERPAYMENTS.**

2 “(a) IN GENERAL.—

3 “(1) REPAYMENT.—If the Secretary, or a court
4 of competent jurisdiction, determines that any per-
5 son has received any payment under this chapter to
6 which the person was not entitled, such person shall
7 be liable to repay such amount to the Secretary, ex-
8 cept that the Secretary may waive such repayment
9 if the Secretary determines, in accordance with
10 guidelines prescribed by the Secretary, that—

11 “(A) the payment was made without fault
12 on the part of such person; and

13 “(B) requiring such repayment would be
14 contrary to equity and good conscience.

15 “(2) RECOVERY OF OVERPAYMENT.—Unless an
16 overpayment is otherwise recovered, or waived under
17 paragraph (1), the Secretary shall recover the over-
18 payment by deductions from any sums payable to
19 such person under this chapter.

20 “(b) FALSE STATEMENTS.—If the Secretary, or a
21 court of competent jurisdiction, determines that a
22 person—

23 “(1) knowingly has made, or caused another to
24 make, a false statement or representation of a mate-
25 rial fact, or

1 “(2) knowingly has failed, or caused another to
2 fail, to disclose a material fact,
3 and, as a result of such false statement or representation,
4 or of such nondisclosure, such person has received any
5 payment under this chapter to which the person was not
6 entitled, such person shall, in addition to any other pen-
7 alty provided by law, be ineligible for any further pay-
8 ments under this chapter.

9 “(c) NOTICE AND DETERMINATION.—Except for
10 overpayments determined by a court of competent jurisdic-
11 tion, no repayment may be required, and no deduction
12 may be made, under this section until a determination
13 under subsection (a)(1) by the Secretary has been made,
14 notice of the determination and an opportunity for a fair
15 hearing thereon has been given to the person concerned,
16 and the determination has become final.

17 “(d) PAYMENT TO TREASURY.—Any amount recov-
18 ered under this section shall be returned to the Treasury
19 of the United States.

20 “(e) PENALTIES.—Whoever makes a false statement
21 of a material fact knowing it to be false, or knowingly fails
22 to disclose a material fact, for the purpose of obtaining
23 or increasing for himself or for any other person any pay-
24 ment authorized to be furnished under this chapter shall

1 be fined not more than \$10,000 or imprisoned for not
2 more than 1 year, or both.

3 **“SEC. 298. AUTHORIZATION OF APPROPRIATIONS.**

4 “(a) IN GENERAL.—There are authorized to be ap-
5 propriated and there are appropriated to the Department
6 of Agriculture not to exceed \$90,000,000 for each of the
7 fiscal years 2002 through 2006 to carry out the purposes
8 of this chapter.

9 “(b) PROPORTIONATE REDUCTION.—If in any year,
10 the amount appropriated under this chapter is insufficient
11 to meet the requirements for adjustment assistance pay-
12 able under this chapter, the amount of assistance payable
13 under this chapter shall be reduced proportionately.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this title shall take effect on the date that is 180 days
16 after the date of enactment of this Act.

17 **TITLE V—TRADE ADJUSTMENT**
18 **ASSISTANCE FOR FISHERMEN**

19 **SEC. 501. SHORT TITLE.**

20 This title may be cited as the “Trade Adjustment As-
21 sistance for Fishermen Act”.

22 **SEC. 502. TRADE ADJUSTMENT ASSISTANCE FOR FISHER-**
23 **MEN.**

24 (a) IN GENERAL.—Title II of the Trade Act of 1974
25 (19 U.S.C. 2251 et seq.), as amended by title IV of this

1 Act, is amended by adding at the end the following new
2 chapter:

3 **“CHAPTER 7—ADJUSTMENT ASSISTANCE**
4 **FOR FISHERMEN**

5 **“SEC. 299. DEFINITIONS.**

6 “In this chapter:

7 “(1) COMMERCIAL FISHING, FISH, FISHERY,
8 FISHING, FISHING VESSEL, PERSON, AND UNITED
9 STATES FISH PROCESSOR.—The terms ‘commercial
10 fishing’, ‘fish’, ‘fishery’, ‘fishing’, ‘fishing vessel’,
11 ‘person’, and ‘United States fish processor’ have the
12 same meanings as specified in the Magnuson-Ste-
13 vens Fishery Conservation and Management Act (16
14 U.S.C. 1802).

15 “(2) PRODUCER.—The term ‘producer’ means
16 any person engaged in commercial fishing or United
17 States fish processor.

18 “(3) CONTRIBUTED IMPORTANTLY.—

19 “(A) IN GENERAL.—The term ‘contributed
20 importantly’ means a cause which is important
21 but not necessarily more important than any
22 other cause.

23 “(B) DETERMINATION OF CONTRIBUTED
24 IMPORTANTLY.—The determination of whether
25 imports of articles like or directly competitive

1 with a fish caught through commercial fishing
2 or processed by a United States fish processor
3 with respect to which the petition under this
4 chapter was filed contributed importantly to a
5 decline in the price of the fish shall be made by
6 the Secretary of Commerce.

7 “(4) DULY AUTHORIZED REPRESENTATIVE.—
8 The term ‘duly authorized representative’ means an
9 association of producers.

10 “(5) NATIONAL AVERAGE PRICE.—The term
11 ‘national average price’ means the national average
12 price paid to a producer for fish in a marketing year
13 as determined by the Secretary of Commerce.

14 “(6) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of Commerce.

16 “(7) TRADE ADJUSTMENT ASSISTANCE CEN-
17 TER.—The term ‘Trade Adjustment Assistance Cen-
18 ter’ shall have the same meaning as in section 253
19 of chapter 3 of title II of the Trade Act of 1974.

20 **“SEC. 299A. PETITIONS; GROUP ELIGIBILITY.**

21 “(a) IN GENERAL.—A petition for a certification of
22 eligibility to apply for adjustment assistance under this
23 chapter may be filed with the Secretary by a group of pro-
24 ducers or by their duly authorized representative. Upon
25 receipt of the petition, the Secretary shall promptly pub-

1 lish notice in the Federal Register that the Secretary has
2 received the petition and initiated an investigation.

3 “(b) HEARINGS.—If the petitioner, or any other per-
4 son found by the Secretary to have a substantial interest
5 in the proceedings, submits not later than 10 days after
6 the date of the Secretary’s publication under subsection
7 (a) a request for a hearing, the Secretary shall provide
8 for a public hearing and afford such interested persons
9 an opportunity to be present, to produce evidence, and to
10 be heard.

11 “(c) GROUP ELIGIBILITY REQUIREMENTS.—The
12 Secretary shall certify a group of producers as eligible to
13 apply for adjustment assistance under this chapter if the
14 Secretary determines—

15 “(1) that the national average price for the fish,
16 or a class of fish, produced by the group for the
17 most recent marketing year for which the national
18 average price is available is less than 80 percent of
19 the average of the national average price for such
20 fish, or such class of fish, for the 5 marketing years
21 preceding the most recent marketing year; and

22 “(2) that increases in imports of articles like or
23 directly competitive with the fish, or class of fish,
24 produced by the group contributed importantly to
25 the decline in price described in paragraph (1).

1 “(d) SPECIAL RULE FOR QUALIFIED SUBSEQUENT
2 YEARS.—A group of producers certified as eligible under
3 section 299B shall be eligible to apply for assistance under
4 this chapter in any qualified year after the year the group
5 is first certified, if the Secretary determines that—

6 “(1) the national average price for the fish, or
7 class of fish, produced by the group for the most re-
8 cent marketing year for which the national average
9 price is available is equal to or less than the price
10 determined under subsection (c)(1); and

11 “(2) the requirements of subsection (c)(2) are
12 met.

13 “(e) DETERMINATION OF QUALIFIED YEAR AND
14 COMMODITY.—In this chapter:

15 “(1) QUALIFIED YEAR.—The term ‘qualified
16 year’, with respect to a group of producers certified
17 as eligible under section 299B, means each consecu-
18 tive year after the year in which the group is cer-
19 tified that the Secretary makes the determination
20 under subsection (c) or (d), as the case may be.

21 “(2) CLASSES OF GOODS WITHIN A COM-
22 MODITY.—In any case in which there are separate
23 classes of fish, the Secretary shall treat each class
24 as a separate commodity in determining group eligi-

1 bility, the national average price, and level of im-
2 ports under this section and section 299E.

3 **“SEC. 299B. DETERMINATIONS BY SECRETARY.**

4 “(a) IN GENERAL.—As soon as practicable after the
5 date on which a petition is filed under section 299A, but
6 in any event not later than 60 days after that date, the
7 Secretary shall determine whether the petitioning group
8 meets the requirements of section 299A (c) or (d), as the
9 case may be and shall, if the group meets the require-
10 ments, issue a certification of eligibility to apply for assist-
11 ance under this chapter covering producers in any group
12 that meet the requirements. Each certification shall speci-
13 fy the date on which eligibility under this chapter begins.

14 “(b) NOTICE.—Upon making a determination on a
15 petition, the Secretary shall promptly publish a summary
16 of the determination in the Federal Register, together with
17 the Secretary’s reasons for making the determination.

18 “(c) TERMINATION OF CERTIFICATION.—Whenever
19 the Secretary determines, with respect to any certification
20 of eligibility under this chapter, that the decline in price
21 for the fish covered by the certification is no longer attrib-
22 utable to the conditions described in section 299A, the
23 Secretary shall terminate such certification and promptly
24 cause notice of such termination to be published in the

1 Federal Register, together with the Secretary's reasons for
2 making such determination.

3 **"SEC. 299C. STUDY BY SECRETARY WHEN INTERNATIONAL**
4 **TRADE COMMISSION BEGINS INVESTIGATION.**

5 “(a) IN GENERAL.—Whenever the International
6 Trade Commission (in this chapter referred to as the
7 ‘Commission’) begins an investigation under section 202
8 with respect to a fish, the Commission shall immediately
9 notify the Secretary of the investigation. Upon receipt of
10 the notification, the Secretary shall immediately conduct
11 a study of—

12 “(1) the number of producers producing a like
13 or directly competitive agricultural commodity who
14 have been or are likely to be certified as eligible for
15 adjustment assistance under this chapter, and

16 “(2) the extent to which the adjustment of such
17 producers to the import competition may be facili-
18 tated through the use of existing programs.

19 “(b) REPORT.—Not later than 15 days after the day
20 on which the Commission makes its report under section
21 202(f), the Secretary shall submit a report to the Presi-
22 dent setting forth the findings of the study under sub-
23 section (a). Upon making his report to the President, the
24 Secretary shall also promptly make it public (with the ex-
25 ception of information which the Secretary determines to

1 be confidential) and shall have a summary of it published
2 in the Federal Register.

3 **"SEC. 299D. BENEFIT INFORMATION TO PRODUCERS.**

4 “(a) IN GENERAL.—The Secretary shall provide full
5 information to producers about the benefit allowances,
6 training, and other employment services available under
7 this title and about the petition and application proce-
8 dures, and the appropriate filing dates, for such allow-
9 ances, training, and services. The Secretary shall provide
10 whatever assistance is necessary to enable groups to pre-
11 pare petitions or applications for program benefits under
12 this title.

13 “(b) NOTICE OF BENEFITS.—

14 “(1) IN GENERAL.—The Secretary shall mail
15 written notice of the benefits available under this
16 chapter to each producer that the Secretary has rea-
17 son to believe is covered by a certification made
18 under this chapter.

19 “(2) OTHER NOTICE.—The Secretary shall pub-
20 lish notice of the benefits available under this chap-
21 ter to producers that are covered by each certifi-
22 cation made under this chapter in newspapers of
23 general circulation in the areas in which such pro-
24 ducers reside.

1 **"SEC. 299E. QUALIFYING REQUIREMENTS FOR PRODUCERS.**

2 “(a) IN GENERAL.—Payment of a trade adjustment
3 allowance shall be made to an adversely affected producer
4 covered by a certification under this chapter who files an
5 application for such allowance within 90 days after the
6 date on which the Secretary makes a determination and
7 issues a certification of eligibility under section 299B, if
8 the following conditions are met:

9 “(1) The producer submits to the Secretary suf-
10 ficient information to establish the amount of fish
11 covered by the application filed under subsection (a)
12 that was produced by the producer in the most re-
13 cent year.

14 “(2) The producer certifies that the producer
15 has not received cash benefits under any provision of
16 this title other than this chapter.

17 “(3) The producer’s net fishing or processing
18 income (as determined by the Secretary) for the
19 most recent year is less than the producer’s net fish-
20 ing or processing income for the latest year in which
21 no adjustment assistance was received by the pro-
22 ducer under this chapter.

23 “(4) The producer certifies that—

24 “(A) the producer has met with an em-
25 ployee or agent from a Trade Adjustment As-
26 sistance Center to obtain, at no cost to the pro-

1 “(i) an amount equal to 80 percent of
2 the average of the national average price of
3 the fish covered by the application de-
4 scribed in subsection (a) for the 5 mar-
5 keting years preceding the most recent
6 marketing year; and

7 “(ii) the national average price of the
8 fish for the most recent marketing year;
9 and

10 “(B) the amount of the fish produced by
11 the producer in the most recent marketing year.

12 “(2) SPECIAL RULE FOR SUBSEQUENT QUALI-
13 FIED YEARS.—The amount of cash benefits for a
14 qualified year shall be determined in the same man-
15 ner as cash benefits are determined under paragraph
16 (1) except that the average national price of the fish
17 shall be determined under paragraph (1)(A)(i) by
18 using the 5-marketing-year period used to determine
19 the amount of cash benefits for the first certifi-
20 cation. A producer shall only be eligible for benefits
21 for subsequent qualified years if the Secretary or his
22 designee determines that sufficient progress has
23 been made implementing the plans developed under
24 section 299E(a)(4) of this title.

1 “(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—

2 The maximum amount of cash benefits a producer may
3 receive in any 12-month period shall not exceed \$10,000.

4 “(d) LIMITATIONS ON OTHER ASSISTANCE.—A pro-
5 ducer entitled to receive a cash benefit under this
6 chapter—

7 “(1) shall not be eligible for any other cash
8 benefit under this title, and

9 “(2) shall be entitled to employment services
10 and training benefits under part III of subchapter C
11 of chapter 2.

12 **“SEC. 299F. FRAUD AND RECOVERY OF OVERPAYMENTS.**

13 “(a) IN GENERAL.—

14 “(1) REPAYMENT.—If the Secretary, or a court
15 of competent jurisdiction, determines that any per-
16 son has received any payment under this chapter to
17 which the person was not entitled, such person shall
18 be liable to repay such amount to the Secretary, ex-
19 cept that the Secretary may waive such repayment
20 if the Secretary determines, in accordance with
21 guidelines prescribed by the Secretary, that—

22 “(A) the payment was made without fault
23 on the part of such person; and

24 “(B) requiring such repayment would be
25 contrary to equity and good conscience.

1 “(2) RECOVERY OF OVERPAYMENT.—Unless an
2 overpayment is otherwise recovered, or waived under
3 paragraph (1), the Secretary shall recover the over-
4 payment by deductions from any sums payable to
5 such person under this chapter.

6 “(b) FALSE STATEMENTS.—If the Secretary, or a
7 court of competent jurisdiction, determines that a
8 person—

9 “(1) knowingly has made, or caused another to
10 make, a false statement or representation of a mate-
11 rial fact, or

12 “(2) knowingly has failed, or caused another to
13 fail, to disclose a material fact,

14 and, as a result of such false statement or representation,
15 or of such nondisclosure, such person has received any
16 payment under this chapter to which the person was not
17 entitled, such person shall, in addition to any other pen-
18 alty provided by law, be ineligible for any further pay-
19 ments under this chapter.

20 “(c) NOTICE AND DETERMINATION.—Except for
21 overpayments determined by a court of competent jurisdic-
22 tion, no repayment may be required, and no deduction
23 may be made, under this section until a determination
24 under subsection (a)(1) by the Secretary has been made,
25 notice of the determination and an opportunity for a fair

1 hearing thereon has been given to the person concerned,
2 and the determination has become final.

3 “(d) PAYMENT TO TREASURY.—Any amount recov-
4 ered under this section shall be returned to the Treasury
5 of the United States.

6 “(e) PENALTIES.—Whoever makes a false statement
7 of a material fact knowing it to be false, or knowingly fails
8 to disclose a material fact, for the purpose of obtaining
9 or increasing for himself or for any other person any pay-
10 ment authorized to be furnished under this chapter shall
11 be fined not more than \$10,000 or imprisoned for not
12 more than 1 year, or both.

13 **“SEC. 299G. AUTHORIZATION OF APPROPRIATIONS.**

14 “(a) IN GENERAL.—There are authorized to be ap-
15 propriated and there are appropriated to the Department
16 of Commerce not to exceed \$10,000,000 for each of the
17 fiscal years 2002 through 2006 to carry out the purposes
18 of this chapter.

19 “(b) PROPORTIONATE REDUCTION.—If in any year,
20 the amount appropriated under this chapter is insufficient
21 to meet the requirements for adjustment assistance pay-
22 able under this chapter, the amount of assistance payable
23 under this chapter shall be reduced proportionately.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this title shall take effect on the date that is 180 days
3 after the date of enactment of this Act.

4 **TITLE VI—HEALTH INSURANCE**
5 **COVERAGE OPTIONS FOR IN-**
6 **DIVIDUALS ELIGIBLE FOR**
7 **TRADE ADJUSTMENT ASSIST-**
8 **ANCE**

9 **SEC. 601. PREMIUM ASSISTANCE FOR COBRA CONTINU-**
10 **ATION COVERAGE FOR INDIVIDUALS AND**
11 **THEIR FAMILIES.**

12 (a) ESTABLISHMENT.—Not later than 90 days after
13 the date of enactment of this Act, the Secretary of the
14 Treasury, in consultation with the Secretary of Labor,
15 shall establish a program under which 75 percent of the
16 premium for COBRA continuation coverage shall be pro-
17 vided for an eligible individual who is also eligible for
18 COBRA continuation coverage.

19 (b) LIMITATION OF PERIOD OF PREMIUM ASSIST-
20 ANCE.—Premium assistance provided in accordance with
21 this section shall end with respect to an eligible individual
22 on the earlier of—

23 (1) the date the eligible individual is no longer
24 covered under COBRA continuation coverage; or

1 (2) 12 months after the date the eligible indi-
2 vidual is first enrolled in the premium assistance
3 program established under this section.

4 (c) PAYMENT ARRANGEMENTS ; CREDITING OF AS-
5 SISTANCE.—

6 (1) PROVISION OF ASSISTANCE.—Premium as-
7 sistance shall be provided under the program estab-
8 lished under this section through direct payment ar-
9 rangements with a group health plan (including a
10 multiemployer plan), an issuer of health insurance
11 coverage, an administrator, or an employer as appro-
12 priate with respect to the eligible individual provided
13 such assistance.

14 (2) PREMIUMS PAYABLE BY INDIVIDUAL RE-
15 DUCED BY AMOUNT OF ASSISTANCE.—Premium as-
16 sistance provided under this section shall be credited
17 by the group health plan, issuer of health insurance
18 coverage, or an administrator against the premium
19 otherwise owed by the individual involved for
20 COBRA continuation coverage.

21 (d) PROGRAM REQUIREMENTS.—Premium assistance
22 shall be provided under the program established under this
23 section to any eligible individual (as defined in section
24 604(4)). An eligible individual may apply for such assist-
25 ance at any time during the period in which the individual

1 is entitled to apply for trade adjustment allowances under
2 section 235 of title II of the Trade Act of 1974.

3 (e) DISREGARD OF SUBSIDIES FOR PURPOSES OF
4 FEDERAL AND STATE PROGRAMS.—Notwithstanding any
5 other provision of law, any premium assistance provided
6 to, or on behalf of, an eligible individual under this section,
7 shall not be considered income or resources in determining
8 eligibility for, or the amount of assistance or benefits pro-
9 vided under, any other Federal public benefit or State or
10 local public benefit.

11 (f) CHANGE IN COBRA NOTICE.—

12 (1) GENERAL NOTICE.—

13 (A) IN GENERAL.—In the case of notices
14 provided under section 4980B(f)(6) of the In-
15 ternal Revenue Code of 1986, section 2206 of
16 the Public Health Service Act (42 U.S.C.
17 300bb-6), section 606 of the Employee Retire-
18 ment Income Security Act of 1974 (29 U.S.C.
19 1166), or section 8905a(f)(2)(A) of title 5,
20 United States Code, with respect to eligible in-
21 dividuals who become entitled to elect COBRA
22 continuation coverage under subsection (a),
23 such notices shall include an additional notifica-
24 tion to the recipient of the availability of pre-
25 mium assistance for such coverage under this

1 section and for temporary medicaid assistance
2 under section 602 for the remaining portion of
3 COBRA continuation premiums.

4 (B) ALTERNATIVE NOTICE.—In the case of
5 COBRA continuation coverage to which the no-
6 tice provision under such sections does not
7 apply, the Secretary of the Treasury, in con-
8 sultation with the Secretary of Labor, shall, in
9 coordination with administrators of the group
10 health plans (or other entities) that provide or
11 administer the COBRA continuation coverage
12 involved, assure the provision of such notice.

13 (C) FORM.—The requirement of the addi-
14 tional notification under this paragraph may be
15 met by amendment of existing notice forms or
16 by inclusion of a separate document with the
17 notice otherwise required.

18 (2) SPECIFIC REQUIREMENTS.—Each additional
19 notification under paragraph (1) shall include—

20 (A) the forms necessary for establishing
21 eligibility and enrollment in the premium assist-
22 ance program established under this section in
23 connection with the coverage with respect to
24 each eligible individual;

1 (B) the name, address, and telephone num-
2 ber necessary to contact the administrator and
3 any other person maintaining relevant informa-
4 tion in connection with the premium assistance;
5 and

6 (C) the following statement displayed in a
7 prominent manner:

8 "You may be eligible to receive assistance with pay-
9 ment of 75 percent of your COBRA continuation coverage
10 premiums and with temporary medicaid coverage for the
11 remaining premium portion for a duration of not to exceed
12 12 months."

13 (3) MODEL NOTICES.—Not later than 30 days
14 after the date of enactment of this Act, the Sec-
15 retary of the Treasury shall prescribe models for the
16 additional notification required under this sub-
17 section.

18 (g) REPORTS.—Beginning on January 1, 2002, and
19 annually thereafter, the Secretary of the Treasury shall
20 submit a report to Congress regarding the premium assist-
21 ance program established under this section that includes
22 the following:

23 (1) The status of the implementation of the
24 program.

1 (2) The number of eligible individuals provided
2 assistance under the program as of the date of the
3 report.

4 (3) The average dollar amount (monthly and
5 annually) of the premium assistance provided under
6 the program.

7 (4) The total amount of expenditures incurred
8 (with administrative expenditures noted separately)
9 under the program as of the date of the report.

10 (h) APPROPRIATION.—

11 (1) IN GENERAL.—Out of any funds in the
12 Treasury not otherwise appropriated, there is appro-
13 priated to carry out this section, such sums as are
14 necessary for each of fiscal years 2002 through
15 2006.

16 (2) OBLIGATION OF FUNDS.—This section con-
17 stitutes budget authority in advance of appropria-
18 tions Acts and represents the obligation of the Fed-
19 eral Government to provide for the payment of pre-
20 mium assistance under this section.

21 **SEC. 602. STATE OPTION TO PROVIDE TEMPORARY MED-**
22 **ICAID COVERAGE FOR CERTAIN UNINSURED**
23 **INDIVIDUALS.**

24 (a) STATE OPTION.—Notwithstanding any other pro-
25 vision of law, a State may elect to provide under its med-

1 icaid program under title XIX of the Social Security Act

2 medical assistance in the case of an individual who is—

3 (1) an eligible individual as defined in section
4 604(4);

5 (2) not eligible for COBRA continuation cov-
6 erage;

7 (3) otherwise uninsured; and

8 (4) whose assets, resources, and earned or un-
9 earned income (or both) do not exceed such limita-
10 tions (if any) as the State may establish.

11 (b) LIMITATION OF PERIOD OF COVERAGE.—Medical
12 assistance provided in accordance with this section shall
13 end with respect to an individual on the earlier of—

14 (1) the date the individual is no longer unin-
15 sured; or

16 (2) subject to subsection (c)(4), 12 months
17 after the date the individual first receives such as-
18 sistance.

19 (c) SPECIAL RULES.—In the case of medical assist-
20 ance provided under this section—

21 (1) the Federal medical assistance percentage
22 under section 1905(b) of the Social Security Act (42
23 U.S.C. 1396d(b)) shall be the enhanced FMAP (as
24 defined in section 2105(b) of such Act (42 U.S.C.
25 1397ee(b)));

1 (2) a State may elect to apply any income,
2 asset, or resource limitation permitted under the
3 State medicaid plan or under title XIX of such Act;

4 (3) the provisions of section 1916(g) of the So-
5 cial Security Act (42 U.S.C. 1396o) shall apply to
6 the provision of such assistance in the same manner
7 as the provisions of such section apply with respect
8 to individuals provided medical assistance only under
9 subclause (XV) or (XVI) of section
10 1902(a)(10)(A)(ii) of such Act (42 U.S.C.
11 1396a(a)(10)(A)(ii));

12 (4) a State may elect to provide such assistance
13 in accordance with section 1902(a)(34) of the Social
14 Security Act (42 U.S.C. 1396a(a)(34)) and any as-
15 sistance provided with respect to a month described
16 in that section shall not be included in the deter-
17 mination of the 12-month period under subsection
18 (b)(2);

19 (5) a State may elect to make eligible for such
20 medical assistance a dependent spouse or children of
21 an individual eligible for medical assistance under
22 subsection (a), if such spouse or children are unin-
23 sured;

24 (6) individuals eligible for medical assistance
25 under this section shall be deemed to be described

1 in the list of individuals described in the matter pre-
2 ceding paragraph (1) of section 1905(a) of such Act
3 (42 U.S.C. 1396d(a));

4 (7) a State may elect to provide such medical
5 assistance without regard to any limitation under
6 sections 401(a), 402(b), 403, and 421 of the Per-
7 sonal Responsibility and Work Opportunity Rec-
8 onciliation Act of 1996 (8 U.S.C. 1611(a), 1612(b),
9 1613, and 1631) and no debt shall accrue under an
10 affidavit of support against any sponsor of an indi-
11 vidual who is an alien who is provided such assist-
12 ance, and the cost of such assistance shall not be
13 considered as an unreimbursed cost; and

14 (8) the Secretary of Health and Human Serv-
15 ices shall not count, for purposes of section 1108(f)
16 of the Social Security Act (42 U.S.C. 1308(f)), such
17 amount of payments under this section as bears a
18 reasonable relationship to the average national pro-
19 portion of payments made under this section for the
20 50 States and the District of Columbia to the pay-
21 ments otherwise made under title XIX for such
22 States and District.

1 **SEC. 603. STATE OPTION TO PROVIDE TEMPORARY COV-**
2 **ERAGE UNDER MEDICAID FOR THE UNSUB-**
3 **SIDIZED PORTION OF COBRA CONTINUATION**
4 **PREMIUMS.**

5 (a) STATE OPTION.—

6 (1) IN GENERAL.—Notwithstanding any other
7 provision of law, a State may elect to provide under
8 its medicaid program under title XIX of the Social
9 Security Act medical assistance in the form of pay-
10 ment for the portion of the premium for COBRA
11 continuation coverage for which an eligible individual
12 does not receive a subsidy under the premium assist-
13 ance program established under section 601 in the
14 case of an eligible individual—

15 (A) who is also eligible for, and has elected
16 coverage under, COBRA continuation coverage;

17 (B) who is receiving premium assistance
18 under the program established under section
19 601; and

20 (C) whose family income does not exceed
21 200 percent of the poverty line.

22 (b) LIMITATION OF PERIOD OF COVERA GE.—Medical
23 assistance provided in accordance with this section shall
24 end with respect to an individual on the earlier of—

25 (1) the date the eligible individual is no longer
26 covered under COBRA continuation coverage; or

1 (2) 12 months after the date the eligible indi-
2 vidual first receives such assistance under this sec-
3 tion.

4 (c) SPECIAL RULES.—In the case of medical assist-
5 ance provided under this section—

6 (1) such assistance may be provided without re-
7 gard to—

8 (A) whether the State otherwise has elect-
9 ed to make medical assistance available for
10 COBRA premiums under section
11 1902(a)(10)(F) of the Social Security Act (42
12 U.S.C. 1396a(a)(10)(F)); or

13 (B) the conditions otherwise imposed for
14 the provision of medical assistance for such
15 COBRA premiums under clause (XII) of the
16 matter following section 1902(a)(10)(G) of the
17 Social Security Act (42 U.S.C.
18 1396a(a)(10)(G)), or paragraphs (1)(B),
19 (1)(C), (1)(D), and (4) of section 1902(u) of
20 such Act (42 U.S.C. 1396a(u)); and

21 (2) paragraphs (1), (2), (4), (5), (7), and (8)
22 of subsection (c) of section 602 apply to such assist-
23 ance in the same manner as such paragraphs apply
24 to the provision of medical assistance under that sec-
25 tion.

1 **SEC. 604. DEFINITIONS.**

2 In this title:

3 (1) **ADMINISTRATOR.**—The term “adminis-
4 trator” has the meaning given that term in section
5 3(16)(A) of the Employee Retirement Income Secu-
6 rity Act of 1974 (29 U.S.C. 1002(16)(A)).

7 (2) **COBRA CONTINUATION COVERAGE.**—

8 (A) **IN GENERAL.**—The term “COBRA
9 continuation coverage” means coverage under a
10 group health plan provided by an employer pur-
11 suant to title XXII of the Public Health Service
12 Act, section 4980B of the Internal Revenue
13 Code of 1986, part 6 of subtitle B of title I of
14 the Employee Retirement Income Security Act
15 of 1974, or section 8905a of title 5, United
16 States Code.

17 (B) **APPLICATION IN STATES REQUIRING**
18 **COVER AGE.**—Such term includes continuation
19 coverage provided in a State that has enacted
20 a law that requires such continuation coverage
21 even though the continuation coverage would
22 not otherwise be required under the provisions
23 of law referred to in subparagraph (A).

24 (3) **ELIGIBLE INDIVIDUAL.**—For purposes of
25 this section, the term “eligible individual” means
26 any individual who is a member of a group of work-

1 ers certified as eligible to apply for adjustment as-
2 sistance under chapter 2 of title II of the Trade Act
3 of 1974 (19 U.S.C. 221, et seq.).

4 (4) FEDERAL PUBLIC BENEFIT.—The term
5 “Federal public benefit” has the meaning given that
6 term in section 401(c) of the Personal Responsibility
7 and Work Opportunity Reconciliation Act of 1996 (8
8 U.S.C. 1611(c)).

9 (5) GROUP HEALTH PLAN.—The term “group
10 health plan” has the meaning given that term in sec-
11 tion 2791(a) of the Public Health Service Act (42
12 U.S.C. 300gg-91(a)), section 607(1) of the Em-
13 ployee Retirement Income Security Act of 1974 (29
14 U.S.C. 1167(1)), and section 4980B(g)(2) of the In-
15 ternal Revenue Code of 1986.

16 (6) HEALTH INSURANCE COVERA GE.—The term
17 “health insurance coverage” has the meaning given
18 that term in section 2791(b)(1) of the Public Health
19 Service Act (42 U.S.C. 300gg-91(b)(1)).

20 (7) MULTIEMPLOYER PLAN.—The term “multi-
21 employer plan” has the meaning given that term in
22 section 3(37) of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1002(37)).

24 (8) POVERTY LINE.—The term “poverty line”
25 has the meaning given that term in section

1 2110(c)(5) of the Social Security Act (42 U.S.C.
2 1397jj(c)(5)).

3 (9) STATE.—The term “State” has the mean-
4 ing given such term for purposes of title XIX of the
5 Social Security Act (42 U.S.C. 1396 et seq.).

6 (10) STATE OR LOCAL PUBLIC BENEFIT.—The
7 term “State or local public benefit” has the meaning
8 given that term in section 411(c) of the Personal
9 Responsibility and Work Opportunity Reconciliation
10 Act of 1996 (8 U.S.C. 1621(c)).

11 (11) UNINSURED.—

12 (A) IN GENERAL.—The term “uninsured”
13 means, with respect to an individual, that the
14 individual is not covered under—

15 (i) a group health plan;
16 (ii) health insurance coverage; or
17 (iii) a program under title XVIII,
18 XIX, or XXI of the Social Security Act
19 (other than under such title XIX pursuant
20 to section 602).

21 (B) EXCLUSION.—Such coverage under
22 clause (i) or (ii) shall not include coverage con-
23 sisting solely of coverage of excepted benefits
24 (as defined in section 2791(c) of the Public
25 Health Service Act (42 U.S.C. 300gg-91(c)).

1 **TITLE** **VII—CONFORMING**
2 **AMENDMENTS AND EFFEC-**
3 **TIVE DATE**

4 **SEC. 701. CONFORMING AMENDMENTS.**

5 (a) AMENDMENTS TO THE TRADE ACT OF 1974.—

6 (1) ASSISTANCE TO INDUSTRIES.—Section 265
7 of the Trade Act of 1974 (19 U.S.C. 2355) is
8 amended by striking “certified as eligible to apply
9 for adjustment assistance under sections 231 or
10 251”, and inserting “certified as eligible for trade
11 adjustment assistance benefits under section 231, or
12 as eligible to apply for adjustment assistance under
13 section 251”.

14 (2) GENERAL ACCOUNTING OFFICE REPORT.—
15 Section 280(a) of the Trade Act of 1974 is amended
16 by striking “January 31, 1980” and inserting “Jan-
17 uary 31, 2004”.

18 (3) JUDICIAL REVIEW.—Section 284(a) of the
19 Trade Act of 1974 (19 U.S.C. 2395(a)) is amended
20 by striking “under section 223 or section 250(c)”
21 and all that follows through “the Secretary of Com-
22 merce under section 271” and inserting “under sec-
23 tion 231, a firm or its representative, or any other
24 interested domestic party aggrieved by a final deter-
25 mination of the Secretary of Commerce under sec-

1 **TITLE** **VII—CONFORMING**
2 **AMENDMENTS AND EFFEC-**
3 **TIVE DATE**

4 **SEC. 701. CONFORMING AMENDMENTS.**

5 (a) AMENDMENTS TO THE TRADE ACT OF 1974.—

6 (1) ASSISTANCE TO INDUSTRIES.—Section 265
7 of the Trade Act of 1974 (19 U.S.C. 2355) is
8 amended by striking “certified as eligible to apply
9 for adjustment assistance under sections 231 or
10 251”, and inserting “certified as eligible for trade
11 adjustment assistance benefits under section 231, or
12 as eligible to apply for adjustment assistance under
13 section 251”.

14 (2) GENERAL ACCOUNTING OFFICE REPORT.—
15 Section 280(a) of the Trade Act of 1974 is amended
16 by striking “January 31, 1980” and inserting “Jan-
17 uary 31, 2004”.

18 (3) JUDICIAL REVIEW.—Section 284(a) of the
19 Trade Act of 1974 (19 U.S.C. 2395(a)) is amended
20 by striking “under section 223 or section 250(c)”
21 and all that follows through “the Secretary of Com-
22 merce under section 271” and inserting “under sec-
23 tion 231, a firm or its representative, or any other
24 interested domestic party aggrieved by a final deter-
25 mination of the Secretary of Commerce under sec-

1 tion 251, a farmer aggrieved by a determination of
2 the Secretary of Agriculture under section 292, a
3 fisherman aggrieved by a determination of the Sec-
4 retary of Commerce under section 229A, or a com-
5 munity or any other interested domestic party ag-
6 grieved by a final determination of the Director of
7 the Office of Community Trade Adjustment under
8 section 273”.

9 (4) TERMINATION.—Section 285 of the Trade
10 Act of 1974 is amended to read as follows:

11 **“SEC. 285. TERMINATION.**

12 **“(a) ASSISTANCE FOR WORKERS.—**

13 **“(1) IN GENERAL.—**Except as provided in para-
14 graph (2), trade adjustment assistance, vouchers, al-
15 lowances, and other payments or benefits may not be
16 provided under chapter 2 after September 30, 2006.

17 **“(2) EXCEPTION.—**Notwithstanding subsection
18 (a)(1), a worker shall continue to receive trade ad-
19 justment assistance benefits and other benefits
20 under chapter 2 for any week for which the worker
21 meets the eligibility requirements of that chapter, if
22 on or before September 30, 2006, the worker is—

23 **“(A)** certified as eligible for trade adjust-
24 ment assistance benefits under section 231; and

1 “(B) is otherwise eligible to receive trade
2 adjustment assistance benefits under chapter 2.

3 “(b) OTHER ASSISTANCE.—

4 “(1) ASSISTANCE FOR FIRMS.—Technical as-
5 sistance may not be provided under chapter 3 after
6 September 30, 2006.

7 “(2) ASSISTANCE FOR COMMUNITIES.—Tech-
8 nical assistance and other payments may not be pro-
9 vided under chapter 4 after September 30, 2006.”.

10 (5) TABLE OF CONTENTS.—

11 (A) IN GENERAL.—The table of contents
12 for chapters 2, 3, and 4 of title II of the Trade
13 Act of 1974 is amended to read as follows:

“CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

“SUBCHAPTER A—GENERAL PROVISIONS

“Sec. 221. Definitions.

“Sec. 222. Agreements with States.

“Sec. 223. Administration absent State agreement.

“Sec. 224. Data collection; evaluations; reports.

“Sec. 225. Study by Secretary of Labor when International Trade Com-
mission begins investigation.

“SUBCHAPTER B—CERTIFICATIONS

“Sec. 231. Certification as adversely affected workers.

“Sec. 232. Benefit information to workers.

“SUBCHAPTER C—PROGRAM BENEFITS

“PART I—GENERAL PROVISIONS

“Sec. 234. Comprehensive assistance.

“PART II—TRADE ADJUSTMENT ALLOWANCES

“Sec. 235. Qualifying requirements for workers.

“Sec. 236. Weekly amounts.

“Sec. 237. Limitations on trade adjustment allowances.

“Sec. 238. Application of State laws.

"PART III—EMPLOYMENT SERVICES, TRAINING, AND OTHER ALLOWANCES

- "Sec. 239. Employment services.
- "Sec. 240. Training.
- "Sec. 241. Job search allowances.
- "Sec. 242. Relocation allowances.
- "Sec. 243. Supportive services.

"SUBCHAPTER D—PAYMENT AND ENFORCEMENT PROVISIONS

- "Sec. 244. Payments to States.
- "Sec. 245. Liabilities of certifying and disbursing officers.
- "Sec. 246. Fraud and recovery of overpayments.
- "Sec. 247. Criminal penalties.
- "Sec. 248. Authorization of appropriations.
- "Sec. 249. Regulations.
- "Sec. 250. Subpoena power.

"CHAPTER 3—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

- "Sec. 251. Petitions and determinations.
- "Sec. 252. Approval of adjustment proposals.
- "Sec. 253. Technical assistance.
- "Sec. 254. Financial assistance.
- "Sec. 255. Conditions for financial assistance.
- "Sec. 256. Delegation of functions to Small Business Administration; authorization of appropriations.
- "Sec. 257. Administration of financial assistance.
- "Sec. 258. Protective provisions.
- "Sec. 259. Penalties.
- "Sec. 260. Suits.
- "Sec. 261. Definition of firm.
- "Sec. 262. Regulations.
- "Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is affirmative finding.
- "Sec. 265. Assistance to industries.

"CHAPTER 4—COMMUNITY ECONOMIC ADJUSTMENT

- "Sec. 271. Definitions.
- "Sec. 272. Office of Community Trade Adjustment.
- "Sec. 273. Notification and certification as an eligible community.
- "Sec. 274. Community Economic Development Coordinating Committee.
- "Sec. 275. Community economic adjustment advisors.
- "Sec. 276. Strategic plans.
- "Sec. 277. Grants for economic development.
- "Sec. 278. Authorization of appropriations.
- "Sec. 279. General Provisions."

1 (B) CHAPTERS 6 AND 7.—The table of
2 contents for title II of the Trade Act of 1974,
3 as amended by subparagraph (A), is amended

1 by inserting after the items relating to chapter
2 5 the following:

“CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

- “Sec. 291. Definitions.
- “Sec. 292. Petitions; group eligibility.
- “Sec. 293. Determinations by Secretary.
- “Sec. 294. Study by Secretary when International Trade Commission begins investigation.
- “Sec. 295. Benefit information to agricultural commodity producers.
- “Sec. 296. Qualifying requirements for agricultural commodity producers.
- “Sec. 297. Fraud and recovery of overpayments.
- “Sec. 298. Authorization of appropriations.

“CHAPTER 7—ADJUSTMENT ASSISTANCE FOR FISHERMEN

- “Sec. 299. Definitions.
- “Sec. 299A. Petitions; group eligibility.
- “Sec. 299B. Determinations by Secretary.
- “Sec. 299C. Study by Secretary when International Trade Commission begins investigation.
- “Sec. 299D. Benefit information to producers.
- “Sec. 299E. Qualifying requirements for producers.
- “Sec. 299F. Fraud and recovery of overpayments.
- “Sec. 299G. Authorization of appropriations.”

- 3 (b) INTERNAL REVENUE CODE.—
- 4 (1) ADJUSTED GROSS INCOME.—Section
- 5 62(a)(12) of the Internal Revenue Code of 1986 (re-
- 6 lating to the definition of adjusted gross income) is
- 7 amended by striking “trade readjustment allowances
- 8 under section 231 or 232” and inserting “trade ad-
- 9 justment allowances under section 235 or 236”.
- 10 (2) FEDERAL UNEMPLOYMENT.—
- 11 (A) IN GENERAL.—Section 3304(a)(8) of
- 12 the Internal Revenue Code of 1986 (relating to
- 13 the approval of State unemployment insurance
- 14 laws) is amended to read as follows:

1 “(8) compensation shall not be denied to an in-
2 dividual for any week because the individual is in
3 training with the approval of the State agency, or in
4 training approved by the Secretary of Labor pursu-
5 ant to chapter 2 of title II of the Trade Act of 1974
6 (or because of the application, to any such week in
7 training, of State law provisions relating to avail-
8 ability for work, active search for work, or refusal to
9 accept work);”.

10 (B) EFFECTIVE DATE.—

11 (i) IN GENERAL.—Except as provided
12 in clause (ii), the amendments made by
13 this paragraph shall apply in the case of
14 compensation paid for weeks beginning on
15 or after the date that is 90 days after the
16 date of enactment of this Act.

17 (ii) MEETING OF STATE LEGISLA-
18 TURE.—

19 (I) IN GENERAL.—If the Sec-
20 retary of Labor identifies a State as
21 requiring a change to its statutes or
22 regulations in order to comply with
23 the amendments made by subpara-
24 graph (A), the amendments made by
25 subparagraph (A) shall apply in the

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1 case of compensation paid for weeks
2 beginning after the earlier of—

3 (aa) the date the State
4 changes its statutes or regula-
5 tions in order to comply with the
6 amendments made by this sec-
7 tion; or

8 (bb) the end of the first ses-
9 sion of the State legislature
10 which begins after the date of en-
11 actment of this Act or which
12 began prior to such date and re-
13 mained in session for at least 25
14 calendar days after such date;

15 except that in no case shall the
16 amendments made by this Act apply
17 before the date described in clause (i).

18 (II) SESSION DEFINED.—In this
19 clause, the term “session” means a
20 regular, special, budget, or other ses-
21 sion of a State legislature.

22 (c) AMENDMENTS TO TITLE 28.—

23 (1) CIVIL ACTIONS AGAINST THE UNITED
24 STATES.—Section 1581(d) of title 28, United States
25 Code, is amended—

1 (A) in paragraph (1), by striking “section
2 223” and inserting “section 231”; and

3 (B) in paragraph (3), by striking “section
4 271” and inserting “section 273”.

5 (2) PERSONS ENTITLED TO COMMENCE A CIVIL
6 ACTION.—Section 2631 of title 28, United States
7 Code, is amended—

8 (A) by amending subsection (d)(1) to read
9 as follows:

10 “(d)(1) A civil action to review any final determina-
11 tion of the Secretary of Labor under section 231 of the
12 Trade Act of 1974 with respect to the certification of
13 workers as adversely affected and eligible for trade adjust-
14 ment assistance under that Act may be commenced by a
15 worker, a group of workers, a certified or recognized
16 union, or an authorized representative of such worker or
17 group, that petitions for certification under that Act and
18 is aggrieved by the final determination.”; and

19 (B) in subsection (d)(3), by striking “Sec-
20 retary of Commerce under section 271” and in-
21 serting “Director of the Office of Community
22 Trade Adjustment under section 273”.

23 (3) TIME FOR COMMENCEMENT OF ACTION.—
24 Section 2636(d) of title 28, United States Code, is
25 amended by striking “under section 223 of the

1 Trade Act of 1974 or a final determination of the
2 Secretary of Commerce under section 251 or section
3 271 of such Act” and inserting “under section 231
4 of the Trade Act of 1974, a final determination of
5 the Secretary of Commerce under section 251 of
6 that Act, or a final determination of the Director of
7 the Office of Community Trade Adjustment under
8 section 273 of that Act”.

9 (4) SCOPE AND STANDARD OF REVIEW.—Sec-
10 tion 2640(c) of title 28, United States Code, is
11 amended by striking “under section 223 of the
12 Trade Act of 1974 or any final determination of the
13 Secretary of Commerce under section 251 or section
14 271 of such Act” and inserting “under section 231
15 of the Trade Act of 1974, a final determination of
16 the Secretary of Commerce under section 251 of
17 that Act, or a final determination of the Director of
18 the Office of Community Trade Adjustment under
19 section 273 of that Act”.

20 (5) RELIEF.—Section 2643(c)(2) of title 28,
21 United States Code, is amended by striking “under
22 section 223 of the Trade Act of 1974 or any final
23 determination of the Secretary of Commerce under
24 section 251 or section 271 of such Act” and insert-
25 ing “under section 231 of the Trade Act of 1974,

1 a final determination of the Secretary of Commerce
2 under section 251 of that Act, or a final determina-
3 tion of the Director of the Office of Community
4 Trade Adjustment under section 273 of that Act”.

5 (d) AMENDMENT TO THE FOOD STAMP ACT OF
6 1977.—Section 6(o)(1)(B) of the Food Stamp Act of 1977
7 (7 U.S.C. 2015(o)(1)(B)) is amended by striking “section
8 236” and inserting “section 240”.

9 **TITLE VIII—SAVINGS PROVI-**
10 **SIONS AND EFFECTIVE DATE**

11 **SEC. 801. SAVINGS PROVISIONS.**

12 (a) PROCEEDINGS NOT AFFECTED.—

13 (1) IN GENERAL.—The provisions of this Act
14 shall not affect any petition for certification for ben-
15 efits under chapter 2 of title II of the Trade Act of
16 1974 that is in effect on September 30, 2001. De-
17 terminations shall be issued, appeals shall be taken
18 therefrom, and payments shall be made under those
19 determinations, as if this Act had not been enacted,
20 and orders issued in any proceeding shall continue
21 in effect until modified, terminated, superseded, or
22 revoked by a duly authorized official, by a court of
23 competent jurisdiction, or by operation of law.

24 (2) MODIFICATION OR DISCONTINUANCE.—

25 Nothing in this subsection shall be deemed to pro-

1 hibit the discontinuance or modification of any pro-
2 ceeding under the same terms and conditions and to
3 the same extent that the proceeding could have been
4 discontinued or modified if this Act had not been en-
5 acted.

6 (b) **SUITS NOT AFFECTED.**—The provisions of this
7 Act shall not affect any suit commenced before October
8 1, 2001, and in all those suits, proceedings shall be had,
9 appeals taken, and judgments rendered in the same man-
10 ner and with the same effect as if this Act had not been
11 enacted.

12 (c) **NONABATEMENT OF ACTIONS.**—No suit, action,
13 or other proceeding commenced by or against the Federal
14 Government, or by or against any individual in the official
15 capacity of that individual as an officer of the Federal
16 Government, shall abate by reason of enactment of this
17 Act.

18 **SEC. 802. EFFECTIVE DATE.**

19 (a) **IN GENERAL.**—Except as otherwise provided in
20 sections 401(b), 501(b), and 701(b)(2)(B), and subsection
21 (b) of this section, the amendments made by this Act shall
22 apply to—

23 (1) petitions for certification filed under chapter
24 2 or 3 of title II of the Trade Act of 1974 on or

1 after the date that is 90 days after the date of en-
2 actment of this Act;

3 (2) petitions for certification filed under chapter
4 2 or 3 of title II of the Trade Act of 1974 before
5 the date that is 90 days after the date of enactment
6 of this Act, that are pending on such date; and

7 (3) certifications for assistance under chapter 4
8 of title II of the Trade Act of 1974 issued on or
9 after the date that is 90 days after the date of en-
10 actment of this Act.

11 (b) WORKERS CERTIFIED AS ELIGIBLE BEFORE EF-
12 FECTIVE DATE.—Notwithstanding subsection (a), a work-
13 er shall continue to receive (or be eligible to receive) trade
14 adjustment assistance and other benefits under chapter 2
15 of title II of the Trade Act of 1974, as in effect on the
16 day before the effective date of this Act, for any week for
17 which the worker meets the eligibility requirements of such
18 chapter II as in effect on such date, if on or before such
19 date, the worker—

20 (1) was certified as eligible for trade adjust-
21 ment assistance benefits under such chapter as in
22 effect on such date; and

23 (2) would otherwise be eligible to receive trade
24 adjustment assistance benefits under such chapter
25 as in effect on such date.

The first part of the document
 discusses the general principles
 of the proposed system.
 It is intended to provide a
 clear and concise summary
 of the main points.
 The second part of the document
 contains a detailed description
 of the various components
 and their functions.
 This section is intended to
 provide a comprehensive
 overview of the system's
 architecture and design.
 The third part of the document
 discusses the implementation
 details and the results of
 the testing process.
 It includes a comparison of
 the proposed system with
 existing solutions and a
 discussion of the advantages
 and disadvantages of the
 proposed approach.

Calendar No. _____

107TH CONGRESS
1ST SESSION**H.R. 3009**

[Report No. 107-____]

IN THE SENATE OF THE UNITED STATES

NOVEMBER ____ (legislative day, _____), 2001

Reported by Mr. BAUCUS, with an amendment

[Omit the part struck through and insert the part printed in italic]

A BILL

To extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes:

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Andean Trade Pro-
5 motion and Drug Eradication Act".

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Since the Andean Trade Preference Act was
2 enacted in 1991, it has had a positive impact on
3 United States trade with Bolivia, Colombia, Ecua-
4 dor, and Peru. Two-way trade has doubled, with the
5 United States serving as the leading source of im-
6 ports and leading export market for each of the An-
7 dean beneficiary countries. This has resulted in in-
8 creased jobs and expanded export opportunities in
9 both the United States and the Andean region.

10 (2) The Andean Trade Preference Act has been
11 a key element in the United States counternarcotics
12 strategy in the Andean region, promoting export di-
13 versification and broad-based economic development
14 that provides sustainable economic alternatives to
15 drug-crop production, strengthening the legitimate
16 economies of Andean countries and creating viable
17 alternatives to illicit trade in coca.

18 (3) Notwithstanding the success of the Andean
19 Trade Preference Act, the Andean region remains
20 threatened by political and economic instability and
21 fragility, vulnerable to the consequences of the drug
22 war and fierce global competition for its legitimate
23 trade.

24 (4) The continuing instability in the Andean re-
25 gion poses a threat to the security interests of the

1 United States and the world. This problem has been
2 partially addressed through foreign aid, such as Plan
3 Colombia, enacted by Congress in 2000. However,
4 foreign aid alone is not sufficient. Enhancement of
5 legitimate trade with the United States provides an
6 alternative means for reviving and stabilizing the
7 economies in the Andean region.

8 (5) The Andean Trade Preference Act con-
9 stitutes a tangible commitment by the United States
10 to the promotion of prosperity, stability, and democ-
11 racy in the beneficiary countries.

12 (6) Renewal and enhancement of the Andean
13 Trade Preference Act will bolster the confidence of
14 domestic private enterprise and foreign investors in
15 the economic prospects of the region, ensuring that
16 legitimate private enterprise can be the engine of
17 economic development and political stability in the
18 region.

19 (7) Each of the Andean beneficiary countries is
20 committed to conclude negotiation of a Free Trade
21 Area of the Americas by the year 2005, as a means
22 of enhancing the economic security of the region.

23 (8) Temporarily enhancing trade benefits for
24 Andean beneficiary countries will promote the
25 growth of free enterprise and economic opportunity

1 in these countries and serve the security interests of
2 the United States, the region, and the world.

3 **SEC. 3. ARTICLES ELIGIBLE FOR PREFERENTIAL TREAT-**
4 **MENT.**

5 (a) **ELIGIBILITY OF CERTAIN ARTICLES.**—Section
6 204 of the Andean Trade Preference Act (19 U.S.C.
7 3203) is amended—

8 (1) by striking subsection (e) and redesignating
9 subsections (d) through (g) as subsections (e)
10 through (f), respectively; and

11 (2) by amending subsection (b) to read as fol-
12 lows:

13 **“(b) EXCEPTIONS AND SPECIAL RULES.—**

14 **“(1) CERTAIN ARTICLES THAT ARE NOT IM-**
15 **PORT-SENSITIVE.**—The President may proclaim
16 duty-free treatment under this title for any article
17 described in subparagraph (A), (B), (C), or (D) that
18 is the growth, product, or manufacture of an
19 ~~ATPDEA~~ beneficiary country and that meets the re-
20 quirements of this section, if the President deter-
21 mines that such article is not import-sensitive in the
22 context of imports from ~~ATPDEA~~ beneficiary coun-
23 tries:

24 **“(A) Footwear not designated at the time**
25 **of the effective date of this Act as eligible for**

1 the purpose of the generalized system of pref-
2 erences under title V of the Trade Act of 1974.

3 “(B) Petroleum, or any product derived
4 from petroleum, provided for in headings 2709
5 and 2710 of the HTS.

6 “(C) Watches and watch parts (including
7 cases, bracelets and straps), of whatever type
8 including, but not limited to, mechanical, quartz
9 digital or quartz analog, if such watches or
10 watch parts contain any material which is the
11 product of any country with respect to which
12 HTS column 2 rates of duty apply.

13 “(D) Handbags, luggage, flat goods, work
14 gloves, and leather wearing apparel that were
15 not designated on August 5, 1982, as eligible
16 articles for purposes of the generalized system
17 of preferences under title V of the Trade Act of
18 1974.

19 “(2) EXCLUSIONS.—Subject to paragraph (3),
20 duty-free treatment under this title may not be ex-
21 tended to—

22 “(A) textiles and apparel articles which
23 were not eligible articles for purposes of this
24 title on January 1, 1994, as this title was in ef-
25 fect on that date.

1 “(B) rum and tafia classified in sub-
2 heading 2208.40 of the HTS; or

3 “(C) sugars, syrups, and sugar-containing
4 products subject to over-quota duty rates under
5 applicable tariff-rate quotas.

6 “(3) APPAREL ARTICLES.—

7 “(A) IN GENERAL.—Apparel articles that
8 are imported directly into the customs territory
9 of the United States from an ATPDEA bene-
10 ficiary country shall enter the United States
11 free of duty and free of any quantitative restric-
12 tions, limitations, or consultation levels, but
13 only if such articles are described in subpara-
14 graph (B).

15 “(B) COVERED ARTICLES.—The apparel
16 articles referred to in subparagraph (A) are the
17 following:

18 “(i) APPAREL ARTICLES ASSEMBLED
19 FROM PRODUCTS OF THE UNITED STATES
20 AND ATPDEA BENEFICIARY COUNTRIES OR
21 PRODUCTS NOT AVAILABLE IN COMMER-
22 CIAL QUANTITIES.—Apparel articles sewn
23 or otherwise assembled in 1 or more
24 ATPDEA beneficiary countries, or the
25 United States, or both, exclusively from

1 any one or any combination of the fol-
2 lowing:

3 (I) Fabrics or fabric compo-
4 nents formed, or components knit-to-
5 shape, in the United States, from
6 yarns formed in the United States or
7 1 or more ATPDEA beneficiary coun-
8 tries (including fabrics not formed
9 from yarns, if such fabrics are classi-
10 fiable under heading 5602 or 5603 of
11 the HTS and are formed in the
12 United States).

13 (II) Fabrics or fabric compo-
14 nents formed or components knit-to-
15 shape, in 1 or more ATPDEA bene-
16 ficiary countries, from yarns formed
17 in 1 or more ATPDEA beneficiary
18 countries, if such fabrics (including
19 fabrics not formed from yarns, if such
20 fabrics are classifiable under heading
21 5602 or 5603 of the HTS and are
22 formed in 1 or more ATPDEA bene-
23 ficiary countries) or components are
24 in chief weight of llama or alpaca.

8

1 “(III) Fabrics or yarn that is not
2 formed in the United States or in one
3 or more ATPDEA beneficiary coun-
4 tries; to the extent that apparel arti-
5 cles of such fabrics or yarn would be
6 eligible for preferential treatment;
7 without regard to the source of the
8 fabrics or yarn; under Annex 101 of
9 the NAFTA.

10 “(ii) ADDITIONAL FABRICS.—At the
11 request of any interested party, the Presi-
12 dent is authorized to proclaim additional
13 fabrics and yarns as eligible for pref-
14 erential treatment under clause (i)(III)
15 if—

16 “(I) the President determines
17 that such fabrics or yarns cannot be
18 supplied by the domestic industry in
19 commercial quantities in a timely
20 manner;

21 “(II) the President has obtained
22 advice regarding the proposed action
23 from the appropriate advisory com-
24 mittee established under section 135
25 of the Trade Act of 1974 (19 U.S.C.

1 2155) and the United States Inter-
2 national Trade Commission:

3 "(III) within 60 days after the
4 request, the President has submitted
5 a report to the Committee on Ways
6 and Means of the House of Rep-
7 resentatives and the Committee on Fi-
8 nance of the Senate that sets forth
9 the action proposed to be proclaimed
10 and the reasons for such action, and
11 the advice obtained under subclause
12 (II);

13 "(IV) a period of 60 calendar
14 days, beginning with the first day on
15 which the President has met the re-
16 quirements of subclause (III), has ex-
17 pired; and

18 "(V) the President has consulted
19 with such committees regarding the
20 proposed action during the period re-
21 ferred to in subclause (III).

22 "(iii) APPAREL ARTICLES ASSEMBLED
23 IN + OR MORE ATPDEA BENEFICIARY
24 COUNTRIES FROM REGIONAL FABRICS OR
25 REGIONAL COMPONENTS.—(I) Subject to

1 the limitation set forth in subclause (II),
2 apparel articles sewn or otherwise assem-
3 bled in 1 or more ATPDEA beneficiary
4 countries from fabrics or from fabric com-
5 ponents formed or from components knit-
6 to-shape, in 1 or more ATPDEA bene-
7 fiary countries, from yarns formed in the
8 United States or 1 or more ATPDEA ben-
9 eficiary countries (including fabrics not
10 formed from yarns, if such fabrics are clas-
11 sifiable under heading 5602 or 5603 of the
12 HTS and are formed in 1 or more
13 ATPDEA beneficiary countries), whether
14 or not the apparel articles are also made
15 from any of the fabrics, fabric components
16 formed, or components knit-to-shape de-
17 scribed in clause (i).

18 (II) The preferential treatment re-
19 ferred to in subclause (I) shall be extended
20 in the 1-year period beginning December
21 1, 2001, and in each of the 5 succeeding
22 1-year periods, to imports of apparel arti-
23 cles in an amount not to exceed the appli-
24 cable percentage of the aggregate square
25 meter equivalents of all apparel articles im-

1 ported into the United States in the pre-
2 ceding 12-month period for which data are
3 available.

4 “(III) For purposes of subclause (II),
5 the term ‘applicable percentage’ means 3
6 percent for the 1-year period beginning
7 December 1, 2001, increased in each of the
8 5 succeeding 1-year periods by equal incre-
9 ments, so that for the period beginning
10 December 1, 2005, the applicable percent-
11 age does not exceed 6 percent.

12 “(iv) ~~HANDLOOMED, HANDMADE, AND~~
13 ~~FOLKLORE ARTICLES.~~—A handloomed,
14 handmade, or folklore article of an
15 ATPDEA beneficiary country identified
16 under subparagraph (C) that is certified as
17 such by the competent authority of such
18 beneficiary country.

19 “(v) ~~SPECIAL RULES.~~—

20 “(I) ~~EXCEPTION FOR FINDINGS~~
21 ~~AND TRIMMINGS.~~—An article other-
22 wise eligible for preferential treatment
23 under this paragraph shall not be in-
24 eligible for such treatment because the
25 article contains findings or trimmings

1 of foreign origin, if such findings and
2 trimmings do not exceed 25 percent of
3 the cost of the components of the as-
4 sembled product. Examples of find-
5 ings and trimmings are sewing thread,
6 hooks and eyes, snaps, buttons, 'bow
7 buds', decorative lace, trim, elastic
8 strips, zippers, including zipper tapes
9 and labels, and other similar products.

10 (II) CERTAIN INTERLINING.—

11 (aa) An article otherwise eligible for
12 preferential treatment under this
13 paragraph shall not be ineligible for
14 such treatment because the article
15 contains certain interlinings of foreign
16 origin, if the value of such interlinings
17 (and any findings and trimmings)
18 does not exceed 25 percent of the cost
19 of the components of the assembled
20 article.

21 (bb) Interlinings eligible for the
22 treatment described in division (aa)
23 include only a chest type plate, 'hymo'
24 piece, or 'sleeve header', of woven or
25 weft-inserted warp knit construction

1 and of course animal hair or man-
2 made filaments:

3 ~~“(cc)~~ The treatment described in
4 this subclause shall terminate if the
5 President makes a determination that
6 United States manufacturers are pro-
7 ducing such interlinings in the United
8 States in commercial quantities:

9 ~~“(III)~~ DE MINIMIS RULE.—An
10 article that would otherwise be ineli-
11 gible for preferential treatment under
12 this subparagraph because the article
13 contains fibers or yarns not wholly
14 formed in the United States or in one
15 or more ATPDEA beneficiary coun-
16 tries shall not be ineligible for such
17 treatment if the total weight of all
18 such fibers or yarns is not more than
19 7 percent of the total weight of the
20 good:

21 ~~“(C)~~ HANDLOOMED, HANDMADE, AND
22 FOLKLORE ARTICLES.—For purposes of sub-
23 paragraph (B)(iv), the President shall consult
24 with representatives of the ATPDEA bene-
25 ficiary countries concerned for the purpose of

1 identifying particular textile and apparel goods
2 that are mutually agreed upon as being
3 handloomed, handmade, or folklore goods of a
4 kind described in section 2.3(a), (b), or (c) of
5 the Annex or Appendix 3.1.B.11 of the Annex.

6 ~~“(D) PENALTIES FOR TRANSSHIPMENT.—~~

7 ~~“(i) PENALTIES FOR EXPORTERS.—If~~
8 ~~the President determines, based on suffi-~~
9 ~~cient evidence, that an exporter has en-~~
10 ~~gaged in transshipment with respect to ap-~~
11 ~~parel articles from an ATPDEA bene-~~
12 ~~ficiary country, then the President shall~~
13 ~~deny all benefits under this title to such~~
14 ~~exporter, and any successor of such ex-~~
15 ~~porter, for a period of 2 years.~~

16 ~~“(ii) PENALTIES FOR COUNTRIES.—~~

17 ~~Whenever the President finds, based on~~
18 ~~sufficient evidence, that transshipment has~~
19 ~~occurred, the President shall request that~~
20 ~~the ATPDEA beneficiary country or coun-~~
21 ~~tries through whose territory the trans-~~
22 ~~shipment has occurred take all necessary~~
23 ~~and appropriate actions to prevent such~~
24 ~~transshipment. If the President determines~~
25 ~~that a country is not taking such actions,~~

1 the President shall reduce the quantities of
2 apparel articles that may be imported into
3 the United States from such country by
4 the quantity of the transshipped articles
5 multiplied by 3, to the extent consistent
6 with the obligations of the United States
7 under the WTO.

8 “(iii) TRANSSHIPMENT DESCRIBED.—

9 Transshipment within the meaning of this
10 subparagraph has occurred when pref-
11 erential treatment under subparagraph (A)
12 has been claimed for an apparel article on
13 the basis of material false information con-
14 cerning the country of origin, manufacture,
15 processing, or assembly of the article or
16 any of its components. For purposes of
17 this clause, false information is material if
18 disclosure of the true information would
19 mean or would have meant that the article
20 is or was ineligible for preferential treat-
21 ment under subparagraph (A).

22 “(E) BILATERAL EMERGENCY ACTIONS.—

23 “(i) IN GENERAL.—The President
24 may take bilateral emergency tariff actions
25 of a kind described in section 4 of the

1 Annex with respect to any apparel article
2 imported from an ATPDEA beneficiary
3 country if the application of tariff treat-
4 ment under subparagraph (A) to such arti-
5 cle results in conditions that would be
6 cause for the taking of such actions under
7 such section 4 with respect to a like article
8 described in the same 8-digit subheading
9 of the HTS that is imported from Mexico.

10 ~~“(ii) RULES RELATING TO BILATERAL~~
11 ~~EMERGENCY ACTION.—~~For purposes of ap-
12 plying bilateral emergency action under
13 this subparagraph—

14 ~~“(I) the requirements of para-~~
15 ~~graph (5) of section 4 of the Annex~~
16 ~~(relating to providing compensation)~~
17 ~~shall not apply;~~

18 ~~“(II) the term ‘transition period’~~
19 ~~in section 4 of the Annex shall mean~~
20 ~~the period ending December 31, 2006;~~
21 ~~and~~

22 ~~“(III) the requirements to con-~~
23 ~~sult specified in section 4 of the~~
24 ~~Annex shall be treated as satisfied if~~
25 ~~the President requests consultations~~

1 with the ATPDEA beneficiary country
2 in question and the country does not
3 agree to consult within the time pe-
4 riod specified under section 4.

5 ~~“(1) CUSTOMS PROCEDURES.—~~

6 ~~“(A) IN GENERAL.—~~

7 ~~“(i) REGULATIONS.—~~Any importer
8 that claims preferential treatment under
9 paragraph (1) or (3) shall comply with
10 customs procedures similar in all material
11 respects to the requirements of Article
12 502(1) of the NAFTA as implemented
13 pursuant to United States law, in accord-
14 ance with regulations promulgated by the
15 Secretary of the Treasury.

16 ~~“(ii) DETERMINATION.—~~

17 ~~“(I) IN GENERAL.—~~In order to
18 qualify for the preferential treatment
19 under paragraph (1) or (3) and for a
20 Certificate of Origin to be valid with
21 respect to any article for which such
22 treatment is claimed, there shall be in
23 effect a determination by the Presi-
24 dent that each country described in
25 subclause (II)—

1 “(aa) has implemented and
2 follows; or

3 “(bb) is making substantial
4 progress toward implementing
5 and following,

6 procedures and requirements similar
7 in all material respects to the relevant
8 procedures and requirements under
9 chapter 5 of the NAFTA.

10 “(II) COUNTRY DESCRIBED.—A
11 country is described in this subclause
12 if it is an ATPDEA beneficiary
13 country—

14 “(aa) from which the article
15 is exported; or

16 “(bb) in which materials
17 used in the production of the ar-
18 ticle originate or in which the ar-
19 ticle or such materials undergo
20 production that contributes to a
21 claim that the article is eligible
22 for preferential treatment under
23 paragraph (1) or (3).

24 “(B) CERTIFICATE OF ORIGIN.—The Cer-
25 tificate of Origin that otherwise would be re-

1 required pursuant to the provisions of subpara-
2 graph (A) shall not be required in the case of
3 an article imported under paragraph (1) or (2)
4 if such Certificate of Origin would not be re-
5 quired under Article 503 of the NAFTA (as im-
6 plemented pursuant to United States law), if
7 the article were imported from Mexico.

8 “(5) DEFINITIONS.—In this subsection—

9 “(A) ANNEX.—The term ‘the Annex’
10 means Annex 300-B of the NAFTA.

11 “(B) ATPDEA BENEFICIARY COUNTRY.—
12 The term ‘ATPDEA beneficiary country’ means
13 any ‘beneficiary country’, as defined in section
14 203(a)(1) of this title, which the President des-
15 ignates as an ATPDEA beneficiary country,
16 taking into account the criteria contained in
17 subsections (c) and (d) of section 203 and other
18 appropriate criteria, including the following:

19 “(i) Whether the beneficiary country
20 has demonstrated a commitment to—

21 “(I) undertake its obligations
22 under the WTO, including those
23 agreements listed in section 101(d) of
24 the Uruguay Round Agreements Act,
25 on or ahead of schedule; and

1 hours of work, and occupational safe-
2 ty and health.

3 (iv) Whether the country has imple-
4 mented its commitments to eliminate the
5 worst forms of child labor, as defined in
6 section 507(6) of the Trade Act of 1974.

7 (v) The extent to which the country
8 has met the counternarcotics certification
9 criteria set forth in section 490 of the For-
10 eign Assistance Act of 1961 (22 U.S.C.
11 2291j) for eligibility for United States as-
12 sistance.

13 (vi) The extent to which the country
14 has taken steps to become a party to and
15 implements the Inter-American Convention
16 Against Corruption.

17 (vii) The extent to which the
18 country—

19 (I) applies transparent, non-
20 discriminatory, and competitive proce-
21 dures in government procurement
22 equivalent to those contained in the
23 Agreement on Government Procure-
24 ment described in section 101(d)(17)

1 of the Uruguay Round Agreements
2 Act; and

3 “(H) contributes to efforts in
4 international fora to develop and im-
5 plement international rules in trans-
6 parency in government procurement.

7 “(C) NAFTA.—The term ‘NAFTA’ means
8 the North American Free Trade Agreement
9 entered into between the United States, Mexico,
10 and Canada on December 17, 1992.

11 “(D) WTO.—The term ‘WTO’ has the
12 meaning given that term in section 2 of the
13 Uruguay Round Agreements Act (19 U.S.C.
14 3501).

15 “(E) ATPDEA.—The term ‘ATPDEA’
16 means the Andean Trade Promotion and Drug
17 Eradication Act.”

18 (b) DETERMINATION REGARDING RETENTION OF
19 DESIGNATION.—Section 203(e)(1) of the Andean Trade
20 Preference Act (19 U.S.C. 3202(e)(1)) is amended—

- 21 (1) by redesignating subparagraphs (A) and
22 (B) as clauses (i) and (ii), respectively;
23 (2) by inserting “(A)” after “(1)”, and
24 (3) by adding at the end the following:

1 “(B) The President may, after the requirements of
2 paragraph (2) have been met—

3 “(i) withdraw or suspend the designation of any
4 country as an ATPDEA beneficiary country, or

5 “(ii) withdraw, suspend, or limit the application
6 of preferential treatment under section 204(b)(1) or
7 (3) to any article of any country,

8 if, after such designation, the President determines that,
9 as a result of changed circumstances, the performance of
10 such country is not satisfactory under the criteria set forth
11 in section 204(b)(5)(B).”

12 (c) CONFORMING AMENDMENTS.—(1) Section 202 of
13 the Andean Trade Preference Act (19 U.S.C. 3201) is
14 amended by inserting “(or other preferential treatment)”
15 after “treatment”.

16 (2) Section 204(a) of the Andean Trade Preference
17 Act (19 U.S.C. 3203(a)) is amended—

18 (A) in paragraph (1), by inserting “(or other-
19 wise provided for)” after “eligibility”; and

20 (B) in paragraph (2), by striking “subsection
21 (a)” and inserting “paragraph (1)”.

22 **SEC. 4. TERMINATION OF PREFERENTIAL TREATMENT.**

23 Section 208 of the Andean Trade Preference Act (19
24 U.S.C. 3206) is amended to read as follows:

1 ~~“SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.~~

2 ~~“No duty-free treatment or other preferential treat-~~
3 ~~ment extended to beneficiary countries under this title~~
4 ~~shall remain in effect after December 31, 2006.”~~

5 ~~SEC. 5. TRADE BENEFITS UNDER THE CARIBBEAN BASIN~~
6 ~~ECONOMIC RECOVERY ACT.~~

7 Section ~~213(b)(2)(A)~~ of the Caribbean Basin Eco-
8 nomic Recovery Act (~~19 U.S.C. 2703(b)(2)(A)~~) is amend-
9 ed as follows:

10 (1) Clause (i) is amended by striking the mat-
11 ter preceding subclause (I) and inserting the fol-
12 lowing:

13 ~~“(i) APPAREL ARTICLES ASSEMBLED~~
14 ~~IN ONE OR MORE CBTPA BENEFICIARY~~
15 ~~COUNTRIES.—Apparel articles sewn or oth-~~
16 ~~erwise assembled in one or more CBTPA~~
17 ~~beneficiary countries from fabrics wholly~~
18 ~~formed and cut, or from components knit-~~
19 ~~to-shape, in the United States from yarns~~
20 ~~wholly formed in the United States, (in-~~
21 ~~cluding fabrics not formed from yarns, if~~
22 ~~such fabrics are classifiable under heading~~
23 ~~5602 or 5603 of the HTS and are wholly~~
24 ~~formed and cut in the United States) that~~
25 ~~are—”~~

26 (2) Clause (ii) is amended to read as follows:

26

1 “(bb) 500,000,000 square meter
2 equivalents during the 1-year period
3 beginning on October 1, 2002.

4 “(cc) 850,000,000 square meter
5 equivalents during the 1-year period
6 beginning on October 1, 2003.

7 “(dd) 970,000,000 square meter
8 equivalents in each succeeding 1-year
9 period through September 30, 2008.”

10 (4) Clause (iii)(IV) is amended to read as fol-
11 lows:

12 “(IV) The amount referred to in sub-
13 clause (III) is as follows:

14 “(aa) 4,872,000 dozen during the
15 1-year period beginning on October 1,
16 2001.

17 “(bb) 9,000,000 dozen during the
18 1-year period beginning on October 1,
19 2002.

20 “(cc) 10,000,000 dozen during
21 the 1-year period beginning on Octo-
22 ber 1, 2003.

23 “(dd) 12,000,000 dozen in each
24 succeeding 1-year period through Sep-
25 tember 30, 2008.”

1 (5) Section 213(b)(2)(A) of such Act is further
2 amended by adding at the end the following new
3 clause:

4 “(EX) APPAREL ARTICLES ASSEMBLED
5 IN ONE OR MORE CBTPA BENEFICIARY
6 COUNTRIES FROM UNITED STATES AND
7 CBTPA BENEFICIARY COUNTRY COMPO-
8 NENTS.—Apparel articles sewn or other-
9 wise assembled in one or more CBTPA
10 beneficiary countries with thread formed in
11 the United States from components cut in
12 the United States and in one or more
13 CBTPA beneficiary countries from fabric
14 wholly formed in the United States from
15 yarns wholly formed in the United States,
16 or from components knit-to-shape in the
17 United States and one or more CBTPA
18 beneficiary countries from yarns wholly
19 formed in the United States, or both (in-
20 cluding fabrics not formed from yarns, if
21 such fabrics are classifiable under heading
22 5602 or 5603 of the HTS).”

1 SEC. 6. TRADE BENEFITS UNDER THE AFRICAN GROWTH
2 AND OPPORTUNITY ACT.

3 Section 112(b) of the African Growth and Oppor-
4 tunity Act (19 U.S.C. 3721(b)) is amended as follows:

5 (1) Paragraph (1) is amended by amending the
6 matter preceding subparagraph (A) to read as fol-
7 lows:

8 “(1) APPAREL ARTICLES ASSEMBLED IN ONE
9 OR MORE BENEFICIARY SUB-SAHARAN AFRICAN
10 COUNTRIES.—Apparel articles sewn or otherwise as-
11 sembled in one or more beneficiary sub-Saharan Af-
12 rican countries from fabrics wholly formed and cut,
13 or from components knit-to-shape, in the United
14 States from yarns wholly formed in the United
15 States, (including fabrics not formed from yarns, if
16 such fabrics are classifiable under heading 5602 or
17 5603 of the HTS and are wholly formed and cut in
18 the United States) that are—”

19 (2) Paragraph (2) is amended to read as fol-
20 lows:

21 “(2) OTHER APPAREL ARTICLES ASSEMBLED IN
22 ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN
23 COUNTRIES.—Apparel articles sewn or otherwise as-
24 sembled in one or more beneficiary sub-Saharan Af-
25 rican countries with thread formed in the United
26 States from fabrics wholly formed in the United

1 States and cut in one or more beneficiary sub-Saha-
2 ran African countries from yarns wholly formed in
3 the United States, or from components knit-to-shape
4 in the United States from yarns wholly formed in
5 the United States, or both (including fabrics not
6 formed from yarns, if such fabrics are classifiable
7 under heading 5602 or 5603 of the HTS and are
8 wholly formed in the United States)."

9 (3) Paragraph (3) is amended—

10 (A) by amending the matter preceding sub-
11 paragraph (A) to read as follows:

12 "(3) APPAREL ARTICLES FROM REGIONAL FAB-
13 RIC OR YARNS.—Apparel articles wholly assembled
14 in one or more beneficiary sub-Saharan African
15 countries from fabric wholly formed in one or more
16 beneficiary sub-Saharan African countries from
17 yarns originating either in the United States or one
18 or more beneficiary sub-Saharan African countries
19 (including fabrics not formed from yarns, if such
20 fabrics are classified under heading 5602 or 5603 of
21 the HTS and are wholly formed in one or more ben-
22 efiary sub-Saharan African countries), or from
23 components knit-to-shape in one or more beneficiary
24 sub-Saharan African countries from yarns origi-
25 nating either in the United States or one or more

1 beneficiary sub-Saharan African countries, or ap-
2 parel articles wholly formed on seamless knitting
3 machines in a beneficiary sub-Saharan African coun-
4 try from yarns originating either in the United
5 States or one or more beneficiary sub-Saharan Afri-
6 can countries, subject to the following:"

7 (B) in subparagraph (A)(ii)—

8 (i) by striking "1.5" and inserting
9 "3", and

10 (ii) by striking "3.5" and inserting
11 "7", and

12 (C) by amending subparagraph (B) to read
13 as follows:

14 ~~"(B) SPECIAL RULES FOR LESSER DEVEL-~~
15 ~~OPED COUNTRIES.—~~

16 ~~"(i) IN GENERAL.—~~Subject to sub-
17 ~~paragraph (A),~~ preferential treatment
18 under this paragraph shall be extended
19 through September 30, 2004, for apparel
20 articles wholly assembled, or knit-to-shape
21 and wholly assembled, or both, in one or
22 more lesser developed beneficiary sub-Sa-
23 haran African countries regardless of the
24 country of origin of the fabric or the yarn
25 used to make such articles.

1 “(ii) LESSER DEVELOPED BENE-
2 FIARY SUB-SAHARAN AFRICAN COUN-
3 TRY.—For purposes of clause (i), the term
4 ‘lesser developed beneficiary sub-Saharan
5 African country’ means—

6 “(I) a beneficiary sub-Saharan
7 African country that had a per capita
8 gross national product of less than
9 \$1,500 in 1998, as measured by the
10 International Bank for Reconstruction
11 and Development;

12 “(II) Botswana; and

13 “(III) Namibia.”

14 (4) Paragraph (4)(B) is amended by striking
15 “18.5” and inserting “21.5”.

16 (5) Section 112(b) of such Act is further
17 amended by adding at the end the following new
18 paragraph:

19 “(7) APPAREL ARTICLES ASSEMBLED IN ONE
20 OR MORE BENEFIARY SUB-SAHARAN AFRICAN
21 COUNTRIES FROM UNITED STATES AND BENE-
22 FIARY SUB-SAHARAN AFRICAN COUNTRY COMPO-
23 NENTS.—Apparel articles sewn or otherwise assem-
24 bled in one or more beneficiary sub-Saharan African
25 countries with thread formed in the United States

1 from components cut in the United States and one
2 or more beneficiary sub-Saharan African countries
3 from fabric wholly formed in the United States from
4 yarns wholly formed in the United States, or from
5 components knit-to-shape in the United States and
6 one or more beneficiary sub-Saharan African coun-
7 tries from yarns wholly formed in the United States,
8 or both (including fabrics not formed from yarns, if
9 such fabrics are classifiable under heading 5602 or
10 5603 of the HTS).”

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Andean Trade Pref-
13 erence Expansion Act”.*

14 **SEC. 2. FINDINGS.**

15 *Congress makes the following findings:*

16 *(1) Since the Andean Trade Preference Act was
17 enacted in 1991, it has had a positive impact on
18 United States trade with Bolivia, Colombia, Ecuador,
19 and Peru. Two-way trade has doubled, with the
20 United States serving as the leading source of imports
21 and leading export market for each of the Andean
22 beneficiary countries. This has resulted in increased
23 jobs and expanded export opportunities in both the
24 United States and the Andean region.*

1 (2) *The Andean Trade Preference Act has been a*
2 *key element in the United States counternarcotics*
3 *strategy in the Andean region, promoting export di-*
4 *versification and broad-based economic development*
5 *that provides sustainable economic alternatives to*
6 *drug-crop production, strengthening the legitimate*
7 *economies of Andean countries and creating viable al-*
8 *ternatives to illicit trade in coca.*

9 (3) *Notwithstanding the success of the Andean*
10 *Trade Preference Act, the Andean region remains*
11 *threatened by political and economic instability and*
12 *fragility, vulnerable to the consequences of the drug*
13 *war and fierce global competition for its legitimate*
14 *trade.*

15 (4) *The continuing instability in the Andean re-*
16 *gion poses a threat to the security interests of the*
17 *United States and the world. This problem has been*
18 *partially addressed through foreign aid, such as Plan*
19 *Colombia, enacted by Congress in 2000. However, for-*
20 *foreign aid alone is not sufficient. Enhancement of le-*
21 *gitimate trade with the United States provides an al-*
22 *ternative means for reviving and stabilizing the*
23 *economies in the Andean region.*

24 (5) *The Andean Trade Preference Act constitutes*
25 *a tangible commitment by the United States to the*

1 *promotion of prosperity, stability, and democracy in*
2 *the beneficiary countries.*

3 (6) *Renewal and enhancement of the Andean*
4 *Trade Preference Act will bolster the confidence of do-*
5 *mestic private enterprise and foreign investors in the*
6 *economic prospects of the region, ensuring that legiti-*
7 *mate private enterprise can be the engine of economic*
8 *development and political stability in the region.*

9 (7) *Each of the Andean beneficiary countries is*
10 *committed to conclude negotiation of a Free Trade*
11 *Area of the Americas by the year 2005, as a means*
12 *of enhancing the economic security of the region.*

13 (8) *Temporarily enhancing trade benefits for An-*
14 *dean beneficiaries countries will promote the growth*
15 *of free enterprise and economic opportunity in these*
16 *countries and serve the security interests of the*
17 *United States, the region, and the world.*

18 **SEC. 3. TEMPORARY PROVISIONS.**

19 (a) *IN GENERAL.*—Section 204(b) of the Andean Trade
20 *Preference Act (19 U.S.C. 3203(b)) is amended to read as*
21 *follows:*

22 “(b) *IMPORT-SENSITIVE ARTICLES.*—

23 “(1) *IN GENERAL.*—Subject to paragraphs (2)
24 *through (5), the duty-free treatment provided under*
25 *this title does not apply to—*

1 “(A) textile and apparel articles which were
2 not eligible articles for purposes of this title on
3 January 1, 1994, as this title was in effect on
4 that date;

5 “(B) footwear not designated at the time of
6 the effective date of this title as eligible articles
7 for the purpose of the generalized system of pref-
8 erences under title V of the Trade Act of 1974;

9 “(C) tuna, prepared or preserved in any
10 manner, in airtight containers;

11 “(D) petroleum, or any product derived
12 from petroleum, provided for in headings 2709
13 and 2710 of the IITS;

14 “(E) watches and watch parts (including
15 cases, bracelets, and straps), of whatever type in-
16 cluding, but not limited to, mechanical, quartz
17 digital, or quartz analog, if such watches or
18 watch parts contain any material which is the
19 product of any country with respect to which
20 HTS column 2 rates of duty apply;

21 “(F) articles to which reduced rates of duty
22 apply under subsection (c);

23 “(G) sugars, syrups, and molasses classified
24 in subheadings 1701.11.03, 1701.12.02,

1 1701.99.02, 1702.90.32, 1806.10.42, and
2 2106.90.12 of the HTS; or

3 “(II) rum and tafia classified in sub-
4 heading 2208.40.00 of the HTS.

5 “(2) TRANSITION PERIOD TREATMENT OF CER-
6 TAIN TEXTILE AND APPAREL ARTICLES.—

7 “(A) ARTICLES COVERED.—During the
8 transition period, the preferential treatment de-
9 scribed in subparagraph (B) shall apply to the
10 following articles:

11 “(i) APPAREL ARTICLES ASSEMBLED
12 FROM PRODUCTS OF THE UNITED STATES
13 AND ATPEA BENEFICIARY COUNTRIES OR
14 PRODUCTS NOT AVAILABLE IN COMMERCIAL
15 QUANTITIES.—Apparel articles sewn or oth-
16 erwise assembled in 1 or more ATPEA ben-
17 eficiary countries, or the United States, or
18 both, exclusively from any one or any com-
19 bination of the following:

20 “(I) Fabrics or fabric components
21 formed, or components knit-to-shape,
22 in the United States, from yarns whol-
23 ly formed in the United States (includ-
24 ing fabrics not formed from yarns, if
25 such fabrics are classifiable under

1 heading 5602 or 5603 of the IITS and
2 are formed in the United States), pro-
3 vided that apparel articles assembled
4 from materials described in this sub-
5 clause are assembled with thread
6 formed in the United States.

7 “(II) Fabric components knit-to-
8 shape in the United States from yarns
9 wholly formed in the United States
10 and fabric components knit-to-shape in
11 1 or more ATPEA beneficiary coun-
12 tries from yarns wholly formed in the
13 United States.

14 “(III) Fabrics or fabric compo-
15 nents formed or components knit-to-
16 shape, in 1 or more ATPEA bene-
17 ficiary countries, from yarns wholly
18 formed in 1 or more ATPEA bene-
19 ficiary countries, if such fabrics (in-
20 cluding fabrics not formed from yarns,
21 if such fabrics are classifiable under
22 heading 5602 or 5603 of the HTS and
23 are formed in 1 or more ATPEA bene-
24 ficiary countries) or components are in

1 *chief weight of llama, alpaca, or vi-*
2 *cuna.*

3 “(IV) *Fabrics or yarn that is not*
4 *formed in the United States or in 1 or*
5 *more ATPEA beneficiary countries, to*
6 *the extent that apparel articles of such*
7 *fabrics or yarn would be eligible for*
8 *preferential treatment, without regard*
9 *to the source of the fabrics or yarn,*
10 *under Annex 401 of the NAFTA.*

11 “(ii) *KNIT-TO-SHAPE APPAREL ARTI-*
12 *CLES.—Apparel articles knit-to-shape (other*
13 *than socks provided for in heading 6115 of*
14 *the HTS) in 1 or more ATPEA beneficiary*
15 *countries from yarns wholly formed in the*
16 *United States.*

17 “(iii) *REGIONAL FABRIC.—*

18 “(I) *GENERAL RULE.—Knit ap-*
19 *parel articles cut and wholly assembled*
20 *in 1 or more ATPEA beneficiary coun-*
21 *tries from fabric or from fabric compo-*
22 *nents formed, or from components knit-*
23 *to-shape, in 1 or more ATPEA bene-*
24 *fiary countries from yarns wholly*
25 *formed in the United States, in an*

1 amount not exceeding the amount set
2 forth in subclause (II).

3 “(II) *LIMITATION.*—The amount
4 referred to in subclause (I) is
5 70,000,000 square meter equivalents
6 during the 1-year period beginning on
7 March 1, 2002, increased by 16 per-
8 cent, compounded annually, in each
9 succeeding 1-year period through Feb-
10 ruary 28, 2006.

11 “(iv) *CERTAIN OTHER APPAREL ARTI-*
12 *CLES.*—

13 “(I) *GENERAL RULE.*—Subject to
14 subclause (II), any apparel article
15 classifiable under subheading 6212.10
16 of the HTS, if the article is both cut
17 and sewn or otherwise assembled in the
18 United States, or one or more of the
19 ATPEA beneficiary countries, or both.

20 “(II) *LIMITATION.*—During the 1-
21 year period beginning on March 1,
22 2003, and during each of the 3 suc-
23 ceeding 1-year periods, apparel articles
24 described in subclause (I) of a producer
25 or an entity controlling production

1 shall be eligible for preferential treat-
2 ment under subparagraph (B) only if
3 the aggregate cost of fabric components
4 formed in the United States that are
5 used in the production of all such arti-
6 cles of that producer or entity during
7 the preceding 1-year period is at least
8 75 percent of the aggregate declared
9 customs value of the fabric contained
10 in all such articles of that producer or
11 entity that are entered during the pre-
12 ceding 1-year period.

13 “(III) DEVELOPMENT OF PROCE-
14 DURE TO ENSURE COMPLIANCE.—The
15 United States Customs Service shall
16 develop and implement methods and
17 procedures to ensure ongoing compli-
18 ance with the requirement set forth in
19 subclause (II). If the Customs Service
20 finds that a producer or an entity con-
21 trolling production has not satisfied
22 such requirement in a 1-year period,
23 then apparel articles described in sub-
24 clause (I) of that producer or entity
25 shall be ineligible for preferential treat-

1 *ment under subparagraph (B) during*
2 *any succeeding 1-year period until the*
3 *aggregate cost of fabric components*
4 *formed in the United States used in*
5 *the production of such articles of that*
6 *producer or entity in the preceding 1-*
7 *year period is at least 85 percent of the*
8 *aggregate declared customs value of the*
9 *fabric contained in all such articles of*
10 *that producer or entity that are en-*
11 *tered during the preceding 1-year pe-*
12 *riod.*

13 *“(v) APPAREL ARTICLES ASSEMBLED*
14 *FROM FABRICS OR YARN NOT WIDELY AVAIL-*
15 *ABLE IN COMMERCIAL QUANTITIES.—At the*
16 *request of any interested party, the Presi-*
17 *dent is authorized to proclaim additional*
18 *fabrics and yarn as eligible for preferential*
19 *treatment under clause (i)(IV) if—*

20 *“(I) the President determines that*
21 *such fabrics or yarn cannot be sup-*
22 *plied by the domestic industry in com-*
23 *mercial quantities in a timely manner;*

24 *“(II) the President has obtained*
25 *advice regarding the proposed action*

1 *handmade, or folklore article of an ATPEA*
2 *beneficiary country identified under sub-*
3 *paragraph (C) that is certified as such by*
4 *the competent authority of such beneficiary*
5 *country.*

6 *“(vii) SPECIAL RULES.—*

7 *“(I) EXCEPTION FOR FINDINGS*
8 *AND TRIMMINGS.—(aa) An article oth-*
9 *erwise eligible for preferential treat-*
10 *ment under this paragraph shall not be*
11 *ineligible for such treatment because*
12 *the article contains findings or trim-*
13 *mings of foreign origin, if such find-*
14 *ings and trimmings do not exceed 25*
15 *percent of the cost of the components of*
16 *the assembled product. Examples of*
17 *findings and trimmings are sewing*
18 *thread, hooks and eyes, snaps, buttons,*
19 *‘bow buds’, decorative lace, trim, elas-*
20 *tic strips, zippers, including zipper*
21 *tapes and labels, and other similar*
22 *products. Elastic strips are considered*
23 *findings or trimmings only if they are*
24 *each less than 1 inch in width and are*
25 *used in the production of brassieres.*

1 “(bb) In the case of an article de-
2 scribed in clause (i)(I) of this subpara-
3 graph, sewing thread shall not be treat-
4 ed as findings or trimmings under this
5 subclause.

6 “(II) CERTAIN INTERLININGS.—
7 (aa) An article otherwise eligible for
8 preferential treatment under this para-
9 graph shall not be ineligible for such
10 treatment because the article contains
11 certain interlinings of foreign origin, if
12 the value of such interlinings (and any
13 findings and trimmings) does not ex-
14 ceed 25 percent of the cost of the com-
15 ponents of the assembled article.

16 “(bb) Interlinings eligible for the
17 treatment described in division (aa)
18 include only a chest type plate, ‘hymo’
19 piece, or ‘sleeve header’, of woven or
20 weft-inserted warp knit construction
21 and of coarse animal hair or man-
22 made filaments.

23 “(cc) The treatment described in
24 this subclause shall terminate if the
25 President makes a determination that

1 *United States manufacturers are pro-*
2 *ducing such interlinings in the United*
3 *States in commercial quantities.*

4 *“(III) DE MINIMIS RULE.—An ar-*
5 *ticle that would otherwise be ineligible*
6 *for preferential treatment under this*
7 *paragraph because the article contains*
8 *yarns not wholly formed in the United*
9 *States or in 1 or more ATPEA bene-*
10 *ficiary countries shall not be ineligible*
11 *for such treatment if the total weight of*
12 *all such yarns is not more than 7 per-*
13 *cent of the total weight of the good.*
14 *Notwithstanding the preceding sen-*
15 *tence, an apparel article containing*
16 *elastomeric yarns shall be eligible for*
17 *preferential treatment under this para-*
18 *graph only if such yarns are wholly*
19 *formed in the United States.*

20 *“(IV) SPECIAL ORIGIN RULE.—An*
21 *article otherwise eligible for pref-*
22 *erential treatment under clause (i) of*
23 *this subparagraph shall not be ineli-*
24 *gible for such treatment because the ar-*
25 *ticle contains nylon filament yarn*

1 *(other than elastomeric yarn) that is*
2 *classifiable under subheading*
3 *5402.10.30, 5402.10.60, 5402.31.30,*
4 *5402.31.60, 5402.32.30, 5402.32.60,*
5 *5402.41.10, 5402.41.90, 5402.51.00, or*
6 *5402.61.00 of the HTS duty-free from*
7 *a country that is a party to an agree-*
8 *ment with the United States estab-*
9 *lishing a free trade area, which entered*
10 *into force before January 1, 1995.*

11 *“(V) CLARIFICATION OF CERTAIN*
12 *KNIT APPAREL ARTICLES.—Notwith-*
13 *standing any other provision of law,*
14 *an article otherwise eligible for pref-*
15 *erential treatment under clause (iii)(I)*
16 *of this subparagraph, shall not be in-*
17 *eligible for such treatment because the*
18 *article, or a component thereof, con-*
19 *tains fabric formed in the United*
20 *States from yarns wholly formed in the*
21 *United States.*

22 *“(viii) TEXTILE LUGGAGE.—Textile*
23 *luggage—*

24 *“(I) assembled in an ATPEA ben-*
25 *eficiary country from fabric wholly*

1 formed and cut in the United States,
2 from yarns wholly formed in the
3 United States, that is entered under
4 subheading 9802.00.80 of the HTS; or
5 “(II) assembled from fabric cut in
6 an ATPEA beneficiary country from
7 fabric wholly formed in the United
8 States from yarns wholly formed in the
9 United States.

10 “(B) PREFERENTIAL TREATMENT.—Except
11 as provided in subparagraph (E), during the
12 transition period, the articles to which subpara-
13 graph (A) applies shall enter the United States
14 free of duty and free of any quantitative restric-
15 tions, limitations, or consultation levels.

16 “(C) HANDLOOMED, HANDMADE, AND FOLK-
17 LORE ARTICLES.—For purposes of subparagraph
18 (A)(vi), the President shall consult with rep-
19 resentatives of the ATPEA beneficiary countries
20 concerned for the purpose of identifying par-
21 ticular textile and apparel goods that are mutu-
22 ally agreed upon as being handloomed, hand-
23 made, or folklore goods of a kind described in
24 section 2.3(a), (b), or (c) of the Annex or Appen-
25 dix 3.1.B.11 of the Annex.

1 “(D) PENALTIES FOR TRANSSHIPMENTS.—

2 “(i) PENALTIES FOR EXPORTERS.—If
3 the President determines, based on sufficient
4 evidence, that an exporter has engaged in
5 transshipment with respect to textile or ap-
6 parel articles from an ATPEA beneficiary
7 country, then the President shall deny all
8 benefits under this title to such exporter,
9 and any successor of such exporter, for a pe-
10 riod of 2 years.

11 “(ii) PENALTIES FOR COUNTRIES.—

12 Whenever the President finds, based on suf-
13 ficient evidence, that transshipment has oc-
14 curred, the President shall request that the
15 ATPEA beneficiary country or countries
16 through whose territory the transshipment
17 has occurred take all necessary and appro-
18 priate actions to prevent such trans-
19 shipment. If the President determines that a
20 country is not taking such actions, the
21 President shall reduce the quantities of tex-
22 tile and apparel articles that may be im-
23 ported into the United States from such
24 country by the quantity of the transshipped
25 articles multiplied by 3, to the extent con-

1 *sistent with the obligations of the United*
2 *States under the WTO.*

3 *“(iii) TRANSSHIPMENT DESCRIBED.—*
4 *Transshipment within the meaning of this*
5 *subparagraph has occurred when pref-*
6 *erential treatment under subparagraph (B)*
7 *has been claimed for a textile or apparel ar-*
8 *ticle on the basis of material false informa-*
9 *tion concerning the country of origin, man-*
10 *ufacture, processing, or assembly of the arti-*
11 *cle or any of its components. For purposes*
12 *of this clause, false information is material*
13 *if disclosure of the true information would*
14 *mean or would have meant that the article*
15 *is or was ineligible for preferential treat-*
16 *ment under subparagraph (B).*

17 *“(E) BILATERAL EMERGENCY ACTIONS.—*

18 *“(i) IN GENERAL.—The President may*
19 *take bilateral emergency tariff actions of a*
20 *kind described in section 4 of the Annex*
21 *with respect to any apparel article im-*
22 *ported from an ATPEA beneficiary country*
23 *if the application of tariff treatment under*
24 *subparagraph (B) to such article results in*
25 *conditions that would be cause for the tak-*

1 *ing of such actions under such section 4*
2 *with respect to a like article described in the*
3 *same 8-digit subheading of the IITS that is*
4 *imported from Mexico.*

5 *“(ii) RULES RELATING TO BILATERAL*
6 *EMERGENCY ACTION.—For purposes of ap-*
7 *plying bilateral emergency action under*
8 *this subparagraph—*

9 *“(I) the requirements of para-*
10 *graph (5) of section 4 of the Annex (re-*
11 *lating to providing compensation)*
12 *shall not apply;*

13 *“(II) the term ‘transition period’*
14 *in section 4 of the Annex shall have the*
15 *meaning given that term in paragraph*
16 *(5)(D) of this subsection; and*

17 *“(III) the requirements to consult*
18 *specified in section 4 of the Annex*
19 *shall be treated as satisfied if the*
20 *President requests consultations with*
21 *the ATPEA beneficiary country in*
22 *question and the country does not*
23 *agree to consult within the time period*
24 *specified under section 4.*

1 “(3) *TRANSITION PERIOD TREATMENT OF CER-*
2 *TAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY*
3 *COUNTRIES.—*

4 “(A) *EQUIVALENT TARIFF TREATMENT.—*

5 “(i) *IN GENERAL.—Subject to clause*
6 *(ii), the tariff treatment accorded at any*
7 *time during the transition period to any*
8 *article referred to in any of subparagraphs*
9 *(B) through (F) of paragraph (1) or sub-*
10 *paragraph (H) of paragraph (1) that is an*
11 *ATPEA originating good shall be identical*
12 *to the tariff treatment that is accorded at*
13 *such time under Annex 302.2 of the NAFTA*
14 *to an article described in the same 8-digit*
15 *subheading of the HTS that is a good of*
16 *Mexico and is imported into the United*
17 *States.*

18 “(ii) *EXCEPTION.—Clause (i) does not*
19 *apply to any article accorded duty-free*
20 *treatment under U.S. Note 2(b) to sub-*
21 *chapter II of chapter 98 of the HTS.*

22 “(B) *RELATIONSHIP TO SUBSECTION (C)*
23 *DUTY REDUCTIONS.—If at any time during the*
24 *transition period the rate of duty that would*
25 *(but for action taken under subparagraph (A)(i)*

1 in regard to such period) apply with respect to
2 any article under subsection (c) is a rate of duty
3 that is lower than the rate of duty resulting from
4 such action, then such lower rate of duty shall be
5 applied for the purposes of implementing such
6 action.

7 “(C) SPECIAL RULE FOR SUGARS, SYRUPS,
8 AND SUGAR CONTAINING PRODUCTS.—Duty-free
9 treatment under this Act shall not be extended to
10 sugars, syrups, and sugar-containing products
11 subject to over-quota duty rates under applicable
12 tariff-rate quotas.

13 “(4) CUSTOMS PROCEDURES.—

14 “(A) IN GENERAL.—

15 “(i) REGULATIONS.—Any importer
16 that claims preferential treatment under
17 paragraph (2) or (3) shall comply with cus-
18 toms procedures similar in all material re-
19 spects to the requirements of Article 502(1)
20 of the NAFTA as implemented pursuant to
21 United States law, in accordance with regu-
22 lations promulgated by the Secretary of the
23 Treasury.

24 “(ii) DETERMINATION.—

1 “(I) *IN GENERAL.*—In order to
2 *qualify for the preferential treatment*
3 *under paragraph (2) or (3) and for a*
4 *Certificate of Origin to be valid with*
5 *respect to any article for which such*
6 *treatment is claimed, there shall be in*
7 *effect a determination by the President*
8 *that each country described in sub-*
9 *clause (II)—*

10 “(aa) *has implemented and*
11 *follows; or*

12 “(bb) *is making substantial*
13 *progress toward implementing*
14 *and following,*
15 *procedures and requirements similar*
16 *in all material respects to the relevant*
17 *procedures and requirements under*
18 *chapter 5 of the NAFTA.*

19 “(II) *COUNTRY DESCRIBED.*—A
20 *country is described in this subclause if*
21 *it is an ATPEA beneficiary country—*

22 “(aa) *from which the article*
23 *is exported; or*

24 “(bb) *in which materials*
25 *used in the production of the arti-*

1 *cle originate or in which the arti-*
2 *cle or such materials undergo pro-*
3 *duction that contributes to a*
4 *claim that the article is eligible*
5 *for preferential treatment under*
6 *paragraph (2) or (3).*

7 *“(B) CERTIFICATE OF ORIGIN.—The Certifi-*
8 *cate of Origin that otherwise would be required*
9 *pursuant to the provisions of subparagraph (A)*
10 *shall not be required in the case of an article im-*
11 *ported under paragraph (2) or (3) if such Cer-*
12 *tificate of Origin would not be required under*
13 *Article 503 of the NAFTA (as implemented pur-*
14 *suant to United States law), if the article were*
15 *imported from Mexico.*

16 *“(C) REPORT BY USTR ON COOPERATION OF*
17 *OTHER COUNTRIES CONCERNING CIRCUMVEN-*
18 *TION.—The United States Commissioner of Cus-*
19 *toms shall conduct a study analyzing the extent*
20 *to which each ATPEA beneficiary country—*

21 *“(i) has cooperated fully with the*
22 *United States, consistent with its domestic*
23 *laws and procedures, in instances of cir-*
24 *cumvention or alleged circumvention of ex-*
25 *isting quotas on imports of textile and ap-*

1 *parel goods, to establish necessary relevant*
2 *facts in the places of import, export, and,*
3 *where applicable, transshipment, including*
4 *investigation of circumvention practices, ex-*
5 *changes of documents, correspondence, re-*
6 *ports, and other relevant information, to the*
7 *extent such information is available;*

8 *“(ii) has taken appropriate measures,*
9 *consistent with its domestic laws and proce-*
10 *dures, against exporters and importers in-*
11 *volved in instances of false declaration con-*
12 *cerning fiber content, quantities, descrip-*
13 *tion, classification, or origin of textile and*
14 *apparel goods; and*

15 *“(iii) has penalized the individuals*
16 *and entities involved in any such cir-*
17 *cumvention, consistent with its domestic*
18 *laws and procedures, and has worked closely*
19 *to seek the cooperation of any third country*
20 *to prevent such circumvention from taking*
21 *place in that third country.*

22 *The Trade Representative shall submit to Con-*
23 *gress, not later than October 1, 2002, a report on*
24 *the study conducted under this subparagraph.*

1 “(5) DEFINITIONS AND SPECIAL RULES.—For
2 purposes of this subsection—

3 “(A) ANNEX.—The term ‘the Annex’ means
4 Annex 300-B of the NAFTA.

5 “(B) ATPEA BENEFICIARY COUNTRY.—The
6 term ‘ATPEA beneficiary country’ means any
7 beneficiary country, as defined in section
8 203(a)(1) of this title, which the President des-
9 ignates as an ATPEA beneficiary country, tak-
10 ing into account the criteria contained in sub-
11 sections (b) and (c) of section 203 and other ap-
12 propriate criteria, including the following:

13 “(i) Whether the beneficiary country
14 has demonstrated a commitment to—

15 “(I) undertake its obligations
16 under the WTO, including those agree-
17 ments listed in section 101(d) of the
18 Uruguay Round Agreements Act, on or
19 ahead of schedule; and

20 “(II) participate in negotiations
21 toward the completion of the FTAA or
22 another free trade agreement.

23 “(ii) The extent to which the country
24 provides protection of intellectual property
25 rights consistent with or greater than the

1 *protection afforded under the Agreement on*
2 *Trade-Related Aspects of Intellectual Prop-*
3 *erty Rights described in section 101(d)(15)*
4 *of the Uruguay Round Agreements Act.*

5 “(iii) *The extent to which the country*
6 *provides internationally recognized worker*
7 *rights, including—*

8 “(I) *the right of association;*

9 “(II) *the right to organize and*
10 *bargain collectively;*

11 “(III) *a prohibition on the use of*
12 *any form of forced or compulsory*
13 *labor;*

14 “(IV) *a minimum age for the em-*
15 *ployment of children; and*

16 “(V) *acceptable conditions of work*
17 *with respect to minimum wages, hours*
18 *of work, and occupational safety and*
19 *health;*

20 “(iv) *Whether the country has imple-*
21 *mented its commitments to eliminate the*
22 *worst forms of child labor, as defined in sec-*
23 *tion 507(6) of the Trade Act of 1974.*

24 “(v) *The extent to which the country*
25 *has met the counter-narcotics certification*

1 *criteria set forth in section 190 of the For-*
2 *ign Assistance Act of 1961 (22 U.S.C.*
3 *2291j) for eligibility for United States as-*
4 *sistance.*

5 *“(vi) The extent to which the country*
6 *has taken steps to become a party to and*
7 *implements the Inter-American Convention*
8 *Against Corruption.*

9 *“(vii) The extent to which the*
10 *country—*

11 *“(I) applies transparent, non-*
12 *discriminatory, and competitive proce-*
13 *dures in government procurement*
14 *equivalent to those contained in the*
15 *Agreement on Government Procure-*
16 *ment described in section 101(d)(17) of*
17 *the Uruguay Round Agreements Act;*
18 *and*

19 *“(II) contributes to efforts in*
20 *international fora to develop and im-*
21 *plement international rules in trans-*
22 *parency in government procurement.*

23 *“(C) ATPEA ORIGINATING GOOD.—*

24 *“(i) IN GENERAL.—The term ‘ATPEA*
25 *originating good’ means a good that meets*

1 *the rules of origin for a good set forth in*
2 *chapter 4 of the NAFTA as implemented*
3 *pursuant to United States law.*

4 “(i) *APPLICATION OF CHAPTER 1.—In*
5 *applying chapter 4 of the NAFTA with re-*
6 *spect to an ATPEA beneficiary country for*
7 *purposes of this subsection—*

8 “(I) *no country other than the*
9 *United States and an ATPEA bene-*
10 *ficiary country may be treated as*
11 *being a party to the NAFTA;*

12 “(II) *any reference to trade be-*
13 *tween the United States and Mexico*
14 *shall be deemed to refer to trade be-*
15 *tween the United States and an*
16 *ATPEA beneficiary country;*

17 “(III) *any reference to a party*
18 *shall be deemed to refer to an ATPEA*
19 *beneficiary country or the United*
20 *States; and*

21 “(IV) *any reference to parties*
22 *shall be deemed to refer to any com-*
23 *bination of ATPEA beneficiary coun-*
24 *tries or to the United States and one*

1 or more ATPEA beneficiary countries
2 (or any combination thereof).

3 “(D) *TRANSITION PERIOD*.—The term ‘tran-
4 sition period’ means, with respect to an ATPEA
5 beneficiary country, the period that begins on the
6 date of enactment, and ends on the earlier of—

7 “(i) February 28, 2006; or

8 “(ii) the date on which the FTAA or
9 another free trade agreement that makes
10 substantial progress in achieving the negoti-
11 ating objectives set forth in section
12 108(b)(5) of Public Law 103-182 (19
13 U.S.C. 3317(b)(5)) enters into force with re-
14 spect to the United States and the ATPEA
15 beneficiary country.

16 “(E) *ATPEA*.—The term ‘ATPEA’ means
17 the Andean Trade Preference Expansion Act.

18 “(F) *FTAA*.—The term ‘FTAA’ means the
19 Free Trade Area of the Americas.”

20 (b) *DETERMINATION REGARDING RETENTION OF DES-*
21 *IGNATION*.—Section 203(e) of the Andean Trade Preference
22 Act (19 U.S.C. 3202(e)) is amended—

23 (1) in paragraph (1)—

24 (A) by redesignating subparagraphs (A)
25 and (B) as clauses (i) and (ii), respectively;

1 (B) by inserting "(A)" after "(1)"; and

2 (C) by adding at the end the following:

3 “(B) The President may, after the requirements of
4 paragraph (2) have been met—

5 “(i) withdraw or suspend the designation of any
6 country as an ATPEA beneficiary country; or

7 “(ii) withdraw, suspend, or limit the application
8 of preferential treatment under section 204(b) (2) and
9 (3) to any article of any country,

10 if, after such designation, the President determines that, as
11 a result of changed circumstances, the performance of such
12 country is not satisfactory under the criteria set forth in
13 section 204(b)(5)(B).”; and

14 (2) by adding after paragraph (2) the following
15 new paragraph:

16 “(3) If preferential treatment under section 204(b) (2)
17 and (3) is withdrawn, suspended, or limited with respect
18 to an ATPEA beneficiary country, such country shall not
19 be deemed to be a ‘party’ for the purposes of applying sec-
20 tion 204(b)(5)(C) to imports of articles for which pref-
21 erential treatment has been withdrawn, suspended, or lim-
22 ited with respect to such country.”.

23 (c) REPORTING REQUIREMENTS.—Section 203(f) of
24 the Andean Trade Preference Act (19 U.S.C. 3202(f)) is
25 amended to read as follows:

1 “(f) *REPORTING REQUIREMENTS.*—

2 “(1) *IN GENERAL.*—Not later than December 31,
3 2002, and every 2 years thereafter during the period
4 this title is in effect, the United States Trade Rep-
5 resentative shall submit to Congress a report regard-
6 ing the operation of this title, including—

7 “(A) with respect to subsections (b) and (c),
8 the results of a general review of beneficiary
9 countries based on the considerations described
10 in such subsections; and

11 “(B) the performance of each beneficiary
12 country or ATPEA beneficiary country, as the
13 case may be, under the criteria set forth in sec-
14 tion 204(b)(5)(B).

15 “(2) *PUBLIC COMMENT.*—Before submitting the
16 report described in paragraph (1), the United States
17 Trade Representative shall publish a notice in the
18 Federal Register requesting public comments on
19 whether beneficiary countries are meeting the criteria
20 listed in section 204(b)(5)(B).”.

21 (d) *CONFORMING AMENDMENTS.*—

22 (1) *IN GENERAL.*—

23 (A) Section 202 of the Andean Trade Pref-
24 erence Act (19 U.S.C. 3201) is amended by in-

1 serting “(or other preferential treatment)” after
2 “treatment”.

3 (B) Section 204(a)(1) of the Andean Trade
4 Preference Act (19 U.S.C. 3203(a)(1)) is amend-
5 ed by inserting “(or otherwise provided for)”
6 after “eligibility”.

7 (2) *DEFINITIONS.*—Section 203(a) of the Andean
8 Trade Preference Act (19 U.S.C. 3202(a)) is amended
9 by adding at the end the following new paragraphs:

10 “(4) The term “NAFTA” means the North Amer-
11 ican Free Trade Agreement entered into between the
12 United States, Mexico, and Canada on December 17,
13 1992.

14 “(5) The terms ‘WTO’ and ‘WTO member’ have
15 the meanings given those terms in section 2 of the
16 Uruguay Round Agreements Act (19 U.S.C. 3501).”.

17 **SEC. 4. TERMINATION.**

18 Section 208(b) of the Andean Trade Preference Act (19
19 U.S.C. 3206(b)) is amended to read as follows:

20 “(b) *TERMINATION OF PREFERENTIAL TREATMENT.*—
21 No preferential duty treatment extended to beneficiary
22 countries under this Act shall remain in effect after Feb-
23 ruary 28, 2006.”.

