

1 (3) to seek and provide new trade and commercial
2 opportunities for United States businesses abroad;

3 (4) to assist small businesses in developing export
4 markets;

5 (5) to direct long-range planning on international
6 trade matters;

7 (6) to facilitate and aid in financing exports of
8 goods and services in cooperation with other appropri-
9 ate Government agencies;

10 (7) to consult with other departments and agen-
11 cies where appropriate to assure the effective adminis-
12 tration of programs which have international trade
13 impact;

14 (8) to administer export controls, including con-
15 trols on export of strategic goods and technology;

16 (9) to gather and disseminate information on im-
17 ports, including their effects on domestic production,
18 employment, and consumption, in order to help ensure
19 appropriate and prompt responses to changing import
20 trends;

21 (10) to act to ensure adequate supplies at compet-
22 itive prices of critical materials necessary for national
23 security and the continued functioning of the Nation's
24 economy; and

1 (11) to conduct such studies and investigations as
2 may be requested by the President or Congress.

3 (c) The functions vested in the Special Trade Repre-
4 sentative under this Act are—

5 (1) to direct United States participation in multi-
6 lateral and bilateral trade negotiations;

7 (2) to direct and coordinate with other appropriate
8 departments and agencies the enforcement of United
9 States law and policy on trade matters;

10 (3) to negotiate and implement commercial and
11 trade agreements with foreign nations, including com-
12 modity agreements; and

13 (4) to oversee the conduct of international energy
14 negotiations.

15 **TITLE II—REORGANIZATION OF**
16 **INTERNATIONAL TRADE FUNCTIONS**

17 **REDESIGNATION**

18 **SEC. 201.** The Department of Commerce is hereby re-
19 designated the Department of Commerce and International
20 Trade (hereinafter in this Act referred to as the “Depart-
21 ment”), and the Secretary of Commerce or any other official
22 of the Department of Commerce is hereby redesignated the
23 Secretary or official, as appropriate, of Commerce and Inter-
24 national Trade.

PRINCIPAL OFFICERS

1
2 SEC. 202. There shall be in the Department an Under
3 Secretary for Domestic Commerce and an Under Secretary
4 for International Trade, each of whom shall be appointed by
5 the President, by and with the advice and consent of the
6 Senate. Either Under Secretary, as designated by the Secre-
7 tary, shall act for and exercise the functions of the Secretary
8 during any period of absence or disability of the Secretary or
9 in the event of a vacancy in the Office of the Secretary. The
10 Secretary shall prescribe the succession to the functions of
11 the Secretary in the event of absence or disability of or va-
12 cancy in the office of each under Under Secretary.

DUTIES OF THE SECRETARY

13
14 SEC. 203. (a) The Secretary of Commerce and Inter-
15 national Trade (hereinafter in this Act referred to as the
16 "Secretary") in carrying out the purposes of this Act shall
17 promote and undertake the development, collection, and dis-
18 semination, of technical, statistical, economic, and other in-
19 formation relative to domestic and international trade and in-
20 vestment; consult and cooperate with other executive agen-
21 cies in gathering information regarding the status of interna-
22 tional trade and investment in which the United States or
23 other countries may be participants; and consult and cooper-
24 ate with State and local governments and other interested

1 parties, including, when appropriate, holding informal public
2 hearings.

3 (b) Orders and actions of the Secretary in the exercise of
4 the functions transferred under this Act, and orders and ac-
5 tions of any entity the responsibilities of which are trans-
6 ferred to the authority of the Secretary and vested in the
7 Secretary pursuant to the functions specifically assigned to
8 any such entity by this Act or any other Act of Congress,
9 shall be subject to judicial review to the same extent and in
10 the same manner as if such orders and actions had been by
11 the department or agency or other authority exercising such
12 functions immediately preceding their transfer. Any statutory
13 requirements relating to notice, hearings, actions upon the
14 record, or administrative review that apply to any functions
15 transferred by this Act shall apply to the exercise of such
16 functions by the Secretary.

17 (c) In the exercise of the functions transferred under this
18 Act, the Secretary shall have the same authority as that
19 vested in the department, agency, or authority exercising
20 such functions immediately preceding their transfer, and their
21 actions in exercising such functions shall have the same force
22 and effect as when exercised by such department, agency, or
23 authority.

24 (d) In carrying out the functions transferred under this
25 Act, the Secretary shall consult, exchange information, and

1 carry on joint planning, research, and other activities with
 2 the Secretary of the Treasury, the Secretary of State, the
 3 Secretary of Agriculture, and the heads of such other execu-
 4 tive agencies as the Secretary deems appropriate.

5 (e) The Secretary shall jointly study, with the Secretary
 6 of State, the Secretary of the Treasury, the Secretary of Ag-
 7 riculture, and the heads of such other executive agencies as
 8 the Secretary deems appropriate, how Federal policies and
 9 programs can ensure that international trade and investment
 10 systems most effectively serve both national and international
 11 economic needs. The Secretary shall include in the annual
 12 report required by section 307 of this Act an account of the
 13 studies and activities conducted under this subsection, includ-
 14 ing any legislative recommendations which the Secretary de-
 15 termines desirable.

16 TRANSFER OF FUNCTIONS AND AGENCIES TO THE
 17 DEPARTMENT

18 SEC. 204. (a) There are transferred to and vested in the
 19 Secretary—

20 (1) such functions of the Secretary of State, the
 21 Department of State and officers and components of
 22 such Department as relate to—

23 (A) commercial affairs and business activi-
 24 ties, including export promotion, but not including

1 the reporting of economic conditions in foreign
2 countries; and

3 (B) international investment policy;

4 (2)(A) all functions of the Secretary of the Treas-
5 ury, the Department of Treasury, and any officer or
6 component thereof which are carried out through the
7 Assistant Secretary of the Treasury for International
8 Affairs, except those functions of such Assistant Secre-
9 tary which relate to monetary policy, international ex-
10 change, international investment, Saudi Arabian af-
11 fairs, and United States membership in bilateral and
12 multilateral monetary institutions;

13 (B) all functions of the Secretary of the Treasury
14 relating to dumping and countervailing duties;

15 (C) all functions of the Secretary of the Treasury
16 administered through the office known as the Office of
17 Foreign Assets Control;

18 (3) all functions of the Special Representative for
19 Trade Negotiations, the Office of the Special Repre-
20 sentative for Trade Negotiations, and all officers and
21 components thereof with respect to relief from unfair
22 trade practices under chapter 1 of title II of the Trade
23 Act of 1974 or under the Trade Agreements Act of
24 1979;

1 (4) the functions of the International Trade Com-
2 mission (A) with respect to uniform statistical data
3 under section 484(e) of the Tariff Act of 1930 and sec-
4 tion 608 of the Trade Act of 1974; (B) with respect to
5 tariff schedules and summaries under sections 332 and
6 484(e) of the Tariff Act of 1930 and section 201 of the
7 Tariff Classification Act of 1962; (C) with respect to
8 investigatory functions under sections 337 and 341 of
9 the Trade Act of 1974; and (D) conducted through the
10 office known as the Office of Industries;

11 (5) the functions of the Secretary of Labor with
12 respect to determinations of worker eligibility for as-
13 sistance under chapter 2 of title II of the Trade Act of
14 1974; and

15 (6) the functions of the Secretary of the Interior
16 conducted through the office known as the Division of
17 Interindustry and Economic Analysis.

18 (b)(1) The Export-Import Bank is transferred to and es-
19 tablished in the Department as an agency and instrumentali-
20 ty of the United States under the general supervision and
21 direction of the Secretary, as provided in section 2 of the
22 Export-Import Bank Act of 1945 as amended by section
23 310(j) of this Act.

24 (2) The Overseas Private Investment Corporation is
25 transferred to and established in the Department as an

1 agency and instrumentality of the United States under the
2 general supervision and direction of the Secretary, as pro-
3 vided in section 233 of the Foreign Assistance Act of 1961
4 as amended by section 310(h) of this Act.

5 (3) The International Trade Commission is transferred
6 to and established in the Department as an independent
7 entity. In the performance of their functions (other than the
8 functions which are transferred to the Secretary by subsec-
9 tion (a)(4) of this section), the members, employees, and other
10 personnel of the Commission shall not be responsible to the
11 supervision or direction of any officer, employee, or agent of
12 any other part of the Department.

13 (4) In each annual authorization and appropriation re-
14 quest under this Act, the Secretary shall identify the portion
15 thereof intended for the support of the Export-Import Bank,
16 the Overseas Private Investment Corporation, and the Inter-
17 national Trade Commission and include a statement by the
18 board of directors or commission, as appropriate, of each such
19 entity (A) showing the amount requested by such entity in its
20 budgetary presentation to the Secretary and the Office of
21 Management and Budget, and (B) an assessment of the budg-
22 etary needs of such entity.

1 **TRANSFER OF FUNCTIONS TO THE SPECIAL TRADE**2 **REPRESENTATIVE.**

3 **SEC. 205.** There are transferred to and vested in the
4 Special Representative for Trade Negotiations the functions
5 of the State Department with respect to the negotiations and
6 implementation of commercial agreements and trade agree-
7 ments with foreign nations, including commodity agreements.

8 **TITLE III—MISCELLANEOUS PROVISIONS**9 **ADMINISTRATIVE PROVISIONS**

10 **SEC. 301.** (a) The Secretary is authorized to appoint
11 and fix the compensation of such officers and employees, in-
12 cluding attorneys and investigators, as may be necessary to
13 carry out the functions transferred by this Act to the Secre-
14 tary and the Department, except that the number of individ-
15 uals which may be so appointed shall not exceed the number
16 of individuals which were performing such functions on the
17 day preceding the effective date of this Act, unless otherwise
18 provided by a provision of law enacted after the date of en-
19 actment of this Act. Except as otherwise provided by law,
20 such officers and employees shall be appointed in accordance
21 with the provisions of title 5, United States Code, governing
22 appointments in the competitive service, and compensated in
23 accordance with the provisions of chapter 51 and subchapter
24 III of chapter 53 of such title.

1 (b) The Secretary may obtain the services of experts
2 and consultants in accordance with the provisions of section
3 3109 of title 5, United States Code, and may compensate
4 such experts and consultants at rates not to exceed the daily
5 rate prescribed for GS-18 of the General Schedule under
6 section 5332 of such title.

7 (c)(1)(A) The Secretary is authorized to accept volun-
8 tary and uncompensated services without regard to the provi-
9 sions of section 3679(b) of the Revised Statutes (31 U.S.C.
10 665(b)) if such services will not be used to displace Federal
11 employees employed on a full-time, part-time, or seasonal
12 basis.

13 (B) The Secretary is authorized to accept volunteer
14 service in accordance with the provisions of section 3111 of
15 title 5, United States Code.

16 (2) The Secretary is authorized to provide for incidental
17 expenses, including but not limited to transportation, lodging
18 and subsistence for such volunteers.

19 (3) An individual who provides voluntary services under
20 paragraph (1)(A) of this subsection shall not be considered a
21 Federal employee for any purpose other than for purposes of
22 chapter 81 of title 5, United States Code, relating to compen-
23 sation for work injuries, and of chapter 171 of title 28,
24 United States Code, relating to tort claims.

1 (d) In the exercise of the functions transferred under this
2 Act, the Secretary shall have the same authority as the offi-
3 cer, agency, or office, or any part thereof, exercising such
4 functions immediately preceding their transfer, and the ac-
5 tions of the Secretary in exercising such functions shall have
6 the same force and effect as when exercised by such officer,
7 agency, or office, or part thereof.

8 (e) Except as otherwise provided in this Act, the Secre-
9 tary may delegate any of the functions under this Act to such
10 officers and employees of the Department as the Secretary
11 may designate, and may authorize such successive redelega-
12 tions of such functions within the Department as may be nec-
13 essary or appropriate. No delegation of functions by the Sec-
14 retary under this section or under any other provision of this
15 Act shall relieve the Secretary of responsibility for the ad-
16 ministration of such functions.

17 (f) The Secretary is authorized to prescribe, in accord-
18 ance with the provisions of chapter 5 of title 5, United States
19 Code, such rules and regulations as may be necessary or ap-
20 propriate to carry out the functions transferred to the Secre-
21 tary or the Department by this Act.

22 (g)(1) The Secretary is authorized to enter into and per-
23 form such contracts, grants, leases, cooperative agreements,
24 or other similar transactions with Federal departments and
25 agencies, public agencies, State, local, and tribal govern-

1 ments, private organizations, and individuals, and to make
2 such payments, by way of advance or reimbursement, as the
3 Secretary may deem necessary or appropriate to carry out
4 the functions transferred to the Secretary or the Department
5 by this Act.

6 (2) Notwithstanding any other provision of this Act, no
7 authority to enter into contracts or to make payments under
8 this Act shall be effective except to such extent or in such
9 amounts as are provided in advance under appropriation
10 Acts. This subsection shall not apply with respect to the au-
11 thority granted under subsection (h).

12 (h) The Secretary is authorized to accept, hold, adminis-
13 ter, and utilize gifts, bequests and devises of property, both
14 real and personal, for the purpose of aiding or facilitating the
15 work of the Department in the performance of the functions
16 transferred by this Act. Gifts, bequests, and devises of money
17 and proceeds from sales of other property received as gifts,
18 bequests, or devises shall be deposited in the Treasury in a
19 separate fund and shall be disbursed upon the order of the
20 Secretary. Property accepted pursuant to this section, and
21 the proceeds thereof, shall be used as nearly as possible in
22 accordance with the terms of the gift, bequest, or devise do-
23 nating such property. For the purposes of Federal income,
24 estate, and gift taxes, property accepted under this section

1 shall be considered as a gift, bequest, or devise to the United
2 States.

3 REORGANIZATION

4 SEC. 302. The Secretary is authorized to allocate or
5 reallocate the functions transferred to the Secretary or the
6 Department by this act among the officers of the Depart-
7 ment, and to establish, consolidate, alter, or discontinue such
8 organizational entities within the Department as may be nec-
9 essary or appropriate. The authority of the Secretary under
10 this section does not extend to the abolition of organizational
11 entities established by this Act or the reallocation of func-
12 tions among the officers of the Department as specifically
13 designated by this Act.

14 TRANSFER OF PERSONNEL

15 SEC. 303. (a) Except as otherwise provided in this Act,
16 the personnel employed in connection with, and the assets,
17 liabilities, contracts, property, records, and unexpended bal-
18 ances of appropriations, authorizations, allocations, and other
19 funds employed, held, used, arising from, available to or to be
20 made available in connection with the functions and agencies
21 transferred to the Secretary or the Department by this Act,
22 subject to section 202 of the Budget and Accounting Proce-
23 dures Act of 1950, are transferred to the Secretary for ap-
24 propriate allocation. Unexpended funds transferred pursuant

1 to this subsection shall be used only for the purposes for
2 which the funds were originally authorized and appropriated.

3 (b) Positions specified by statute or reorganization plan
4 to carry out functions and agencies transferred by this Act,
5 personnel occupying those positions on the effective date of
6 this Act, and personnel authorized to receive compensation in
7 such positions at the rate prescribed for offices and positions
8 at level II, III, IV, or V of the Executive Schedule con-
9 tained in sections 5312 through 5316 of title 5, United States
10 Code, on the effective date of this Act, shall be subject to the
11 provisions of section 304.

12 (c) Except as otherwise provided in this Act, the trans-
13 fer pursuant to this title of full-time personnel (except special
14 Government employees) and part-time personnel holding per-
15 manent positions shall not cause any such employee to be
16 separated or reduced in grade or compensation for one year
17 after such transfer or after the effective date of this Act,
18 whichever is later.

19 (d) Any person who, on the day before the effective date
20 of this Act, held a position compensated in accordance with
21 the Executive Schedule prescribed in chapter 53 of title 5,
22 United States Code, and who, without a break in service, is
23 appointed in the Department to a position having duties com-
24 parable to the duties performed immediately preceding such
25 appointment shall continue to be compensated in such new

1 affected by this Act, and to make such additional incidental
2 dispositions of personnel, assets, liabilities, grants, contracts,
3 property, records, and unexpended balances of appropri-
4 ations, authorizations, allocations, and other funds held, used,
5 arising from, available to, or to be made available in connec-
6 tion with the functions and agencies transferred by this Act,
7 as may be necessary to carry out the provisions of this Act.
8 The Director of the Office of Management and Budget shall
9 provide for the termination of the affairs of all agencies, com-
10 missions, offices, and other bodies terminated by this Act and
11 for such further measures and dispositions as may be neces-
12 sary to effectuate the purposes of this Act.

13

SAVINGS PROVISIONS

14 SEC. 306. (a) All orders, determinations, rules, regula-
15 tions, permits, grants, contracts, certificates, licenses, and
16 privileges—

17 (1) which have been issued, made, granted, or al-
18 lowed to become effective by the President, any Feder-
19 al department or agency or official thereof, or by a
20 court of competent jurisdiction, in the performance of
21 functions which are transferred under this Act to the
22 Department or the Secretary, and

23 (2) which are in effect at the time this Act takes
24 effect,

1 shall continue in effect according to their terms until modi-
2 fied, terminated, superseded, set aside, or revoked in accord-
3 ance with the law by the President, the Secretary, or other
4 authorized official, a court of competent jurisdiction, or by
5 operation of law.

6 (b)(1) The provisions of this Act shall not affect any pro-
7 ceedings, including notices of proposed rulemaking, or any
8 application for any license, permit, certificate, or financial as-
9 sistance pending on the effective date of this Act before any
10 department, agency, commission, or component thereof, the
11 functions of which are transferred by this Act; but such pro-
12 ceedings and applications, to the extent that they relate to
13 functions so transferred, shall be continued. Orders shall be
14 issued in such proceedings, appeals shall be taken therefrom,
15 and payments shall be made pursuant to such orders, as if
16 this Act had not been enacted; and orders issued in any such
17 proceedings shall continue in effect until modified, terminat-
18 ed, superseded, or revoked by the Secretary, by a court of
19 competent jurisdiction, or by operation of law. Nothing in this
20 subsection shall be deemed to prohibit the discontinuance or
21 modification of any such proceeding under the same terms
22 and conditions and to the same extent that such proceeding
23 could have been discontinued or modified if this Act had not
24 been enacted.

1 (2) The Secretary is authorized to promulgate regula-
2 tions providing for the orderly transfer of proceedings contin-
3 ued under paragraph (1) to the Department.

4 (c) Except as provided in subsection (e)—

5 (1) the provisions of this Act shall not affect suits
6 commenced prior to the effective date of this Act, and

7 (2) in all such suits, proceedings shall be had, ap-
8 peals taken, and judgments rendered in the same
9 manner and effect as if this Act had not been enacted.

10 (d) No suit, action, or other proceeding commenced by
11 or against any officer in the official capacity of such individu-
12 al as an officer or any department or agency, functions of
13 which are transferred by this Act, shall abate by reason of
14 the enactment of this Act. No cause of action by or against
15 any department or agency, functions of which are transferred
16 by this Act, or by or against any officer thereof in the official
17 capacity of such officer shall abate by reason of the enact-
18 ment of this Act.

19 (e) If, before the date on which this Act takes effect, any
20 department or agency, or officer thereof in the official capac-
21 ity of such officer, is a party to a suit, and under this Act any
22 function of such department, agency, or officer is transferred
23 to the Secretary or any other official of the Department, then
24 such suit shall be continued with the Secretary or other ap-

1 appropriate official of the Department substituted or added as a
2 party.

3 (f) Orders and actions of the Secretary in the exercise of
4 functions transferred under this Act shall be subject to judi-
5 cial review to the same extent and in the same manner as if
6 such orders and actions had been by the agency or office, or
7 part thereof, exercising such functions, immediately preced-
8 ing their transfer. Any statutory requirements relating to
9 notice, hearing, action upon the record, or administrative
10 review that apply to any function transferred by this Act
11 shall apply to the exercise of such function by the Secretary.

12 ANNUAL REPORT

13 SEC. 307. The Secretary shall, within thirty calendar
14 days after the end of each calendar year, make a report to
15 the President for submission to the Congress on the activities
16 of the Department during the preceding calendar year.

17 REFERENCE

18 SEC. 308. With respect to any functions transferred by
19 this Act and exercised after the effective date of this Act,
20 reference in any other Federal law to any department, com-
21 mission, or agency or to any officer or office the functions of
22 which are so transferred shall be deemed to refer to the Sec-
23 retary or the Department.

1

TRANSITION

2

SEC. 309. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions and agencies under this Act.

9

TECHNICAL AND CONFORMING AMENDMENTS

10

SEC. 310. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Commerce and International Trade".

14

(b) Section 101 of title 5, United States Code, is amended by inserting "and International Trade" immediately after "Commerce".

17

(c) Section 5312(8) of such title is amended by inserting "and International Trade" immediately after "Commerce".

19

(d) Section 5313 of such title is amended by adding at the end thereof the following:

21

"(25) Under Secretaries, Department of Commerce and International Trade (2)."

23

(e) Section 5314(4) of such title is repealed.

1 (f)(1) Section 5315(12) of such title is amended by strik-
2 ing out “Commerce (8)” and inserting in lieu thereof “Com-
3 merce and International Trade (10)”.

4 (2) Section 5315(39) of such title is amended by insert-
5 ing “and International Trade” immediately after “Com-
6 merce”.

7 (g) Section 5316(145) of such title is amended by insert-
8 ing “and International Trade” immediately after “Com-
9 merce”.

10 (h) Section 102(10) of the Department of Energy Orga-
11 nization Act is amended by inserting “Commerce and Inter-
12 national Trade,” before “State,”.

13 (i)(1) The first paragraph of section 231 of the Foreign
14 Assistance Act of 1961 is amended—

15 (A) by inserting “and to promote the international
16 trade position of the United States” after “develop-
17 ment assistance objectives of the United States”; and

18 (B) by striking out all after “agency of the United
19 States”.

20 (2) Section 233(b) of such Act is amended by striking
21 out “Administrator of the Agency for International Develop-
22 ment” and inserting in lieu thereof “Secretary of Commerce
23 and International Trade”.

24 (j) Section 341(c) of the Export-Import Bank Act of
25 1945 is amended—

1 (1) by striking out the first sentence and inserting
2 in lieu thereof the following: "There shall be a Board
3 of Directors consisting of the Secretary of Commerce
4 and International Trade, who shall serve as Chairman,
5 the President and First Vice President of the Export-
6 Import Bank, and three additional persons appointed
7 by the President, by and with the advice and consent
8 of the Senate."; and

9 (2) by striking out "five" in the second sentence
10 of such section and inserting in lieu thereof "six".

11 AUTHORIZATION OF APPROPRIATIONS

12 SEC. 311. Subject to any limitation on appropriations
13 applicable with respect to any function transferred to the
14 Secretary, there are authorized to be appropriated such sums
15 as may be necessary to carry out the provisions of this Act
16 and to enable the Secretary to administer and manage the
17 Department.

18 SEPARABILITY

19 SEC. 312. If any provision of this Act or the application
20 thereof to any person or circumstance is held invalid, neither
21 the remainder of this Act nor the application of such provi-
22 sion to other persons or circumstances shall be affected
23 thereby.

1 in the executive branch to act in such office for ninety days
2 or until the office is filled as provided in this Act, whichever
3 occurs first.

4 (b) Any officer acting in an office in the Department
5 pursuant to the provisions of subsection (a) shall receive com-
6 pensation at the rate prescribed for such office under this
7 Act.



