The House Report on the North American Free Trade Agreement Implementation Act

NORTH AMERICAN FREE TRADE AGREEMENT

IMPLEMENTATION ACT

House Report (Ways and Means Committee)
No. 103-361(I), Nov. 15, 1993
[To accompany H.R. 3450]

House Report (Banking, Finance, and Urban Affairs Committee)
No. 103-361(II), Nov. 15, 1993
[To accompany H.R. 3450]

House Report (Energy and Commerce Committee)
No. 103-361(III), Nov. 15, 1993
[To accompany H.R. 3450]

Senate Report (Finance, Agriculture, Nutrition, and Forestry, Commerce, Science, and Transportation, Governmental Affairs, Judiciary, and Foreign Relations Committees)
No. 103-189, Nov. 18, 1993
[To accompany S. 1627]

HOUSE REPORT NO. 103-361(I)

The Committee on Ways and Means, to whom was referred the bill (H.R. 3450) to implement the North American Free Trade Agreement, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

* * * * *

SUMMARY

H.R. 3450, the "North American Free Trade Agreement Implementation Act," approves the North American Free Trade Agreement (NAFTA) transmitted by the President to the Congress on November 4, 1993. The draft bill contains in six titles the provisions which are necessary or appropriate to implement the Agreement in U.S. domestic law.

Sections 1 and 2 set forth the short title, a table of contents, and definitions of terms used in the Act.

TITLE I.--APPROVAL OF AND GENERAL PROVISIONS RELATING TO, THE NORTH AMERICAN FREE TRADE AGREEMENT

Title I contains general provisions concerning approval and entry into force of the NAFTA and the relationship of the Agreement to U.S. laws. Congress approves the NAFTA and the Statement of Administrative Action transmitted by the President on November 4, 1993; conditions are set forth for entry into force of the Agreement on or after January 1, 1994.

Title I establishes a Federal-State consultation process concerning NAFTA obligations affecting State laws. U.S. laws prevail over the Agreement if there is a conflict; the Agreement prevails over inconsistent State or local law. No person other than the United States has a cause of action or defense under the Agreement.

Changes in U.S. law necessary or appropriate to implement modifications to the Agreement will be subject to standard legislative procedures, except for provisions of the Act authorizing implementation of certain actions by Presidential proclamation are subject to prior consultation and 60 calendar day Congressional layover requirements.

Institutional provisions include authorization of a U.S. Section of the NAFTA Secretariat, requirements relating to selection of dispute settlement panelists, and a preliminary process for considering possible future country accession to the NAFTA, subject to Congressional approval.

TITLE II--CUSTOMS PROVISIONS

Title II implements in U.S. domestic law the customs provisions of the NAFTA. The President is authorized to proclaim the modifications in U.S. duties to implement the scheduled phaseout and elimination of all tariffs required under various provisions of the NAFTA, and to maintain the general level of concessions. The rules of origin in the NAFTA to ensure application of preferential tariff treatment only to goods originating in Mexico or Canada are enacted in the statute.

Title II implements U.S. obligations under the NAFTA to eliminate customs merchandise processing fees, restrict duty drawback, and revise country of origin marking requirements; amends penalties and recordkeeping requirements to enforce NAFTA rules of origin and other customs requirements; and requires monitoring of television and picture tube imports.

TITLE III--APPLICATION OF AGREEMENT
TO SECTORS AND SERVICES

Title III implements in U.S. domestic law various provisions of the NAFTA relating to particular economic sectors. Title III includes procedures and criteria for applying bilateral and global import relief measures on Canadian or Mexican articles; implements NAFTA obligations that apply to certain agricultural commodities, intellectual property right protection, temporary entry of business persons, standards and sanitary and phytosanitary measures, and corporate average fuel economy; and authorizes the waiver of discriminatory government purchasing restrictions on NAFTA-covered procurement.

TITLE IV--DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

Title IV implements in U.S. domestic law the institutional provisions of the NAFTA establishing binational panel and extraordinary challenge committee review of final antidumping and countervailing duty determinations, in lieu of domestic judicial review, including procedures and criteria for the selection of panelists appointed by the United States, and special procedures for the selection of Federal judges for panels and committees. Objectives for future negotiations with NAFTA countries on subsidies and special procedures for industries facing subsidized competition pending development of subsidy rules are also included.

TITLE V--NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND OTHER PROVISIONS

Title V establishes a NAFTA transitional adjustment assistance program of comprehensive benefits, including training and income support, for workers who may be laid off due to increased U.S. imports from Mexico or Canada or shift of productions to Mexico or Canada, and authorizes State self-employment assistance programs.

Other provisions of Title V relate to performance under the NAFTA, including a comprehensive report by the President on the operation and economic impact of the Agreement after three years; response to actions affecting U.S. cultural industries; a report on the impact of the NAFTA on motor vehicle exports to Mexico; response to discriminatory tax measures; and authorization of a Center for the Study of Western Hemisphere Trade.

Changes in customs user fee levels and amendments to the Internal Revenue Code offset the budgetary costs of the NAFTA.

With respect to supplemental agreements to the NAFTA, Title V authorizes U.S. participation in, and appropriations for, the Commissions on Labor Cooperation, Environmental Cooperation, and Border Environment Cooperation. It also includes provisions relating to U.S. membership in the North American Development Bank.

TITLE VI--CUSTOMS MODERNIZATION

Title VI includes numerous provisions to streamline and automate the commercial operations of the U.S. Customs Service, including authority to establish the National Customs Automation Program. Title VI also improves compliance with customs laws, and provides safeguards, uniformity, and due process rights for importers.

BACKGROUND AND PURPOSE

The North American Free Trade Agreement submitted to the Congress by the President for approval on November 4, 1993, is the culmination of an initiative launched over three years ago. In a Joint Statement issued in Washington on June 11, 1990, President Salinas and President Bush endorsed the objective of a free trade agreement as the best means for attaining the agreed objectives of a vigorous economic relationship, maintaining sustained growth, and expanding trade and investment between the two countries. The Presidents directed their respective trade ministers to undertake

consultations and to do the preparatory work needed to initiate negotiations on such an agreement, and to report back to them as soon as practicable.

On August 8, 1990, the U.S. Trade Representative, Carla A. Hills, and the Mexican Secretary for Commerce and Industrial Development, Jaime Serra Puche, jointly recommended to the Presidents the initiation of formal negotiations, in accordance with each country's domestic laws, on a comprehensive free trade agreement, following preliminary consultations with private sector representatives and Members of Congress.

In a letter dated August 21, 1990, President Salinas of Mexico formally proposed to President Bush the initiation of formal negotiations as soon as possible for a free trade agreement between the United States and Mexico.

On September 25, 1990, President Bush notified the Chairman of the Committee on Ways and Means, pursuant to section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, of trade negotiations with Mexico. The letter also informed the Committee of the expressed desire by the Government of Canada to participate in the negotiations with a view to negotiating an agreement or agreements among all three countries, and of the interest of the three governments to consult on this possibility.

On February 5, 1991, President Bush notified the Chairman of the Committee on Ways and Means that he, President Salinas, and Prime Minister Mulroney had agreed, on the basis of the trilateral consultations and consultations with the private sector and Members of Congress, to seek a three-way free trade area. Although recognized as not necessarily technically required by section 1102 of the 1988 Act, the President formally notified the Committee of trade negotiations with Canada.

On March 1, 1991, President Bush requested the Congress to extend the fast track procedures for implementation of multilateral or bilateral trade agreements for two years ending June 1, 1993, to enable completion of the GATT Uruguay Round of multilateral trade negotiations and the proposed North American Free Trade Agreement. A number of Congressional concerns about free trade with Mexico were conveyed in letters during March to the President jointly from the Chairman of the House Committee on Ways and Means and the Senate Committee on Finance and from the Majority Leader of the House.

On May 1, 1991, the President responded with a set of detailed action plans for addressing these issues, including labor and environmental concerns, as well as views on the economic impact of the proposed free trade agreement (WMCP: 102-10). The fast track procedures were automatically extended for the additional two-year period for trade agreements entered into before June 1, 1993, when neither House of Congress passed by May 31, 1991, a resolution disapproving extension.

On March 8, 1993, the Speaker of the House reconstituted a Trade Agreement Coordinating Group, originally established in the 102nd Congress, chaired by the Chairman of the Committee on Ways and Means and consisting of the chairmen and ranking minority members of committees of jurisdiction over matters involved in trade negotiations or likely to be affected by trade agreement implementing legislation, the Majority and Minority Leaders, and co-chairs of the Democratic Trade Task Force. The corresponding coordinating group at the staff level, chaired by the Chief Counsel and Staff Director of the Committee on Ways and Means, was also continued. This group was the primary coordinating mechanism in the House for monitoring the progress of the NAFTA negotiations and later the informal consultation process with the Administration on developing the draft implementing legislation.

Under the auspices of the Coordinating Group, frequent briefing sessions were held at the Member and staff level with Administration negotiators on all subjects under discussion, beginning in June 1991 and continuing until the NAFTA and supplemental agreement negotiations were concluded. Given the broad interest of Members generally in a free trade area with Mexico, the briefings were open to Members and staff at large, in addition to those on committees of jurisdiction.

In addition, the Committee on Ways and Means and other committees of jurisdiction, as well as various Member caucus groups, held Member and staff-level meetings with Administration officials, particularly the USTR, throughout the negotiations on issues of their particular interest.

On August 12, 1992, President Bush announced the completion of negotiations for a comprehensive North American Free Trade Agreement between Mexico, Canada and the United States. At that time, the Administration issued various documents, including a negotiated summary of the Agreement.

On September 8, 1992, President Bush officially notified the Speaker of the House and the President of the Senate, in accordance with the 90-day notice requirement under section 1103(a)(1) of the 1988 Act, of his intent to enter into a NAFTA with the Governments of Mexico and Canada. The notice was accompanied by the reports of 38 private sector advisory committees on the draft Agreement as required by section 135 of the Trade Act of 1974. The President committed to work closely with the Congress to develop appropriate implementing legislation. The Administration also issued a report at that time on the benefits of the NAFTA and actions taken to fulfill the commitments made by the President on May 1, 1991 on worker adjustment, labor rights, and environmental protection.

On October 7, 1992, President Bush, President Salinas, and Prime Minister Mulroney met in San Antonio, Texas to discuss plans for implementing the NAFTA and affirmed their shared commitment to adopt the agreement in 1993, to take effect on January 1, 1994. The three trade ministers who negotiated the agreement--U.S. Trade Representative Carla Hills, Secretary Jaime Serra, and Minister Michael Wilson--initialed the NAFTA draft legal text.

On December 17, 1992, the expiration date of the 90-day minimum notice period, President Bush, President Salinas, and Prime Minister Mulroney signed the NAFTA in their respective capitals. On that day, President-elect Clinton reaffirmed his support for the NAFTA, but reiterated his campaign pledge that three supplemental agreements would be required before proceeding with the implementing legislation. These three supplemental agreements would cover the environment, workers, and special safeguards for unexpected surges in imports.

On August 13, 1993, U.S Trade Representative Michael Kantor announced agreement by the three governments on supplemental agreements to the NAFTA on labor cooperation, on environmental cooperation, and on import surges. He also announced a basic agreement on a new institutional structure for funding environmental infrastructure projects in the U.S.-Mexican border region. The NAFTA side agreements were signed in a White House ceremony on September 14, 1993.

Informal staff-level consultations began in February 1993, between the USTR and committees of jurisdiction, and with House and Senate legislative counsel on those changes in U.S. statutes or additional authorities necessary to implement NAFTA obligations. Beginning in June, the Coordinating Group at the staff level held periodic meetings to coordinate the development of agreed draft texts between committees of joint jurisdiction as well as provisions in the jurisdiction of other committees for inclusion in a consolidated draft bill. House and Senate legislative counsel drafted the text of the proposed implementing bill, initially from drafts supplied by the Administration.

In a letter to the Speaker of the House dated September 28, 1993, the President emphasized the importance of Congress voting on a NAFTA implementing bill before adjournment in 1993, to enable the Agreement to take effect on January 1, 1994, as scheduled. To meet that timetable, the President proposed the completion of informal consultations between the Administration and all Congressional committees of jurisdiction on the joint drafting of an implementing bill by November 1 to permit introduction at that time.

On November 2, 1993, the Speaker of the House and the Majority leader of the Senate transmitted to the U.S. Trade Representative proposed implementing legislation for the NAFTA, and proposals for inclusion in the Statement of Administrative Action as developed through informal consultations between House and Senate committees of jurisdiction and the Administration. The legislation noted the few items on which informal consensus could not be reached between the House and Senate and for which the Administration would have to make the final judgment with respect to inclusion in the bill.

On November 4, 1993, President Clinton sent two letters of transmittal to the Congress covering: (1) transmittal of the text of the NAFTA, together with the draft implementing bill, Statement of Administrative Action; and supporting documents as required under section 1103(a) of the 1988 Act for Congressional approval (House Document 103-159, vol. 1 and 2); and (2) transmittal of supplemental agreements to the NAFTA on labor, the environment, and import surges, and additional agreements and documents (House Document 103-160). The supplemental agreements and the other agreements are Executive agreements that do not require Congressional approval but are part of the entire NAFTA package to be considered by Congress in deciding whether to approve the implementing bill.

As provided under section 151 of the Trade Act of 1974, the implementing legislation was introduced as H.R. 3450 in the House on November 4, by Mr. Rostenkowski (as designee of the Majority Leader) for himself and Mr. Archer (as designee of the Minority Leader), by request, and jointly referred to eight committees of jurisdiction: Ways and Means; Agriculture; Banking, Finance, and Urban Affairs; Energy and Commerce; Foreign Affairs; Government Operations; and Public Works and Transportation. The bill was introduced in the Senate on November 4 as S. 1627 and referred to the Committee on Finance.

BENEFITS OF THE AGREEMENT

The North American Free Trade Agreement is the most comprehensive trade agreement ever negotiated and creates the world's largest integrated market for goods and services. At the same time, the Agreement does not create any new trade barriers with third countries and provides a solid framework for the liberalization of trade barriers throughout the Western Hemisphere. Moreover, it should also provide the catalyst for negotiations to liberalize trade barriers on a multilateral basis.

Canada and Mexico are the United States' first and third largest trading partners, and NAFTA will lead to a continued expansion of that trade. In 1992, bilateral trade between the United States and Canada amounted to almost $ 200 billion while bilateral trade between the United States and Mexico reached nearly $ 76 billion. With NAFTA, the United States, Canada, and Mexico will create the biggest integrated market in the world--a combined economy of $ 6.5 trillion and 370 million people. NAFTA is the U.S. opportunity to respond to, and compete with, burgeoning trade alliances in Europe and Asia. By creating export opportunities, NAFTA will enable the United States to take advantage of U.S. economic strengths and remain the world's biggest and best exporter.

The cornerstone of the Agreement will be the phased-out elimination of all tariffs on trade between the three countries. With respect to Canada, all tariffs in our bilateral trade will be eliminated by 1999, as was agreed in the earlier United States-Canada Free Trade Agreement. As for Mexico, most tariffs in our bilateral trade will be eliminated by 2004, although a few U.S. tariffs on potentially import-sensitive items will not be completely eliminated until 2009. Mexican tariffs on U.S. dutiable exports presently average 10 percent, compared to and average U.S. tariff of 4 percent on dutiable imports from Mexico.

The NAFTA also reduces a number of nontariff barriers to trade, liberalizes restrictions on investment and services, sets forth strong and comprehensive rules on intellectual property, and extends to the three countries the international system established under the U.S.-Canada Free Trade Agreement for review of national determinations on unfair dumping and subsidy practices. Moreover, NAFTA and its supplemental agreements will help ensure that economic development takes place in a way that protects and improves the environment and promotes improved labor conditions. As described in the statement accompanying the President's submission of the draft implementing bill, the expanded market access under the agreement should result in substantial benefits for the U.S. economy.

A free trade area is an arrangement between two or more countries in which each removes tariff and other restrictions on trade with the other parties to the arrangement. Article XXIV of the General Agreement on Tariffs and Trade (GATT) permits free trade areas or customs unions as a deviation from the nondiscrimination, most-favored-nation (MFN) principle of Article I if the agreement meets certain criteria. GATT-approved free trade areas: (1) must eliminate duties and other restrictive measures on "substantially all" trade between the parties; and (2) duties and other regulations of commerce maintained by the parties may not be higher or more restrictive to the trade of third countries than the parties had in place prior to the agreement.

The NAFTA is the latest in a series of free trade agreements entered into by the United States beginning with the U.S.-Israel Free Trade Agreement in 1984 and followed by the U.S.-Canada Free Trade Agreement in 1988. The Caribbean Basin Initiative authorized by the Caribbean Basin Economic Recovery Act (Public Law 98-67) generally provides one-way duty-free entry into the United States but does not meet the criteria of a reciprocal free trade area.

LEGISLATIVE AUTHORITY

The North American Free Trade Agreement was negotiated and entered into under the trade agreement authorities of section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418). Section 1102 authorizes the President to enter into multilateral or bilateral trade agreements, before June 1, 1993 (extended until April 15, 1994, only for the GATT Uruguay Round of Multilateral Trade Negotiations), to reduce or eliminate tariff or nontariff barriers and other trade-distorting measures. The authorities provide the means to achieve U.S. negotiating objectives set forth under section 1101 of the 1988 Act.

The President is authorized under section 1102(a) to implement trade agreement modifications on U.S. tariffs by proclamation within specified limits. Agreements regarding nontariff barriers entered into under section 1102(b) or bilateral agreements entered into under section 1102(c) to eliminate or reduce U.S. duties and nontariff barriers are subject to consultation requirements with Congressional committees of jurisdiction under sections 1102 and 1103 of the 1988 Act and Congressional approval of implementing legislation under special "fast track" procedural rules of the House and Senate under section 151 of the Trade Act of 1974.

The negotiation of bilateral trade agreements under "fast track" authority is also conditioned upon additional procedural requirements being met:

(1) The foreign country requests the negotiation of a bilateral agreement;

(2) The President provides at least 60 legislative days advance notice of negotiations to the House Committee on Ways and Means and the Senate Committee on Finance and consults with these Committees regarding negotiation of such an agreement; and

(3) Neither of the two Committees disapproves of the negotiation of such an agreement before the end of that 60-day period.

Trade agreements negotiated under section 1102 authority cannot enter into force for the United States and become binding as a matter of domestic law unless the President meets certain requirements for consultation with the Congress and implementing legislation approving the agreement and any changes in U.S. statutes are enacted into law:

(1) Before entering into an agreement, the President must consult with the appropriate committees of jurisdiction over subject matters affected by the agreement, especially regarding issues of implementation.

(2) The President must give the Congress at least 90 days advance notice of his intention to enter into the agreement.

(3) After entering into the agreement, the President must submit a copy of the agreement to the Congress, together with a draft implementing bill, a statement of any administrative actions proposed to implement the agreement, an explanation of how the bill and statement change or affect existing law, and a statement of reasons the agreement serves the interests of U.S. commerce and why the bill and proposed action are required and appropriate.

(4) The implementing bill is introduced in both Houses of Congress on the day it is submitted by the President and referred to the committee or committees of jurisdiction. Fast track rules give the committees up to 45 legislative days in which to report a bill; a committee is discharged automatically from further consideration after that period. (The Speaker of the House limited referral of H.R. 3450, introduced on November 4, to November 15, 1993.)

(5) Each House votes on the bill within 15 legislative days after committee consideration. A motion in the House to proceed to consideration of the implementing bill is highly privileged and not debatable. Amendments or motions to recommit are not in order, and debate is limited to not more than 20 hours.

The purpose of the approval process is to preserve the constitutional role and fulfill the legislative responsibility of the Congress with respect to agreements which generally involve substantial changes in domestic laws. The consultation and notification requirements provide the opportunity for Congressional views and recommendations with respect to provisions of the proposed agreement and possible changes in U.S. law or administrative practice to be fully taken into account and any implementing problems resolved prior to entry into the agreement and introduction of the implementing bill. At the same time, the process ensures the Executive branch and foreign countries of expeditious action on the final agreement and implementing bill without amendments. This process was used successfully in approving the GATT Tokyo Round multilateral trade agreements in the Trade Agreements Act of 1979, the United States-Israel Free Trade Area Implementation Act of 1985, and the United States-Canada Free Trade Agreements Implementation Act of 1988.

COMMITTEE ACTION

The Committee on Ways and Means and Subcommittee on Trade held several series of hearings related to the NAFTA and the supplemental agreements beginning in 1990. The Subcommittee held background hearings on United States-Mexico economic relations on June 14 and 28, 1990 (Serial No. 101-108), immediately following the Joint Statement by President Bush and President Salinas endorsing the objective of a free trade agreement. On February 20, 21, and 28, 1991, the Subcommittee held hearings on the proposed negotiation of a free trade agreement with Mexico (Serial No. 102-19), in response to the notices to the Committee from President Bush of proposed negotiations with Mexico and Canada.

On completion of the NAFTA negotiations, the full Committee began a series of hearings, with Administration witnesses, on September 9 and 15, 1992, which the Subcommittee continued on September 17 and 22, with private sector witnesses (Serial No. 102-135). The subcommittee held hearings on the three proposed supplemental agreements to the NAFTA on March 11, 1993 (Serial No. 103-8). The full Committee began a series of hearings on the provisions

and economic implications of the NAFTA and the three supplemental agreements and their implementation with Administration witnesses upon the signing of those agreements on September 14, 1993. These hearings were continued by the Subcommittee with private sector witnesses on September 15, 21, and 23.

Extensive testimony was received during these hearings and in written statements submitted for the printed record from Administration officials who negotiated the NAFTA and supplemental agreements on behalf of the United States, Members of Congress, and representatives of the broad range of private sector interests affected by the Agreement, both in support and in opposition. Private sector interests included national business organizations, trade associations representing particular industry or agricultural interests, labor unions, individual companies, research institutes and academicians, environmental groups, importers and exporters, and consumer interests. Many of these concerns were addressed in the course of the negotiations on the NAFTA and side agreements or in the implementing bill or Statement of Administrative Action.

As background information for these hearings and to assist Members in evaluating the impact of a NAFTA on the U.S. economy, the Committee requested three series of investigations by the International Trade Commission under section 332(g) of the Tariff Act of 1930. The first study provided a review of trade and investment liberalization measures undertaken by Mexico and the prospects for future U.S.-Mexican relations (USITC Publication 2275, April 1990). The Committee on Ways and Means and the Senate Committee on Finance jointly requested a study by the Commission of the likely impact of a free trade agreement with Mexico on the United States (USITC Publication 2353, February 1991). The Committees jointly requested, on September 22, 1992, an updated study by the ITC of the potential impact of the NAFTA on the U.S. economy overall and specific sectors (USITC Publication 2596, January 1993) to provide a basis for Congressional assessment of the actual Agreement.

On September 30, 1993, the Subcommittee considered in an informal markup session a draft proposal in conceptual form for NAFTA implementing legislation, concerning matters within the jurisdiction of the Committee on Ways and Means. The proposal as amended in Subcommittee was transmitted informally in spreadsheet form to the full Committee on October 5, 1993, and made available to the public.

The full Committee met in [an] informal markup session on October 13, and completed consideration on October 19, 1993, of the draft implementing proposal as recommended by the Subcommittee. The Committee adopted several amendments in conceptual form to the proposal and a number of recommendations for inclusion in the Statement of Administrative Action, including an Administration proposal to establish a transitional adjustment assistance program for NAFTA-impacted workers.

The draft implementing proposal, as amended, was prepared in legislative form, together with proposals of other committees of jurisdiction, in a consolidated House proposed bill as a basis for an informal conference with Senate committees. The House Ways and Means and Senate Finance Committees issued a press release on November 9 that summarized their joint recommendations on the implementing legislation and accompanying Statement of Administrative Action with respect to provisions within their jurisdiction.

On November 9, 1993, the Committee on Ways and Means ordered reported H.R. 3450, to implement the North American Free Trade Agreement, submitted by the President to the Congress on November 4, by a rollcall vote of 25 yeas, 12 noes.

With respect to the provisions in Title VI, Customs Modernization:

On January 27, 1993, Mr. Gibbons and Mr. Crane introduced H.R. 700, the "Customs Modernization and Informed Compliance Act," which was referred to the Committee on Ways and Means. H.R. 700 as introduced was the verbatim text of Subtitle C of Title VIII of the conference report on H.R. 11, the "Revenue Act of 1992" (H. Rept. 102-1034).

On March 29, 1993, the Subcommittee on Trade approved, by voice vote, H.R. 700 with an en bloc amendment.

On October 19, 1993, the full Committee on Ways and Means approved for inclusion in the NAFTA draft implementing bill the text of H.R. 700 as introduced with an en bloc amendment. The amendments included revisions to the sections on remote location filing, drawback, unclaimed merchandise, and authority to settle claims. In addition, the amendment added new sections authorizing administrative duty exemptions, customs accounting treatment for bonded aviation fuel, cartage, and reconciliation of suspended antidumping and countervailing duty entries.

Included herein is an exchange of letters between the Chairmen of the Committee on Ways and Means and the Committee on Merchant Marine and Fisheries concerning provisions of H.R. 700, within the jurisdiction of the Committee on Merchant Marine and Fisheries:

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 10, 1993.

Hon. GERRY E. STUDDS
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN:

Thank you for your letter of October 18, waiving sequential referral of those sections of H.R. 700, the "Customs Modernization and Informed Compliance Act," within the jurisdiction of the Committee on Merchant Marine and Fisheries.

As you may know, the text of H.R. 700, with additional amendments, was included in H.R. 3450, implementing legislation for the North American Free Trade Agreement (NAFTA), as Title VI. On November 9, the Committee on Ways and Means ordered H.R. 3450 favorably reported to the House. At your request, the Committee report will include this exchange of letters regarding your jurisdictional interest.

I want to thank you for the close cooperation of your staff in drafting the provisions relating to the vessel clearance and documentation laws of the United States.

Sincerely yours,

DAN ROSTENKOWSKI, *Chairman.*

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 18, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN:

It is my understanding that the Committee on Ways and Means will today be marking up the text of H.R. 700, the "Customs Modernization and Informed Compliance Act," as part of its informal mark up of NAFTA legislation. H.R. 700 legislation includes a number of provisions amending or repealing laws that fall within the jurisdiction of the Committee on Merchant Marine and Fisheries including amendments to the Act to Prevent Pollution from Ships and the vessel clearance and documentation laws of the United States.

To assist you and the House leadership in considering this legislation as expeditiously as possible, and with all the understanding that the Committee on Ways and Means will not make any changes to the pertinent sections without the concurrence of the Committee on Merchant Marine and Fisheries, I agree not to ask for a sequential referral of these provisions. At the same time, H.R. 700 does not amend some provisions in the Customs laws which use obsolete terminology and do not reflect current agency authorities. I am hopeful that our staff can work together to develop amendments to the Customs laws to reflect changes the Committee on Merchant Marine and Fisheries has made over the last decade to modernize the U.S. maritime laws.

This agreement is made, of course, without prejudice to the jurisdictional interests of the Committee on Merchant Marine and Fisheries over the provisions specified in this letter. I would request, in addition, that our correspondence on this matter be included in your Committee report on H.R. 700 and NAFTA legislation.

With kind regards,

Sincerely,

GERRY E. STUDDS, *Chairman.*

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HOUSE REPORT NO. 103-361(III)

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3450) to implement the North American Free Trade Agreement, having considered the same, report the bill without recommendation.

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PURPOSE AND SUMMARY

On December 18, 1992, former President Bush and the heads of state of Canada and Mexico signed the North American Free Trade Agreement (NAFTA), providing for the elimination or reduction in tariffs and other barriers to

trade between the three NAFTA countries. If implemented by the Governments of the United States, Mexico and Canada, NAFTA would create the biggest consumer market in the world, with a combined economy of $ 6.5 trillion and 370 million people.

President Clinton stated that he could not support the NAFTA negotiated by former President Bush without additional side agreements. Upon taking office, President Clinton, therefore, initiated that deal with Mexico and Canada to add provisions to NAFTA that deal with the environment, worker rights, and import surges.

Negotiations on supplemental agreements covering these three topics were concluded on August 13, 1993. The supplemental agreements were signed at Mexico City, Washington, and Ottawa on September 8, 9, 12 and 14, 1993.

On November 4, 1993, President Clinton submitted to the Congress H.R. 3450, a bill to implement the North American Free Trade Agreement. H.R. 3450 would approve only the basic agreement and the accompanying Statement of Administrative Action. The supplemental agreements on the environment and on labor, together with side letters having to do with sugar and other agricultural products, are not approved by the legislation.

Under the provisions of the bill, the President is authorized to enter the NAFTA into force with respect to Canada and Mexico, as long as specific conditions are met, on or after January 1, 1994. The provisions of NAFTA would take effect over a 15 year period, during which tariffs and other barriers would be reduced or eliminated.

BACKGROUND AND NEED FOR THE LEGISLATION

The NAFTA as negotiated by the United States, Mexico, and Canada requires changes to the statutory laws of each of the parties. H.R. 3450 sets out the changes required in U.S. statutory laws.

The following is a discussion of provisions of H.R. 3450 that affect matters within the jurisdiction of the Committee on Energy and Commerce. This discussion also covers some of the subjects within the jurisdiction of the Committee for which no statutory provisions were required.

I. ENTRY INTO FORCE

NAFTA is a broad and comprehensive trade agreement. It provides not only for tariff reductions, but would require Mexico, and in some cases, Canada, to change its laws and regulations having to do with a broad range of matters affecting foreign commerce, such as: health and safety standards; telecommunications; financial services; competition policy; intellectual property; and investment.

In addition, there are other matters that relate to NAFTA, but are not a part of NAFTA because they were negotiated or developed separately and after NAFTA. These include the Statement of Administrative Action, two supplemental agreements to NAFTA, and various side letters reflecting arrangements on citrus products, sugar and sweeteners, as well as an agreement on border funding.

H.R. 3450 provides for the approval by Congress of the NAFTA, which was signed on December 17, 1992, and the accompanying Statement of Administrative Action.

Title I of the bill establishes specific conditions that must be met before the President is authorized to exchange notes with the Government of Canada or Mexico providing for the entry into force of the basic NAFTA with respect to that country. These conditions are:

The President determines that Mexico or Canada has implemented the statutory changes necessary to bring that country into compliance with its obligations under the Agreement:

The President transmits a report to the Congress certifying that Canada or Mexico has fulfilled its obligations to implement the agreement;

Mexico and/or Canada exchanges notes with the United States providing for the entry into force of the environmental and labor side agreements.

Under the bill, therefore, the President can only enter the NAFTA into force with respect to either Mexico or Canada, if those countries agree to enter the labor and environmental supplemental agreements into force. However, nothing in the bill specifies when Mexico or Canada are required to enter the supplemental agreements into force.

Furthermore, under the bill, Mexico or Canada could withdraw from the supplemental agreements, but still be entitled to the benefits of the basic NAFTA agreement. On this point, the Administration states in its Statement of Administrative Action that:

The Administration, after thorough consultation with the congress, would provide notice of withdrawal under the NAFTA, and cease to apply that Agreement, to Mexico or Canada if either country withdraws from a supplemental agreement. The preceding would not apply in any instance in which the withdrawal by another government is consensual in nature--for example, where that government and the United States withdraw from a supplemental agreement in order to enter into a superseding agreement in the labor or environmental area.