(i) currently provide fair and equitable market access for United States exports of goods and services and opportunities for export-related investment by United States persons, beyond what is required by existing multilateral trade agreements or obligations; or

(ii) have made significant progress in opening their markets to United States exports of goods and services and export-related investment by United States persons; and

(B) the further opening of whose markets has the greatest potential to increase United States exports of goods and services and export-related investment by United States persons, either directly or through the establishment of a beneficial precedent.

(3) Presidential determination

The President, on the basis of the report submitted by the Trade Representative under paragraph (2), shall determine with which foreign country or countries, if any, the United States should seek to negotiate a free trade area agreement or agreements.

(4) Recommendations on future free trade area negotiations

No later than July 1, 1994, and July 1, 1997, the President shall submit to the appropriate Congressional committees a written report that contains—

(A) recommendations for free trade area negotiations with each foreign country selected under paragraph (3);

(B) with respect to each country selected, the specific negotiating objectives that are necessary to meet the objectives of the United States under this section; and

(C) legislative proposals to ensure adequate consultation with the Congress and the private sector during the negotiations, advance Congressional approval of the negotiations recommended by the President, and Congressional approval of any trade agreement entered into by the President as a result of the negotiations.

(5) General negotiating objectives

The general negotiating objectives of the United States under this section are to obtain—

(A) preferential treatment for United States goods;

(B) national treatment and, where appropriate, equivalent competitive opportunity for United States services and foreign direct investment by United States persons;

(C) the elimination of barriers to trade in goods and services by United States persons through standards, testing, labeling, and certification requirements;

(D) nondiscriminatory government procurement policies and practices with respect to United States goods and services;

(E) the elimination of other barriers to market access for United States goods and services, and the elimination of barriers to foreign direct investment by United States persons;

(F) the elimination of acts, policies, and practices which deny fair and equitable market opportunities, including foreign government toleration of anticompetitive business practices by private firms or among private firms that have the effect of restricting, on a basis that is inconsistent with commercial considerations, purchasing by such firms of United States goods and services;

(G) adequate and effective protection of intellectual property rights of United States persons, and fair and equitable market access for United States persons that rely upon intellectual property protection;

(H) the elimination of foreign export and domestic subsidies that distort international trade in United States goods and services or cause material injury to United States industries;

(I) the elimination of all export taxes;

(J) the elimination of acts, policies, and practices which constitute export targeting; and

(K) monitoring and effective dispute settlement mechanisms to facilitate compliance with the matters described in subparagraphs (A) through (J).

(Pub. L. 103–182, title I, § 108, Dec. 8, 1993, 107 Stat. 2066.)

SUBCHAPTER II—CUSTOMS PROVISIONS

§ 3331. Tariff modifications

(a) Tariff modifications provided for in Agreement

(1) Proclamation authority

The President may proclaim—

(A) such modifications or continuation of any duty,

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

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 302, 305, 307, 308, and 703 and Annexes 302.2, 307.1, 308.1, 308.2, 300–B, 703.2, and 703.3 of the Agreement.

(2) Effect on Mexican GSP status

Notwithstanding section 502(f)(2) of the Trade Act of 1974 [19 U.S.C. 2462(f)(2)], the President shall terminate the designation of Mexico as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date of entry into force of the Agreement between the United States and Mexico.

(b) Other tariff modifications

(1) In general

Subject to paragraph (2) and the consultation and layover requirements of section 3313(a) of this title, the President may proclaim—

(A) such modifications or continuation of any duty,

(B) such modifications as the United States may agree to with Mexico or Canada regarding the staging of any duty treatment set forth in Annex 302.2 of the Agreement,

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

(D) such additional duties,

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

(2) Special rule for articles with tariff phaseout periods of more than 10 years

The President may not consider a request to accelerate the staging of duty reductions for an article for which the United States tariff phaseout period is more than 10 years if a request for acceleration with respect to such article has been denied in the preceding 3 calendar years.

(c) Conversion to ad valorem rates for certain textiles

For purposes of subsections (a) and (b), with respect to an article covered by Annex 300–B of the Agreement imported from Mexico for which the base rate in the Schedule of the United States in Annex 300–B is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

(Pub. L. 103–182, title II, §201, Dec. 8, 1993, 107 Stat. 2068; Pub. L. 104–188, title I, §1954(a)(5), Aug. 20, 1996, 110 Stat. 1927.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (a)(2), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title V of the Act is classified generally to subchapter V (§2461 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–188 substituted "502(f)(2) of the Trade Act of 1974" for "502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104–188, set out as an Effective Date note under section 2461 of this title.

EFFECTIVE DATE

Pub. L. 103–182, title II, §213, Dec. 8, 1993, 107 Stat. 2099, provided that:

"(a) PROVISIONS EFFECTIVE ON DATE OF ENACTMENT.—Section 212 [enacting provisions set out as a note under section 58c of this title] and this section take effect on the date of the enactment of this Act [Dec. 8, 1993].

"(b) PROVISIONS EFFECTIVE WHEN AGREEMENT ENTERS INTO FORCE.—Section 201, section 202, section 203(a), (d), and (e), section 210 and section 211, the amendment made by section 203(c), and the amendments made by sections 204 through 209 [enacting this section and sections 3332, 3333(a), (d), (e), 3334, and 3335 of this title and amending sections 58c, 1304, 1313, 1508, 1509, 1514, 1520, 1592, and 1628 of this title] take effect on the date the Agreement enters into force with respect to the United States [Jan. 1, 1994].

"(c) PROVISIONS WITH DELAYED EFFECTIVE DATES.—The amendments made by section 203(b) [amending sections 81c, 1311 to 1313, and 1562 of this title] apply—

"(1) with respect to exports from the United States to Canada—

"(A) on January 1, 1996, if Canada is a NAFTA country on that date, and

"(B) after such date for so long as Canada continues to be a NAFTA country; and

"(2) with respect to exports from the United States to Mexico—

"(A) on January 1, 2001, if Mexico is a NAFTA country on that date; and

"(B) after such date for so long as Mexico continues to be a NAFTA country."

NORTH AMERICAN FREE TRADE AGREEMENT: ENTRY INTO FORCE

The North American Free Trade Agreement entered into force on Jan. 1, 1994, see note set out under section 3311 of this title.

IMPLEMENTATION OF SAFEGUARD PROVISIONS FOR TEXTILE AND APPAREL GOODS

The Committee for the Implementation of Textile Agreements to implement safeguard provisions for textile and apparel goods pursuant to this section, see section 3 of Ex. Ord. No. 12889, Dec. 27, 1993, 58 F.R. 69681, set out as a note under section 3311 of this title.

§ 3332. Rules of origin

(a) Originating goods

(1) In general

For purposes of implementing the tariff treatment and quantitative restrictions provided for under the Agreement, except as otherwise provided in this section, a good originates in the territory of a NAFTA country if—

(A) the good is wholly obtained or produced entirely in the territory of one or more of the NAFTA countries;

(B)(i) each nonoriginating material used in the production of the good—

(I) undergoes an applicable change in tariff classification set out in Annex 401 of the Agreement as a result of production occurring entirely in the territory of one or more of the NAFTA countries; or

(II) where no change in tariff classification is required, the good otherwise satisfies the applicable requirements of such Annex; and

(ii) the good satisfies all other applicable requirements of this section;

(C) the good is produced entirely in the territory of one or more of the NAFTA countries exclusively from originating materials; or

(D) except for a good provided for in chapters 61 through 63 of the HTS, the good is produced entirely in the territory of one or more of the NAFTA countries, but one or more of the nonoriginating materials, that are provided for as parts under the HTS and are used in the production of the good, does not undergo a change in tariff classification because—

(i) the good was imported into the territory of a NAFTA country in an unassembled or a disassembled form but was classified as an assembled good pursuant to General Rule of Interpretation 2(a) of the HTS; or

(ii)(I) the heading for the good provides for and specifically describes both the good itself and its parts and is not further subdivided into subheadings; or

(II) the subheading for the good provides for and specifically describes both the good itself and its parts.