

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2124

To enhance the competitiveness of the United States in the global economy through the establishment of the United States Trade Administration as an independent establishment in the executive branch of the Government.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1995

Mr. MICA (for himself, Mr. CHRYSLER, Mr. ROGERS, Mr. GILMAN, Mr. CLINGER, Mr. ROTH, Mr. MANZULLO, and Mr. PORTMAN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on International Relations, Banking and Financial Services, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To enhance the competitiveness of the United States in the global economy through the establishment of the United States Trade Administration as an independent establishment in the executive branch of the Government.

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 “Trade Reorganization  
5 Act of 1995”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

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- Sec. 101. Findings.
- Sec. 102. Definitions.

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- Sec. 231. Personnel provisions.
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- Sec. 235. Rules.
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- Sec. 238. Use of facilities.
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- Sec. 251. Interagency Trade Organization.
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- Sec. 254. General Services Administration.
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- Sec. 261. Amendments to general provisions.
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## TITLE III—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

- Sec. 301. Additional transfers.
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- Sec. 308. Transition.
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## TITLE IV—MISCELLANEOUS

- Sec. 401. Effective date.
- Sec. 402. Interim appointments.
- Sec. 403. Personnel and funding reductions resulting from reorganization.
- Sec. 404. Authorization of appropriations.

**1 TITLE I—GENERAL PROVISIONS****2 SEC. 101. FINDINGS.**

3 The Congress finds that—

4 (1) principal national goals of the United States  
5 are to—

6 (A) maintain United States leadership in  
7 international trade liberalization and expansion  
8 efforts;

9 (B) reinvigorate the ability of the United  
10 States economy to compete in international  
11 markets and to respond flexibly to changes in  
12 international competition; and

13 (C) expand United States participation in  
14 international trade through aggressive pro-

1 motion and marketing of American products  
2 and services;

3 (2) the economy of the United States is so inex-  
4 tricably linked with the international economic sys-  
5 tem that all domestic economic sectors are influ-  
6 enced by the dynamics of global trade and invest-  
7 ment;

8 (3) the expansion of United States participation  
9 in international trade will improve the general wel-  
10 fare of the people of the United States by increasing  
11 demand for American products and services, creat-  
12 ing jobs, and increasing the gross national product;

13 (4) business, labor, and all levels of government  
14 must place the highest priority on developing meth-  
15 ods and policies to achieve the goals described in  
16 paragraph (1), and the achievement of such goals is  
17 dependent on a marked improvement in the capabil-  
18 ity of United States businesses to compete in foreign  
19 markets;

20 (5) the Federal Government can enhance the  
21 capability of United States businesses to compete in  
22 foreign markets by acting to—

23 (A) reduce trade barriers to sales and in-  
24 vestments by such businesses;

1 (B) promote American goods and services  
2 in foreign countries and encourage aggressive  
3 participation by the private sector in the inter-  
4 national marketplace; and

5 (C) promote and maintain an international  
6 trade system that establishes open, transparent,  
7 and fair trade rules and leads to the expansion  
8 of United States trade;

9 (6) effective and efficient Government action to  
10 enhance the capability of United States businesses  
11 to compete in foreign markets requires coordination  
12 of the development and implementation of Govern-  
13 ment policies relating to the international trade in-  
14 terests of the United States;

15 (7) effective and efficient Government action  
16 with respect to international trade further requires  
17 the employment of personnel consisting of individ-  
18 uals who, like the personnel of the governments of  
19 United States trading partners, are highly experi-  
20 enced and educated in international trade operations  
21 and negotiations;

22 (8) the present organizational structure of Gov-  
23 ernment administration of international trade activi-  
24 ties is too diffuse and leads to inconsistent and con-  
25 flicting policies and actions;

1           (9) such inconsistent and contradictory policies  
2           and actions inhibit domestic trade interests, create  
3           trade opportunities for our international competi-  
4           tors, and discourage experienced Government per-  
5           sonnel from career service in international trade ac-  
6           tivities;

7           (10) United States performance in international  
8           trade is fundamentally linked to the competitiveness  
9           of American industry in the world economy;

10          (11) improvements in the competitiveness of  
11          United States industry, products, and services can  
12          be aided by reducing traditional antagonisms among  
13          government, industry, labor, and the public;

14          (12) a lack of analytical capability and knowl-  
15          edge concerning the competitive position of Amer-  
16          ican industries and foreign industries greatly ham-  
17          pers or delays the ability of the United States to for-  
18          mulate responsible trade policies and policies that  
19          affect the international competitiveness of domestic  
20          industries;

21          (13) the consolidation of Government functions  
22          relating to international trade, including functions  
23          relating to technical analysis, policymaking, inter-  
24          national negotiation, and operational responsibilities,  
25          into the United States Trade Administration shall

1 provide the needed elevation and coordination of  
2 Government activity in international trade;

3 (14) the continued prosperity and overall com-  
4 petitive posture of the United States calls for a deci-  
5 sive and unified trade policy that vigorously pro-  
6 motes an equitable international trade environment  
7 in which the United States is able to compete fully  
8 and fairly;

9 (15) continued United States leadership in the  
10 world economy requires the formulation and imple-  
11 mentation of a trade policy that is delineated and  
12 understood by the rest of the world;

13 (16) establishing a decisive and unified trade  
14 policy has become a number one priority of the Unit-  
15 ed States;

16 (17) enhancing the process of consultation and  
17 advice between the executive branch, the Congress,  
18 and the private sector will assist in developing the  
19 consensus on and support for the trade policy of the  
20 United States;

21 (18) there is no one single agency or depart-  
22 ment within the executive branch with overall re-  
23 sponsibility for the development, coordination, imple-  
24 mentation, and administration of the United States  
25 trade policy, and the proliferation and division of

1 agencies within the executive branch have weakened  
2 the overall leadership of the United States in inter-  
3 national trade matters; and

4 (19) the economic well-being of the American  
5 people will be substantially enhanced through the es-  
6 tablishment of the United States Trade Administra-  
7 tion.

8 **SEC. 102. DEFINITIONS.**

9 For purposes of this Act, unless otherwise provided  
10 or indicated by the context—

11 (1) the term “Administration” means the Unit-  
12 ed States Trade Administration;

13 (2) the term “Federal agency” has the meaning  
14 given to the term “agency” by section 551(1) of title  
15 5, United States Code;

16 (3) the term “function” means any duty, obli-  
17 gation, power, authority, responsibility, right, privi-  
18 lege, activity, or program;

19 (4) the term “office” includes any office, ad-  
20 ministration, agency, institute, unit, organizational  
21 entity, or component thereof; and

22 (5) the term “USTR” means the United States  
23 Trade Representative as provided for under section  
24 201.

1           **TITLE II—UNITED STATES**  
2           **TRADE ADMINISTRATION**  
3           **Subtitle A—Establishment**

4   **SEC. 201. ESTABLISHMENT OF THE ADMINISTRATION.**

5           (a) **IN GENERAL.**—There is established the United  
6 States Trade Administration which shall be an independ-  
7 ent establishment in the executive branch of Government  
8 as defined under section 104 of title 5, United States  
9 Code. The United States Trade Representative shall be  
10 the Administrator of the United States Trade Administra-  
11 tion and shall be appointed by the President, by and with  
12 the advice and consent of the Senate.

13           (b) **AMBASSADOR STATUS.**—The USTR shall have  
14 the rank and status of Ambassador and shall represent  
15 the United States in all trade negotiations conducted by  
16 the Administration.

17   **SEC. 202. FUNCTIONS OF THE USTR.**

18           (a) **IN GENERAL.**—In addition to the functions trans-  
19 ferred to the USTR by this Act, such other functions as  
20 the President may assign or delegate to the USTR, and  
21 such other functions as the USTR may, after the effective  
22 date of this Act, be required to carry out by law, the  
23 USTR shall—

24                   (1) serve as the principal advisor to the Presi-  
25 dent on international trade policy and advise the

1 President on the impact of other policies of the  
2 United States Government on international trade;

3 (2) exercise primary responsibility, with the ad-  
4 vice of the interagency organization established  
5 under section 242 of the Trade Expansion Act of  
6 1962, for developing and implementing international  
7 trade policy, including commodity matters and, to  
8 the extent related to international trade policy, di-  
9 rect investment matters and, in exercising such re-  
10 sponsibility, advance and implement the goals de-  
11 scribed in section 101(1) as the primary mandate of  
12 the Administration;

13 (3) exercise lead responsibility for the conduct  
14 of international trade negotiations, including nego-  
15 tiations relating to commodity matters and, to the  
16 extent that such negotiations are related to inter-  
17 national trade, direct investment negotiations;

18 (4) exercise lead responsibility for the establish-  
19 ment of a national export strategy, including policies  
20 designed to implement such strategy;

21 (5) with the advice of the interagency organiza-  
22 tion established under section 242 of the Trade Ex-  
23 pansion Act of 1962, issue policy guidance to other  
24 Federal agencies on international trade, commodity,  
25 and direct investment functions to the extent nec-

1       essary to assure the coordination of international  
2       trade policy;

3             (6) seek and promote new opportunities for  
4       United States products and services to compete in  
5       the world marketplace;

6             (7) assist small businesses in developing export  
7       markets;

8             (8) enforce the laws of the United States relat-  
9       ing to trade;

10            (9) analyze economic trends and developments;

11            (10) report directly to the Congress—

12                (A) on the administration of, and matters  
13       pertaining to, the trade agreements program  
14       under the Omnibus Trade and Competitiveness  
15       Act of 1988, the Trade Act of 1974, the Trade  
16       Expansion Act of 1962, section 350 of the Tar-  
17       riff Act of 1930, and any other provision of law  
18       enacted after this Act; and

19                (B) with respect to other important issues  
20       pertaining to international trade;

21            (11) keep each official adviser to the United  
22       States delegations to international conferences,  
23       meetings, and negotiation sessions relating to trade  
24       agreements who is appointed from the Committee on  
25       Finance of the Senate or the Committee on Ways

1 and Means of the House of Representatives under  
2 section 161 of the Trade Act of 1974 currently in-  
3 formed on United States negotiating objectives with  
4 respect to trade agreements, the status of negotia-  
5 tions in progress with respect to such agreements,  
6 and the nature of any changes in domestic law or  
7 the administration thereof which the USTR may  
8 recommend to the Congress to carry out any trade  
9 agreement;

10 (12) consult and cooperate with State and local  
11 governments and other interested parties on inter-  
12 national trade matters of interest to such govern-  
13 ments and parties, and to the extent related to inter-  
14 national trade matters, on investment matters, and,  
15 when appropriate, hold informal public hearings;

16 (13) serve as the principal advisor to the Presi-  
17 dent on government policies designed to contribute  
18 to enhancing the ability of United States industry  
19 and services to compete in international markets;

20 (14) develop recommendations for national  
21 strategies and specific policies intended to enhance  
22 the productivity and international competitiveness of  
23 United States industries;

24 (15) serve as the principal advisor to the Presi-  
25 dent in identifying and assessing the consequences

1 of any Government policies that adversely affect, or  
2 have the potential to adversely affect, the inter-  
3 national competitiveness of United States industries  
4 and services; and

5 (16) promote cooperation between business,  
6 labor, and Government to improve industrial per-  
7 formance and the ability of United States industries  
8 to compete in international markets and to facilitate  
9 consultation and communication between the Gov-  
10 ernment and the private sector about domestic in-  
11 dustrial performance and prospects and the perform-  
12 ance and prospects of foreign competitors.

13 (b) INTERAGENCY ORGANIZATION.—The USTR shall  
14 be the chairperson of the interagency organization estab-  
15 lished under section 242 of the Trade Expansion Act of  
16 1962.

17 (c) NATIONAL SECURITY COUNCIL.—The USTR  
18 shall be a member of the National Security Council.

19 (d) ADVISORY COUNCIL.—The USTR shall be Dep-  
20 uty Chairman of the National Advisory Council on Inter-  
21 national Monetary and Financial Policies established  
22 under Executive Order 11269, issued February 14, 1966.

23 (e) AGRICULTURE.—(1) The USTR shall consult  
24 with the Secretary of Agriculture or the designee of the

1 Secretary of Agriculture on all matters that potentially in-  
2 volve international trade in agricultural products.

3 (2) If an international meeting for negotiation or con-  
4 sultation includes discussion of international trade in agri-  
5 cultural products, the USTR or the designee of the USTR  
6 shall be Chairman of the United States delegation to such  
7 meeting and the Secretary of Agriculture or the designee  
8 of such Secretary shall be Vice Chairman. The provisions  
9 of this paragraph shall not limit the authority of the  
10 USTR under subsection (h) to assign to the Secretary of  
11 Agriculture responsibility for the conduct of, or participa-  
12 tion in, any trade negotiation or meeting.

13 (f) TRADE PROMOTION.—The USTR shall be the  
14 chairperson of the Trade Promotion Coordinating Com-  
15 mittee.

16 (g) NATIONAL ECONOMIC COUNCIL.—The USTR  
17 shall be a member of the National Economic Council es-  
18 tablished under Executive Order No. 12835, issued Janu-  
19 ary 25, 1993.

20 (h) INTERNATIONAL TRADE NEGOTIATIONS.—Ex-  
21 cept where expressly prohibited by law, the USTR, at the  
22 request or with the concurrence of the head of any other  
23 Federal agency, may assign the responsibility for conduct-  
24 ing or participating in any specific international trade ne-  
25 gotiation or meeting to the head of such agency whenever

1 the USTR determines that the subject matter of such  
2 international trade negotiation is related to the functions  
3 carried out by such agency.

## 4 **Subtitle B—Officers**

### 5 **SEC. 211. DEPUTY ADMINISTRATOR OF THE UNITED** 6 **STATES TRADE ADMINISTRATION.**

7 (a) ESTABLISHMENT.—There shall be in the Admin-  
8 istration the Deputy Administrator of the United States  
9 Trade Administration, who shall be appointed by the  
10 President, by and with the advice and consent of the Sen-  
11 ate.

12 (b) ABSENCE, DISABILITY, OR VACANCY OF  
13 USTR.—The Deputy Administrator of the United States  
14 Trade Administration shall act for and exercise the func-  
15 tions of the USTR during the absence or disability of the  
16 USTR or in the event the office of the USTR becomes  
17 vacant. The Deputy Administrator of the United States  
18 Trade Administration shall act for and exercise the func-  
19 tions of the USTR until the absence or disability of the  
20 USTR no longer exists or a successor to the USTR has  
21 been appointed by the President and confirmed by the  
22 Senate.

23 (c) FUNCTIONS OF DEPUTY ADMINISTRATOR OF THE  
24 UNITED STATES TRADE ADMINISTRATION.—The Deputy  
25 Administrator of the United States Trade Administration

1 shall exercise all functions, under the direction of the  
2 USTR, transferred to or established in the Administra-  
3 tion, except those functions exercised by the Deputy Unit-  
4 ed States Trade Representatives, the Inspector General,  
5 and the General Counsel of the Administration, as pro-  
6 vided by this Act.

7 **SEC. 212. DEPUTY UNITED STATES TRADE REPRESENTA-**  
8 **TIVES.**

9 (a) ESTABLISHMENT.—There shall be in the Admin-  
10 istration 2 Deputy United States Trade Representatives,  
11 who shall be appointed by the President, by and with the  
12 advice and consent of the Senate. The Deputy United  
13 States Trade Representatives shall exercise all functions  
14 under the direction of the USTR, and shall include—

15 (1) the Deputy United States Trade Represent-  
16 ative for Negotiations; and

17 (2) the Deputy United States Trade Represent-  
18 ative to the World Trade Organization.

19 (b) FUNCTIONS OF DEPUTY UNITED STATES TRADE  
20 REPRESENTATIVES.—(1) The Deputy United States  
21 Trade Representative for Negotiations shall exercise all  
22 functions transferred under section 221 and shall have the  
23 rank and status of Ambassador.

24 (2) The Deputy United States Trade Representative  
25 to the World Trade Organization shall exercise all func-

1 tions relating to representation to the World Trade Orga-  
2 nization and shall have the rank and status of Amba-  
3 sador.

4 **SEC. 213. ASSISTANT ADMINISTRATORS.**

5 (a) ESTABLISHMENT.—There shall be in the Admin-  
6 istration 3 Assistant Administrators, who shall be ap-  
7 pointed by the President, by and with the advice and con-  
8 sent of the Senate. The Assistant Administrators shall ex-  
9 ercise all functions under the direction of the Deputy Ad-  
10 ministrator of the United States Trade Administration  
11 and include—

12 (1) the Assistant Administrator for Export Ad-  
13 ministration;

14 (2) the Assistant Administrator for Import Ad-  
15 ministration; and

16 (3) the Assistant Administrator for Trade and  
17 Policy Analysis.

18 (b) FUNCTIONS OF ASSISTANT ADMINISTRATORS.—

19 (1) The Assistant Administrator for Export Administra-  
20 tion shall exercise all functions transferred under section  
21 222(1)(C).

22 (2) The Assistant Administrator for Import Adminis-  
23 tration shall exercise all functions transferred under sec-  
24 tion 222(1)(D).

1           (3) The Assistant Administrator for Trade and Policy  
2 Analysis shall exercise all functions transferred under sec-  
3 tion 222(1)(B) and all functions transferred under section  
4 222(2).

5 **SEC. 214. DIRECTOR GENERAL FOR EXPORT PROMOTION.**

6           (a) ESTABLISHMENT.—There shall be a Director  
7 General for Export Promotion, who shall be appointed by  
8 the President, by and with the advice and consent of the  
9 Senate.

10          (b) FUNCTIONS.—The Director General for Export  
11 Promotion shall exercise, under the direction of the  
12 USTR, all functions transferred under sections 222(1)(A)  
13 (relating to functions of the United States and Foreign  
14 Commercial Service performed in foreign nations) and 223  
15 and shall have the rank and status of Ambassador.

16 **SEC. 215. GENERAL COUNSEL.**

17          There shall be in the Administration a General Coun-  
18 sel, who shall be appointed by the President, by and with  
19 the advice and consent of the Senate. The General Counsel  
20 shall provide legal assistance to the USTR concerning the  
21 activities, programs, and policies of the Administration.

22 **SEC. 216. INSPECTOR GENERAL.**

23          There shall be in the Administration an Inspector  
24 General who shall be appointed in accordance with the In-

1 spector General Act of 1978, as amended by section  
2 261(b) of this Act.

3 **SEC. 217. CHIEF FINANCIAL OFFICER.**

4       There shall be in the Administration a Chief Finan-  
5 cial Officer who shall be appointed in accordance with sec-  
6 tion 901 of title 31, United States Code, as amended by  
7 section 261(e) of this Act. The Chief Financial Officer  
8 shall perform all functions prescribed by the Deputy Ad-  
9 ministrator of the United States Trade Administration,  
10 under the direction of the Deputy Administrator.

11                   **Subtitle C—Transfers to the**  
12                   **Administration**

13 **SEC. 221. OFFICE OF THE UNITED STATES TRADE REP-**  
14                   **RESENTATIVE.**

15       There are transferred to the USTR of the United  
16 States Trade Administration all functions of the United  
17 States Trade Representative and the Office of the United  
18 States Trade Representative in the Executive Office of the  
19 President and all functions of any officer or employee of  
20 such Office.

21 **SEC. 222. TRANSFERS FROM THE DEPARTMENT OF COM-**  
22                   **MERCE.**

23       There are transferred to the USTR the following  
24 functions:

1           (1) All functions of, and all functions performed  
2 under the direction of, the following officers and em-  
3 ployees of the Department of Commerce:

4           (A) The Under Secretary of Commerce for  
5 International Trade, and the Director General  
6 of the United States and Foreign Commercial  
7 Service, relating to all functions exercised by  
8 the Service in foreign nations.

9           (B) The Assistant Secretary of Commerce  
10 for International Economic Policy and the As-  
11 sistant Secretary of Commerce for Trade Devel-  
12 opment.

13           (C) The Under Secretary of Commerce for  
14 Export Administration.

15           (D) The Assistant Secretary of Commerce  
16 for Import Administration.

17           (2) All functions of the Secretary of Commerce  
18 relating to the National Trade Data Bank.

19 **SEC. 223. TRADE AND DEVELOPMENT AGENCY.**

20           There are transferred to the USTR all functions of  
21 the Director of the Trade and Development Agency. There  
22 are transferred to the Administration all functions of the  
23 Trade and Development Agency.

1           **Subtitle D—Administrative**  
2                           **Provisions**

3   **SEC. 231. PERSONNEL PROVISIONS.**

4           (a) APPOINTMENTS.—The USTR may appoint and  
5 fix the compensation of such officers and employees, in-  
6 cluding investigators, attorneys, and administrative law  
7 judges, as may be necessary to carry out the functions  
8 of the USTR and the Administration. Except as otherwise  
9 provided by law, such officers and employees shall be ap-  
10 pointed in accordance with the civil service laws and their  
11 compensation fixed in accordance with title 5, United  
12 States Code.

13           (b) POSITIONS ABOVE GS-15.—(1) At the request  
14 of the USTR, the Director of the Office of Personnel Man-  
15 agement shall, under section 5108 of title 5, United States  
16 Code, provide for the establishment in a grade level above  
17 GS-15 of the General Service, and in the Senior Executive  
18 Service, of a number of positions in the Administration  
19 equal to the number of positions in that grade level which  
20 were used primarily for the performance of functions and  
21 offices transferred by this Act and which were assigned  
22 and filled on the day before the effective date of this Act.

23           (2) Appointments to positions provided for under this  
24 subsection may be made without regard to the provisions  
25 of section 3324 of title 5, United States Code, if the indi-

1 vidual appointed in such position is an individual who is  
2 transferred in connection with the transfer of functions  
3 and offices under this Act and, on the day before the effec-  
4 tive date of this Act, holds a position and has duties com-  
5 parable to those of the position to which appointed under  
6 this subsection.

7 (3) The authority under this subsection with respect  
8 to any position established at a grade level above GS-15  
9 shall terminate when the person first appointed to fill such  
10 position ceases to hold such position.

11 (4) For purposes of section 414(a)(3)(A) of the Civil  
12 Service Reform Act of 1978, an individual appointed  
13 under this subsection shall be deemed to occupy the same  
14 position as the individual occupied on the day before the  
15 effective date of this Act.

16 (c) EXPERTS AND CONSULTANTS.—The USTR may  
17 obtain the services of experts and consultants in accord-  
18 ance with section 3109 of title 5, United States Code, and  
19 compensate such experts and consultants for each day (in-  
20 cluding traveltime) at rates not in excess of the maximum  
21 rate of pay for a position at a grade level above GS-15  
22 of the General Schedule under section 5332 of such title.  
23 The USTR may pay experts and consultants who are serv-  
24 ing away from their homes or regular place of business  
25 travel expenses and per diem in lieu of subsistence at rates

1 authorized by sections 5702 and 5703 of such title for  
2 persons in Government service employed intermittently.

3 (d) VOLUNTARY SERVICES.—(1)(A) The USTR is  
4 authorized to accept voluntary and uncompensated serv-  
5 ices without regard to the provisions of section 1342 of  
6 title 31, United States Code, if such services will not be  
7 used to displace Federal employees employed on a full-  
8 time, part-time, or seasonal basis.

9 (B) The USTR is authorized to accept volunteer serv-  
10 ice in accordance with the provisions of section 3111 of  
11 title 5, United States Code.

12 (2) The USTR is authorized to provide for incidental  
13 expenses, including but not limited to transportation, lodg-  
14 ing, and subsistence for individuals who provide voluntary  
15 services under subparagraph (A) or (B) of paragraph (1).

16 (3) An individual who provides voluntary services  
17 under paragraph (1)(A) shall not be considered a Federal  
18 employee for any purpose other than for purposes of chap-  
19 ter 81 of title 5, United States Code, relating to com-  
20 pensation for work injuries, and chapter 171 of title 28,  
21 United States Code, relating to tort claims.

22 (e) FOREIGN SERVICE POSITIONS.—In order to as-  
23 sure United States representation in trade matters at a  
24 level commensurate with the level of representation main-  
25 tained by industrial nations which are major trade com-

1 petitioners of the United States, the Secretary of State shall  
2 classify certain positions at Foreign Service posts as com-  
3 mercial minister positions and shall assign members of the  
4 Foreign Service performing functions of the Administra-  
5 tion, with the concurrence of the USTR, to such positions  
6 in nations which are major trade competitors of the Unit-  
7 ed States. The Secretary of State shall obtain and use the  
8 recommendations of the USTR with respect to the number  
9 of positions to be so classified under this subsection.

10 **SEC. 232. DELEGATION AND ASSIGNMENT.**

11       Except where otherwise expressly prohibited by law  
12 or otherwise provided by this Act, the USTR may delegate  
13 any of the functions transferred to the USTR by this Act  
14 and any function transferred or granted to the USTR  
15 after the effective date of this Act to such officers and  
16 employees of the Administration as the USTR may des-  
17 ignate, and may authorize successive redelegations of such  
18 functions as may be necessary or appropriate. No delega-  
19 tion of functions by the USTR under this section or under  
20 any other provision of this Act shall relieve the USTR of  
21 responsibility for the administration of such functions.

22 **SEC. 233. SUCCESSION.**

23       (a) ORDER OF SUCCESSION.—Subject to the author-  
24 ity of the President, and except as provided in section  
25 211(b), the USTR shall prescribe the order by which offi-

1 cers of the Administration who are appointed by the Presi-  
2 dent, by and with the advice and consent of the Senate,  
3 shall act for, and perform the functions of, the USTR or  
4 any other officer of the Administration appointed by the  
5 President, by and with the advice and consent of the Sen-  
6 ate, during the absence or disability of the USTR or such  
7 other officer, or in the event of a vacancy in the office  
8 of the USTR or such other officer.

9 (b) CONTINUATION.—Notwithstanding any other pro-  
10 vision of law, and unless the President directs otherwise,  
11 an individual acting for the USTR or another officer of  
12 the Administration pursuant to subsection (a) shall con-  
13 tinue to serve in that capacity until the absence or disabil-  
14 ity of the USTR or such other officer no longer exists or  
15 a successor to the USTR or such other officer has been  
16 appointed by the President and confirmed by the Senate.

17 **SEC. 234. REORGANIZATION.**

18 (a) IN GENERAL.—Subject to subsection (b), the  
19 USTR is authorized to allocate or reallocate functions  
20 among the officers of the Administration, and to establish,  
21 consolidate, alter, or discontinue such organizational enti-  
22 ties in the Administration as may be necessary or appro-  
23 priate.

24 (b) EXCEPTION.—The USTR may not exercise the  
25 authority under subsection (a) to establish, consolidate,

1 alter, or discontinue any organizational entity in the Ad-  
2 ministration or allocate or reallocate any function of an  
3 officer or employee of the Administration that is inconsis-  
4 ent with any specific provision of this Act.

5 **SEC. 235. RULES.**

6 The USTR is authorized to prescribe, in accordance  
7 with the provisions of chapters 5 and 6 of title 5, United  
8 States Code, such rules and regulations as the USTR de-  
9 termines necessary or appropriate to administer and man-  
10 age the functions of the USTR or the Administration.

11 **SEC. 236. FUNDS TRANSFER.**

12 The USTR may, when authorized in an appropriation  
13 Act in any fiscal year, transfer funds from one appropria-  
14 tion to another within the Administration, except that no  
15 appropriation for any fiscal year shall be either increased  
16 or decreased by more than 10 percent and no such trans-  
17 fer shall result in increasing any such appropriation above  
18 the amount authorized to be appropriated therefor.

19 **SEC. 237. CONTRACTS, GRANTS, AND COOPERATIVE AGREE-**  
20 **MENTS.**

21 (a) IN GENERAL.—Subject to the provisions of the  
22 Federal Property and Administrative Services Act of  
23 1949, the USTR may make, enter into, and perform such  
24 contracts, leases, cooperative agreements, grants, or other  
25 similar transactions with public agencies, private organiza-

1 tions, and persons, and make payments (in lump sum or  
2 installments, and by way of advance or reimbursement,  
3 and, in the case of any grant, with necessary adjustments  
4 on account of overpayments and underpayments) as the  
5 USTR considers necessary or appropriate to carry out the  
6 functions of the USTR or the Administration.

7 (b) EXCEPTION.—Notwithstanding any other provi-  
8 sion of this Act, the authority to enter into contracts or  
9 to make payments under this title shall be effective only  
10 to such extent or in such amounts as are provided in ad-  
11 vance in appropriation Acts. This subsection does not  
12 apply with respect to the authority granted under section  
13 239.

14 **SEC. 238. USE OF FACILITIES.**

15 (a) USE BY USTR.—With their consent, the USTR,  
16 with or without reimbursement, may use the research,  
17 services, equipment, and facilities of—

18 (1) an individual,

19 (2) any public or private nonprofit agency or  
20 organization, including any agency or instrumental-  
21 ity of the United States or of any State, the District  
22 of Columbia, the Commonwealth of Puerto Rico, or  
23 any territory or possession of the United States,

24 (3) any political subdivision of any State, the  
25 District of Columbia, the Commonwealth of Puerto

1 Rico, or any territory or possession of the United  
2 States, or

3 (4) any foreign government,

4 in carrying out any function of the USTR or the Adminis-  
5 tration.

6 (b) USE OF USTR FACILITIES.—The USTR, under  
7 terms, at rates, and for periods that the USTR considers  
8 to be in the public interest, may permit the use by public  
9 and private agencies, corporations, associations or other  
10 organizations, or individuals, of any real property, or any  
11 facility, structure or other improvement thereon, under the  
12 custody of the USTR. The USTR may require permittees  
13 under this section to maintain or recondition, at their own  
14 expense, the real property, facilities, structures, and im-  
15 provements used by such permittees.

16 **SEC. 239. GIFTS AND BEQUESTS.**

17 (a) IN GENERAL.—The USTR is authorized to ac-  
18 cept, hold, administer, and utilize gifts and bequests of  
19 property, both real and personal, for the purpose of aiding  
20 or facilitating the work of the Administration. Gifts and  
21 bequests of money and the proceeds from sales of other  
22 property received as gifts or bequests shall be deposited  
23 in the United States Treasury in a separate fund and shall  
24 be disbursed on order of the USTR. Property accepted  
25 pursuant to this subsection, and the proceeds thereof,

1 shall be used as nearly as possible in accordance with the  
2 terms of the gift or bequest.

3 (b) TAX TREATMENT.—For the purpose of Federal  
4 income, estate, and gift taxes, and State taxes, property  
5 accepted under subsection (a) shall be considered a gift  
6 or bequest to or for the use of the United States.

7 (c) INVESTMENT.—Upon the request of the USTR,  
8 the Secretary of the Treasury may invest and reinvest in  
9 securities of the United States or in securities guaranteed  
10 as to principal and interest by the United States any mon-  
11 eys contained in the fund provided for in subsection (a).  
12 Income accruing from such securities, and from any other  
13 property held by the USTR pursuant to subsection (a),  
14 shall be deposited to the credit of the fund, and shall be  
15 disbursed upon order of the USTR.

16 **SEC. 240. WORKING CAPITAL FUND.**

17 (a) ESTABLISHMENT.—The USTR is authorized to  
18 establish for the Administration a working capital fund,  
19 to be available without fiscal year limitation, for expenses  
20 necessary for the maintenance and operation of such com-  
21 mon administrative services as the USTR shall find to be  
22 desirable in the interest of economy and efficiency, includ-  
23 ing—

24 (1) a central supply service for stationery and  
25 other supplies and equipment for which adequate

1 stocks may be maintained to meet in whole or in  
2 part the requirements of the Administration and its  
3 components;

4 (2) central messenger, mail, and telephone serv-  
5 ice and other communications services;

6 (3) office space and central services for docu-  
7 ment reproduction and for graphics and visual aids;

8 (4) a central library service; and

9 (5) such other services as may be approved by  
10 the Director of the Office of Management and Budg-  
11 et.

12 (b) OPERATION OF FUND.—The capital of the fund  
13 shall consist of any appropriations made for the purpose  
14 of providing working capital and the fair and reasonable  
15 value of such stocks of supplies, equipment, and other as-  
16 sets and inventories on order as the USTR may transfer  
17 to the fund, less the related liabilities and unpaid obliga-  
18 tions. The fund shall be reimbursed in advance from avail-  
19 able funds of agencies and offices in the Administration,  
20 or from other sources, for supplies and services at rates  
21 which will approximate the expense of operation, including  
22 the accrual of annual leave and the depreciation of equip-  
23 ment. The fund shall also be credited with receipts from  
24 sale or exchange of property and receipts in payment for  
25 loss or damage to property owned by the fund. There shall

1 be covered into the United States Treasury as miscellane-  
2 ous receipts any surplus of the fund (all assets, liabilities,  
3 and prior losses considered) above the amounts trans-  
4 ferred or appropriated to establish and maintain the fund.  
5 There shall be transferred to the fund the stocks of sup-  
6 plies, equipment, other assets, liabilities, and unpaid obli-  
7 gations relating to those services which the USTR deter-  
8 mines will be performed.

9 **SEC. 241. SERVICE CHARGES.**

10 (a) **AUTHORITY.**—Notwithstanding any other provi-  
11 sion of law, the USTR may establish reasonable fees and  
12 commissions with respect to applications, documents,  
13 awards, loans, grants, research data, services, and assist-  
14 ance administered by the Administration, and the USTR  
15 may change and abolish such fees and commissions. Be-  
16 fore establishing, changing, or abolishing any schedule of  
17 fees or commissions under this section, the USTR may  
18 submit such schedule to the Congress.

19 (b) **DEPOSITS.**—The USTR is authorized to require  
20 a deposit before the USTR provides any item, information,  
21 service, or assistance for which a fee or commission is re-  
22 quired under this section.

23 (c) **DEPOSIT OF MONEYS.**—Moneys received under  
24 this section shall be deposited in the Treasury in a special

1 account for use by the USTR and are authorized to be  
2 appropriated and made available until expended.

3 (d) FACTORS IN ESTABLISHING FEES AND COMMIS-  
4 SIONS.—In establishing reasonable fees or commissions  
5 under this section, the USTR may take into account—

6 (1) the actual costs which will be incurred in  
7 providing the items, information, services, or assist-  
8 ance concerned;

9 (2) the efficiency of the Government in provid-  
10 ing such items, information, services, or assistance;

11 (3) the portion of the cost that will be incurred  
12 in providing such items, information, services, or as-  
13 sistance which may be attributed to benefits for the  
14 general public rather than exclusively for the person  
15 to whom the items, information, services, or assist-  
16 ance is provided;

17 (4) any public service which occurs through the  
18 provision of such items, information, services, or as-  
19 sistance; and

20 (5) such other factors as the USTR considers  
21 appropriate.

22 (e) REFUNDS OF EXCESS PAYMENTS.—In any case  
23 in which the USTR determines that any person has made  
24 a payment which is not required under this section or has  
25 made a payment which is in excess of the amount required

1 under this section, the USTR, upon application or other-  
2 wise, may cause a refund to be made from applicable  
3 funds.

4 **SEC. 242. PROFESSIONAL TRADE SERVICE CORPS.**

5 Within 180 days after the effective date of this Act,  
6 the USTR shall prepare and transmit to the President and  
7 the Congress a report containing recommendations for the  
8 establishment of a Professional Trade Service Corps de-  
9 signed to attract and retain highly qualified, experienced,  
10 and motivated professionals to administer the trade poli-  
11 cies and activities of the United States. The proposal for  
12 the Corps shall contain provisions for—

13 (1) the advancement and retention of personnel  
14 on a competitive basis;

15 (2) the designation of senior positions in the  
16 Corps in order that personnel employed in the Corps  
17 may advance in careers relating to international  
18 trade; and

19 (3) the transfer of personnel between the Corps  
20 and the Foreign Service in order that such personnel  
21 may be employed in foreign and domestic service.

22 **SEC. 243. SEAL OF DEPARTMENT.**

23 The USTR shall cause a seal of office to be made  
24 for the Administration of such design as the USTR shall  
25 approve. Judicial notice shall be taken of such seal.

1           **Subtitle E—Related Agencies**

2   **SEC. 251. INTERAGENCY TRADE ORGANIZATION.**

3           Section 242(a)(3) of the Trade Expansion Act of  
4 1962 (19 U.S.C. 1872(a)(3)) is amended to read as fol-  
5 lows:

6           “(3)(A) The interagency organization estab-  
7 lished under subsection (a) shall be composed of—

8                   “(i) the United States Trade Representa-  
9 tive, who shall be the chairperson,

10                   “(ii) the Secretary of Agriculture,

11                   “(iii) the Secretary of the Treasury,

12                   “(iv) the Secretary of Labor,

13                   “(v) the Secretary of State, and

14                   “(vi) the representatives of such other de-  
15 partments and agencies as the United States  
16 Trade Representative shall designate.

17           “(B) The United States Trade Representative  
18 may invite representatives from other agencies, as  
19 appropriate, to attend particular meetings if subject  
20 matters of specific functional interest to such agen-  
21 cies are under consideration. It shall meet at such  
22 times and with respect to such matters as the Presi-  
23 dent or the chairperson shall direct.”.

1 **SEC. 252. NATIONAL SECURITY COUNCIL.**

2 The fourth paragraph of section 101(a) of the Na-  
3 tional Security Act of 1947 (50 U.S.C. 402(a)) is amend-  
4 ed—

5 (1) by redesignating clauses (5), (6), and (7) as  
6 clauses (6), (7), and (8), respectively; and

7 (2) by inserting after clause (4) the following  
8 new clause:

9 “(5) the United States Trade Representative;”.

10 **SEC. 253. INTERNATIONAL MONETARY FUND.**

11 Section 3 of the Bretton Woods Agreement Act is  
12 amended by adding at the end the following new sub-  
13 section:

14 “(e) The United States executive director of the Fund  
15 shall consult with the United States Trade Representative  
16 with respect to matters under consideration by the Fund  
17 which relate to trade.”.

18 **Subtitle G—Conforming**  
19 **Amendments**

20 **SEC. 261. AMENDMENTS TO GENERAL PROVISIONS.**

21 (a) **PRESIDENTIAL SUCCESSION.**—Section 19(d)(1)  
22 of title 3, United States Code, is amended by inserting  
23 “the United States Trade Representative,” after “Sec-  
24 retary of Commerce,”.

25 (b) **INSPECTOR GENERAL.**—The Inspector General  
26 Act of 1978 is amended—

1 (1) in subsection 9(a)(1) by inserting after sub-  
2 paragraph (W) the following:

3 “(X) of the United States Trade Rep-  
4 resentative, all functions of the Inspector Gen-  
5 eral of the Department of Commerce and the  
6 Office of the Inspector General of the Depart-  
7 ment of Commerce relating to the functions  
8 transferred to the United States Trade Rep-  
9 resentative by section 222 of the Trade Reorga-  
10 nization Act of 1995.”; and

11 (2) in section 11—

12 (A) in paragraph (1) by inserting “the  
13 United States Trade Representative;” after  
14 “the Attorney General;”; and

15 (B) in paragraph (2) by inserting “the  
16 United States Trade Administration,” after  
17 “Treasury;”.

18 (c) AMENDMENT TO THE TRADE ACT OF 1974.—(1)  
19 Chapter 4 of title I of the Trade Act of 1974 is amended  
20 to read as follows:

1           **“CHAPTER 4—REPRESENTATION IN**  
2                           **TRADE NEGOTIATIONS**

3   **“SEC. 141. FUNCTIONS OF THE UNITED STATES TRADE REP-**  
4                           **RESENTATIVE.**

5           “The United States Trade Representative of the  
6 United States Trade Administration established under  
7 section 201 of the Trade Reorganization Act of 1995  
8 shall—

9                   “(1) be the chief representative of the United  
10 States for each trade negotiation under this title or  
11 chapter 1 of title III of this Act, or subtitle A of  
12 title I of the Omnibus Trade and Competitiveness  
13 Act of 1988, or any other provision of law enacted  
14 after the Trade Reorganization Act of 1995;

15                   “(2) report directly to the President and the  
16 Congress, and be responsible to the President and  
17 the Congress for the administration of trade agree-  
18 ments programs under this Act, the Omnibus Trade  
19 and Competitiveness Act of 1988, the Trade Expan-  
20 sion Act of 1962, section 350 of the Tariff Act of  
21 1930, and any other provision of law enacted after  
22 the Trade Reorganization Act of 1995;

23                   “(3) advise the President and the Congress  
24 with respect to nontariff barriers to international  
25 trade, international commodity agreements, and

1 other matters which are related to the trade agree-  
2 ments programs; and

3 “(4) be responsible for making reports to Con-  
4 gress with respect to the matters set forth in para-  
5 graphs (1) and (2).”.

6 (2) The table of contents in the first section of the  
7 Trade Act of 1974 is amended by striking the items relat-  
8 ing to chapter 4 and section 141 and inserting the follow-  
9 ing:

“CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

“Sec. 141. Functions of the United States Trade Representative.”.

10 (d) FOREIGN SERVICE PERSONNEL.—The Foreign  
11 Service Act of 1980 is amended by striking paragraph (3)  
12 of section 202(a) (22 U.S.C. 3922(a)) and inserting the  
13 following:

14 “(3) The United States Trade Representative of  
15 the United States Trade Administration may utilize  
16 the Foreign Service personnel system in accordance  
17 with this Act—

18 “(A) with respect to the personnel per-  
19 forming functions—

20 “(i) which were transferred to the De-  
21 partment of Commerce from the Depart-  
22 ment of State by Reorganization Plan No.  
23 3 of 1979; and

1           “(ii) which were subsequently trans-  
2           ferred to the United States Trade Rep-  
3           resentative by section 222 of the Trade  
4           Reorganization Act of 1995; and

5           “(B) with respect to other personnel of the  
6           United States Trade Administration to the ex-  
7           tent the President determines to be necessary in  
8           order to enable the United States Trade Ad-  
9           ministration to carry out functions which re-  
10          quire service abroad.”.

11          (e) CHIEF FINANCIAL OFFICERS.—Section 901(b)(1)  
12 of title 31, United States Code, is amended by adding at  
13 the end the following:

14           “(Q) The United States Trade Administra-  
15          tion.”.

16 **SEC. 262. REPEALS.**

17          Sections 1 and 2 of the Act of June 5, 1939 (15  
18 U.S.C. 1502 and 1503; 53 Stat. 808), relating to the  
19 Under Secretary of Commerce, are repealed.

20 **SEC. 263. CONFORMING AMENDMENTS RELATING TO EXEC-**  
21 **UTIVE SCHEDULE POSITIONS.**

22          (a) POSITIONS AT LEVEL I.—Section 5312 of title  
23 5, United States Code, is amended—

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

1           “The United States Trade Representative of  
2           the United States Trade Administration.”.

3           (b) POSITIONS AT LEVEL II.—Section 5313 of title  
4 5, United States Code, is amended by adding at the end  
5 the following:

6           “Deputy Administrator of the United States  
7           Trade Administration.

8           “Deputy United States Trade Representatives,  
9           United States Trade Administration (2).”.

10          (c) POSITIONS AT LEVEL III.—Section 5314 of title  
11 5, United States Code, is amended—

12           (1) by striking the item relating to the Under  
13           Secretary of Commerce, Under Secretary of Com-  
14           merce for Economic Affairs, Under Secretary of  
15           Commerce for Export Administration, and Under  
16           Secretary of Commerce for Travel and Tourism, and  
17           inserting “Under Secretary of Commerce for Eco-  
18           nomic Affairs and Under Secretary of Commerce for  
19           Travel and Tourism”; and

20           (2) by adding at the end the following:

21           “Assistant Administrators, United States Trade  
22           Administration (3).

23           “Director General for Export Promotion, Unit-  
24           ed States Trade Administration.”.

1 (d) POSITIONS AT LEVEL IV.—Section 5315 of title  
2 5, United States Code, is amended—

3 (1) in the item relating to the Assistant Sec-  
4 retaries of Commerce, by striking “(11)” and insert-  
5 ing “(7)”;

6 (2) by striking the item relating to the Assist-  
7 ant Secretary of Commerce and Director General of  
8 the United States and Foreign Commercial Service;  
9 and

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

11 “General Counsel, United States Trade Admin-  
12 istration.

13 “Inspector General, United States Trade Ad-  
14 ministration.

15 “Chief Financial Officer, United States Trade  
16 Administration.”.

17 (e) POSITIONS AT LEVEL V.—Section 5316 of title  
18 5, United States Code, is amended by striking the item  
19 relating to the National Export Expansion Coordinator,  
20 Department of Commerce.

1 **TITLE III—TRANSITIONAL, SAV-**  
2 **INGS, AND CONFORMING**  
3 **PROVISIONS**

4 **SEC. 301. ADDITIONAL TRANSFERS.**

5 Any function of the Secretary of Commerce or the  
6 Department of Commerce which—

7 (1) is not transferred by title II of this Act; and

8 (2) is incidental to, necessary for, or primarily  
9 related to, the performance of a function transferred  
10 by any such title,

11 is transferred to the head of the Federal agency to which  
12 the related function is transferred by such title.

13 **SEC. 302. TRANSFER AND ALLOCATIONS OF APPROPRIA-**  
14 **TIONS AND PERSONNEL.**

15 Except as otherwise provided in this Act, the person-  
16 nel employed in connection with, and the assets, liabilities,  
17 contracts, property, records, and unexpended balances of  
18 appropriations, authorizations, allocations, and other  
19 funds employed, used, held, arising from, available to, or  
20 to be made available in connection with the functions and  
21 offices transferred by this Act, subject to section 1531 of  
22 title 31, United States Code, shall be transferred to the  
23 head of the Federal agency to which such functions or of-  
24 fices are transferred by this Act. Unexpended funds trans-  
25 ferred pursuant to this section shall be used only for the

1 purposes for which the funds were originally authorized  
2 and appropriated.

3 **SEC. 303. INCIDENTAL TRANSFERS.**

4 (a) IN GENERAL.—The Director of the Office of  
5 Management and Budget, at such time or times as the  
6 Director shall provide, is authorized to make such deter-  
7 minations as may be necessary with regard to the func-  
8 tions and offices transferred by this Act, and to make such  
9 additional incidental dispositions of personnel, assets, li-  
10 abilities, grants, contracts, property, records, and unex-  
11 pended balances of appropriations, authorizations, alloca-  
12 tions, and other funds held, used, arising from, available  
13 to, or to be made available in connection with such func-  
14 tions and offices, as may be necessary to carry out the  
15 provisions of this Act. The Director shall provide for the  
16 termination of the affairs of all entities terminated by this  
17 Act and for such further measures and dispositions as may  
18 be necessary to effectuate the purposes of this Act.

19 (b) TRANSFERS RELATING TO SENIOR EXECUTIVE  
20 SERVICE.—After consultation with the Director of the Of-  
21 fice of Personnel Management, the Director of the Office  
22 of Management and Budget is authorized, at such times  
23 as the Director of the Office of Management and Budget  
24 may provide, to make such determinations as may be nec-  
25 essary with regard to the transfer of positions within the

1 Senior Executive Service in connection with the functions  
2 and offices transferred by this Act.

3 **SEC. 304. EFFECT ON PERSONNEL.**

4 (a) IN GENERAL.—Except as otherwise provided by  
5 this Act, the transfer pursuant to this Act of full-time per-  
6 sonnel (except special Government employees) and part-  
7 time personnel holding permanent positions shall not  
8 cause any such employee to be separated or reduced in  
9 grade or compensation for one year after the date of trans-  
10 fer of such employee under this Act.

11 (b) EXECUTIVE SCHEDULE POSITIONS.—Except as  
12 otherwise provided by this Act, any person who, on the  
13 day preceding the effective date of this Act, held a position  
14 compensated in accordance with the Executive Schedule  
15 prescribed in chapter 53 of title 5, United States Code,  
16 and who, without a break in service, is appointed in a Fed-  
17 eral agency to which functions are transferred by this Act  
18 to a position having duties comparable to the duties per-  
19 formed immediately preceding such appointment shall con-  
20 tinue to be compensated in such new position at not less  
21 than the rate provided for such previous position, for the  
22 duration of the service of such person in such new posi-  
23 tion.

24 (c) TERMINATION OF CERTAIN POSITIONS.—Except  
25 for members of the Foreign Service, positions whose in-

1 cumbents are appointed by the President, by and with the  
2 advice and consent of the Senate, the functions of which  
3 are transferred by this Act, shall terminate on the effective  
4 date of this Act.

5 **SEC. 305. SAVINGS PROVISIONS.**

6 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

7 All orders, determinations, rules, regulations, permits,  
8 agreements, grants, contracts, certificates, licenses, reg-  
9 istrations, privileges, and other administrative actions—

10 (1) which have been issued, made, granted, or  
11 allowed to become effective by the President, any  
12 Federal agency or official thereof, or by a court of  
13 competent jurisdiction, in the performance of func-  
14 tions which are transferred under this Act, and

15 (2) which are in effect at the time this Act  
16 takes effect, or were final before the effective date  
17 of this Act and are to become effective on or after  
18 the effective date of this Act,

19 shall continue in effect according to their terms until  
20 modified, terminated, superseded, set aside, or revoked in  
21 accordance with law by the President, the head of the Fed-  
22 eral agency to which such functions are transferred under  
23 this Act or other authorized official, a court of competent  
24 jurisdiction, or by operation of law.

1           (b) PROCEEDINGS NOT AFFECTED.—(1) The provi-  
2 sions of this Act shall not affect any proceedings, includ-  
3 ing notices of proposed rule making, or any application  
4 for any license, permit, certificate, or financial assistance  
5 pending on the effective date of this Act before the De-  
6 partment of Commerce or the Office of the United States  
7 Trade Representative, or any office thereof with respect  
8 to functions transferred by this Act, but such proceedings  
9 or applications, to the extent that they relate to functions  
10 transferred, shall be continued. Orders shall be issued in  
11 such proceedings, appeals shall be taken therefrom, and  
12 payments shall be made under such orders, as if this Act  
13 had not been enacted, and orders issued in any such pro-  
14 ceedings shall continue in effect until modified, termi-  
15 nated, superseded, or revoked by the head of the Federal  
16 agency to which such functions are transferred by this  
17 Act, by a court of competent jurisdiction, or by operation  
18 of law. Nothing in this subsection prohibits the discontinu-  
19 ance or modification of any such proceeding under the  
20 same terms and conditions and to the same extent that  
21 such proceeding could have been discontinued or modified  
22 if this Act had not been enacted.

23           (2) The Secretary of Commerce, the United States  
24 Trade Representative, and the head of each Federal agen-  
25 cy to which functions are transferred by this Act are au-

1 thORIZED to issue regulations providing for the orderly  
2 transfer of proceedings continued under paragraph (1).

3 (c) ADMINISTRATIVE ACTIONS RELATING TO PRO-  
4 MULGATION OF RULES.—Any administrative action relat-  
5 ing to the preparation or promulgation of a regulation by  
6 a Federal agency relating to a function transferred under  
7 this Act may be continued by the Federal agency to which  
8 such function is transferred with the same effect as if this  
9 Act had not been enacted.

10 (d) SUITS NOT AFFECTED.—Except as provided in  
11 subsection (e)—

12 (1) the provisions of this Act do not affect ac-  
13 tions commenced prior to the effective date of this  
14 Act, and

15 (2) in all such actions, proceedings shall be had,  
16 appeals taken, and judgments rendered in the same  
17 manner and effect as if this Act had not been en-  
18 acted.

19 (e) NONABATEMENT OF ACTIONS.—No action or  
20 other proceeding commenced by or against any officer in  
21 his official capacity as an officer of the Department of  
22 Commerce or the Office of United States Trade Rep-  
23 resentative with respect to functions transferred by this  
24 Act shall abate by reason of the enactment of this Act.  
25 No cause of action by or against the Department of Com-

1 merce or the Office of United States Trade Representative  
2 with respect to functions transferred by this Act, or by  
3 or against any officer thereof in his official capacity, shall  
4 abate by reason of the enactment of this Act. Causes of  
5 action and actions with respect to a function or office  
6 transferred by this Act, or other proceedings may be as-  
7 serted by or against the United States or an official of  
8 the Federal agency to which such function or office is  
9 transferred by this Act, as may be appropriate, and, in  
10 an action pending when this Act takes effect, the court  
11 may at any time, on its own motion or that of any party,  
12 enter an order which will give effect to the provisions of  
13 this subsection.

14 (f) FEDERAL OFFICIAL AS PARTY IN ACTION.—If,  
15 before the date on which this Act takes effect, the Depart-  
16 ment of Commerce or the Office of the United States  
17 Trade Representative, or any officer thereof in his official  
18 capacity, is a party to an action, and under this Act any  
19 function of such Department, Office, or officer is trans-  
20 ferred to a Federal agency, then such action shall be con-  
21 tinued with the head of such agency substituted or added  
22 as a party.

23 (g) JUDICIAL REVIEW.—Orders and actions of the  
24 head of a Federal agency in the exercise of functions  
25 transferred to the head of such agency by this Act shall

1 be subject to judicial review to the same extent and in  
2 the same manner as if such orders and actions had been  
3 by the Department of Commerce or the Office of the Unit-  
4 ed States Trade Representative, or any office or officer  
5 thereof, in the exercise of such functions immediately pre-  
6 ceding their transfer. Any statutory requirements relating  
7 to notice, hearings, action upon the record, or administra-  
8 tive review that apply to any function transferred by this  
9 Act shall apply to the exercise of such function by the head  
10 of the Federal agency to which such function is trans-  
11 ferred by this Act.

12 **SEC. 306. REFERENCE.**

13 With respect to any functions transferred by this Act  
14 and exercised after the effective date of this Act, reference  
15 in any other Federal law to—

16 (1) the Secretary of Commerce or the United  
17 States Trade Representative; or

18 (2) the Department of Commerce or the Office  
19 of the United States Trade Representative or any of-  
20 ficer or office thereof,

21 shall be considered to refer to the head of the Federal  
22 agency to whom such functions were transferred by this  
23 Act.

1 **SEC. 307. TRANSITION.**

2 With the consent of the Secretary of Commerce or  
3 the United States Trade Representative, as the case may  
4 be, the head of each Federal agency to which functions  
5 or offices are transferred by this Act is authorized to uti-  
6 lize—

7 (1) the services of such officers, employees, and  
8 other personnel of the Department of Commerce or  
9 the Office of the United States Trade Representa-  
10 tive, as the case may be, with respect to functions  
11 or offices transferred to that agency by this Act; and

12 (2) funds appropriated to such functions or of-  
13 fices for such period of time as may reasonably be  
14 needed to facilitate the orderly implementation of  
15 this Act.

16 **SEC. 308. ADDITIONAL CONFORMING AMENDMENTS.**

17 (a) IN GENERAL.—After consultation with the appro-  
18 priate committees of the Congress and the Director of the  
19 Office of Management and Budget, the head of each agen-  
20 cy to which functions are transferred under this Act shall  
21 prepare and submit to the Congress recommended legisla-  
22 tion containing technical and conforming amendments to  
23 reflect the changes made by this Act.

24 (b) SUBMISSION.—No later than 6 months after the  
25 effective date of this Act, each such agency head shall sub-

1 mit the recommended legislation referred to under sub-  
2 section (a).

### 3 **TITLE IV—MISCELLANEOUS**

#### 4 **SEC. 401. EFFECTIVE DATE.**

5 (a) IN GENERAL.—This Act shall take effect 120  
6 days after the date of the enactment of this Act, except  
7 that—

8 (1) section 307 shall take effect on such date  
9 of enactment; and

10 (2) at any time after the date of the enactment  
11 of this Act—

12 (A) the officers provided for in title II of  
13 this Act may be nominated and appointed, as  
14 provided in such titles; and

15 (B) the Secretary of Commerce, the United  
16 States Trade Representative, and the head of  
17 each Federal agency to which functions are  
18 transferred by this Act may promulgate regula-  
19 tions under section 305(b)(2).

20 (b) INTERIM COMPENSATION AND EXPENSES.—  
21 Funds available to the Department of Commerce or the  
22 Office of the United States Trade Representative (or any  
23 official or component thereof), with respect to the func-  
24 tions transferred by this Act, may be used, with approval  
25 of the Director of the Office of Management and Budget,

1 to pay the compensation and expenses of an officer ap-  
2 pointed under subsection (a)(2)(A) who will carry out such  
3 functions until funds for that purpose are otherwise avail-  
4 able.

5 **SEC. 402. INTERIM APPOINTMENTS.**

6 (a) IN GENERAL.—If one or more officers required  
7 by this Act to be appointed by and with the advice and  
8 consent of the Senate have not entered upon office on the  
9 effective date of this Act and notwithstanding any other  
10 provision of law, the President may designate any officer  
11 who was appointed by and with the advice and consent  
12 of the Senate, and who was such an officer on the day  
13 before the effective date of this Act, to act in the office  
14 until it is filled as provided by this Act.

15 (b) COMPENSATION.—Any officer acting in an office  
16 pursuant to subsection (a) shall receive compensation at  
17 the rate prescribed by this Act for such office.

18 **SEC. 403. FUNDING REDUCTIONS RESULTING FROM REOR-**  
19 **GANIZATION.**

20 (a) FUNDING REDUCTIONS.—Beginning in the first  
21 fiscal year that begins on or after the effective date of  
22 this Act, the amount expended by the United States in  
23 performing all functions which, immediately before the ef-  
24 fective date of this Act, were performed by the Depart-  
25 ment of Commerce or any agency, officer, or employee

1 thereof may not exceed 75 percent of the total amount  
2 expended by the United States in performing all such  
3 functions during fiscal year 1995.

4 (b) IMPLEMENTATION PLAN.—(1) Not later than 90  
5 days after the date of the enactment of this Act, the Direc-  
6 tor of the Office of Management and Budget shall submit  
7 a report to the Congress on a plan that—

8 (A) provides for the implementation of the  
9 funding reductions required under subsection (a);  
10 and

11 (B) makes legislative recommendations for ad-  
12 ditional authority necessary or useful in implement-  
13 ing such funding reductions.

14 (2) In preparing the report, the Office of Manage-  
15 ment and Budget shall consult with the USTR.

16 **SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums  
18 as may be necessary to carry out the provisions of this  
19 Act. Amounts appropriated under this section shall be  
20 available until expended.

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