

S. _____

To improve the laws concerning judicial review of international trade and customs law matters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on

A BILL

To improve the laws concerning judicial review of international trade and customs law matters, and for other purposes.

1 *Be it enacted by the Senate and House of Represen-*
2 *tatives of the United States of America in Congress assem-*
3 *bled,*

4 **SECTION 1. SHORT TITLE.**

5 This Act may be cited as the “United States Court of
6 International Trade Improvement Act”.

1 **TITLE I C A M E N D M E N T S T O T H E**
2 **T A R I F F A C T O F 1 9 3 0**

3
4 **SEC. 101. TESTIMONY AND PRODUCTION OF PAPERS.**

5 Section 333 of the Tariff Act of 1930 (19 U.S.C. 1333) is
6 amended—

7 (1) in subsection (b)—

8 (A) by striking “any district or territorial court of the United
9 States” and inserting “the United States Court of International
10 Trade”;

11 (B) by striking “such court within the jurisdiction of which
12 such inquiry is carried on” and inserting “the United States Court
13 of International Trade”; and

14 (C) by striking “such” after “punished by” and inserting
15 “the”; and

16 (2) in subsection (c), by striking “any such court” and inserting
17 “the United States Court of International Trade”.

18 **SEC. 102. CEASE AND DESIST ORDERS.**

19 Section 337(f)(2) of the Tariff Act of 1930 (19 U.S.C. 1337(f)(2))
20 is amended—

21 (1) by striking “Federal District Court for the District of
22 Columbia or for the district in which the violation occurs” and inserting
23 “United States Court of International Trade”;

1 (2) by striking “the United States district courts” and inserting
2 “the United States Court of International Trade”; and

3 (3) by striking “they deem” and inserting “it deems”.

4 **SEC. 103. FINALITY OF CUSTOMS SERVICE DECISIONS.**

5 Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is
6 amended—

7 (1) in paragraph (4), by inserting after “delivery” the following:
8 “(including a decision prohibiting a carrier from transporting
9 merchandise to the customs territory of the United States)”;

10 (2) in paragraph (6), by striking “or” at the end;

11 (3) by inserting after paragraph (7) the following new paragraphs:

12 “(8) the assessment or collection of duties, taxes, or fees,
13 whether or not voluntarily tendered, under section 592 (c) or (d)
14 or section 593A (c) or (d) of this Act; or

15 “(9) a demand for payment or repayment of duties, taxes,
16 and fees other than in accordance with sections 500 and 501 of
17 this Act, including denials of requests for offsets pursuant to
18 section 509(b)(6)(A) of this Act;”; and

19 (4) by inserting after “within the time prescribed by section 2636
20 of that title.” the following: “Notwithstanding the previous sentence, if
21 a protest is not filed with respect to a decision described in paragraph
22 (9), the existence and amount of liability for duties, taxes, or fees
23 requested to be paid or repaid in the decision shall not be final and

1 conclusive on any party for purposes of a civil action commenced by
2 the United States in the United States Court of International Trade in
3 accordance with section 1582 of title 28, United States Code.”.

4 **SEC. 104. PROTESTS.**

5 Section 514(c)(2) of the Tariff Act of 1930 (19 U.S.C.
6 1514(c)(2)) is amended—

7 (1) by redesignating subparagraph (F) as subparagraph (H);

8 (2) in subparagraph (H), as redesignated, by striking “(E)” and
9 inserting “(G)”; and

10 (3) by striking “or” at the end of subparagraph (E) and inserting
11 after subparagraph (E) the following new subparagraphs:

12 “(F) with respect to a decision described in paragraph (4) of subsection
13 (a) prohibiting a carrier from transporting merchandise to the customs
14 territory of the United States, a shipper, consignee, or carrier of the
15 merchandise involved;

16 “(G) with respect to a decision described in paragraph (8) or (9) of
17 subsection (a)—

18 “(i) any person against whom duties taxes, or fees are
19 assessed, or from whom duties, taxes, or fees are collected;

20 “(ii) any person to whom a demand is made by the U.S.
21 Customs and Border Protection for payment or repayment of duties,
22 taxes, and fees;

1 “(iii) any person who tenders duties, taxes, or fees to the U.S.
2 Customs and Border Protection, whether or not voluntarily; or
3 “(iv) any person whose request for an offset pursuant to
4 section 509(b)(6)(A) is denied, in whole or in part; or”.

5 **SEC. 105. JUDICIAL REVIEW IN COUNTERVAILING DUTY**
6 **AND ANTIDUMPING PROCEEDINGS**

7 516A(b) of the Tariff Act of 1930 (19 U.S.C. 1516a(b)) is
8 amended—

9 (1) by striking “Remedy” in the caption to
10 subparagraph (1), and inserting “Legal Standard” and

11 (2) by striking “court” in subparagraph (1), and inserting
12 “United States Court of International Trade”.

13 (3) by redesignating paragraphs (2) and (3) thereof as
14 paragraphs (3) and paragraph (4), respectively, and by inserting in
15 numerical order the following new paragraph (2) thereof:

16 “(2) Appellate Review

17 (A) Except as provided in subparagraphs (B) and (C)
18 of this paragraph, the United States Court of Appeals for
19 the Federal Circuit shall, for purposes of appellate review
20 in any appeal from any decision of the United States
21 Court of International Trade governed by paragraph (1)

1 of this subsection, apply anew the legal standard set out
2 in paragraph (1) of this subsection.

3 (B) For purposes of appellate review of any
4 ruling by the United States Court of
5 International Trade pursuant to clause (A) or
6 (B)(ii) of paragraph (1) of this subsection as to
7 whether the agency determination, finding, or
8 conclusion was arbitrary, capricious, or an
9 abuse of discretion, the United States Court of
10 Appeals for the Federal Circuit shall determine
11 whether the United States Court of International
12 Trade misapprehended or grossly misapplied
13 the standard of arbitrary, capricious, or an
14 abuse of discretion.

15 (C) For purposes of appellate review of
16 any ruling by the United States Court of
17 International Trade pursuant to clause (B)(i)
18 of paragraph (1) of this subsection as to
19 whether the agency determination, finding, or
20 conclusion was unsupported by substantial
21 evidence on the record, the United States

1 Court of Appeals for the Federal Circuit shall
2 determine whether the United States Court of
3 International Trade misapprehended or grossly
4 misapplied the standard of unsupported by
5 substantial evidence on the record.

6 **SEC. 106. CUSTOMS BROKERS.**

7 Section 641(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1641(e)(1))
8 is amended—

9 (1) in the first sentence, by striking “written petition” and inserting
10 “summons and complaint”;

11 (2) by striking the sentence “A copy of the petition shall be
12 transmitted promptly by the clerk of the court to the Secretary or his
13 designee.”; and

14 (3) in the third sentence, by striking “petition” and inserting
15 “summons and complaint”.

16 **SEC. 107. INTERRUPTED SUSPENSION OF LIQUIDATION.**

17 (1) Section 705(c) of the Tariff Act of 1930 (19 U.S.C. 1671d(c))
18 is amended—

19 (A) in subparagraph (1)

20 (i) by striking “and” at the end of subsection (B)(ii);

21 (ii) by inserting “and” at the end of subsection (C); and

1 (iii) by inserting at the end a new paragraph (D) as
2 follows: “In cases where suspension of liquidation was lifted
3 under section 703(d) because the instructions under that
4 paragraph remained in effect for longer than 4 months, the
5 administering authority shall order the suspension of
6 liquidation of all entries of merchandise subject to the
7 determination which are entered, or withdrawn from
8 warehouse, for consumption on or after the date on which
9 notice of the final determination is published in the Federal
10 Register.”

11 (B) in subparagraph (2)(A), by inserting after “703(d)(2)” the
12 following, “31 days after the publication of notice of the negative
13 determination.”

14 (2) Section 735(c) of the Tariff Act of 1930 (19 U.S.C. 1673d(c))
15 is amended—

16 (A) in subparagraph (1)

17 (i) by striking “and” at the end of subsection (B)(ii);

18 (ii) by inserting “and” at the end of subsection (C); and

19 (iii) by inserting at the end at new paragraph (D) as
20 follows: “In cases where suspension of liquidation was lifted
21 under section 733(d) because the instructions under that
22 paragraph remained in effect for longer than 4 or 6 months,
23 the administering authority shall order the suspension of

1 liquidation of all entries of merchandise subject to the
2 determination which are entered, or withdrawn from
3 warehouse, for consumption on or after the date on which
4 notice of the final determination is published in the Federal
5 Register.”

6 (B) in subparagraph (2)(A), by inserting after “703(d)(2)” the
7 following, “31 days after the publication of notice of the negative
8 determination.”

9 **SEC. 108. LIQUIDATION IN ANTIDUMPING AND**
10 **CONTERVAILING DUTY CASES**

11 Section 751(a)(3) of the Tariff Act of 1930 (19 U.S.C.

12 1675(a)(3)) is amended—

13 (1) in subsection (B) –

14 (A) by inserting before the first sentence the heading, “(i)
15 Prompt Liquidation.”;

16 (B) by inserting before the second sentence the heading,
17 “(ii) Delayed Liquidation.”;

18 (C) by inserting at the end of new subparagraph (B)(ii) the
19 following, “If liquidation under this section is delayed beyond
20 such period, or any period specified in section 504(d) of this Act,
21 the deemed liquidation provisions thereof shall not apply.”; and

22 (D) by inserting a new subparagraph (B)(iii) as follows:

23 “Customs Instructions. – The administering authority must not

1 issue instructions to Customs until the time for appeal under
2 section 516(a) of this Act has elapsed.”.

3 (2) in subsection (C)—

4 (A) by striking “under section 516A(C)(2)” after
5 “enjoined” and “under section 516A(g)(5)(C)” after “suspended”
6 and

7 (B) by inserting “under that section” after “suspended”.

8 **TITLE II B AMENDMENT TO THE**
9 **NORTH AMERICAN FREE TRADE**
10 **AGREEMENT IMPLEMENTATION**
11 **ACT**

12
13 **SEC. 201. NAFTA.**

14 Section 403 of the North American Free Trade Agreement
15 Implementation Act (19 U.S.C. 3433) is amended—

16 (1) in subsection (b) —

17 (A) by striking “any district or territorial court of the
18 United States” and inserting “the United States Court of
19 International Trade”; and

20 (B) by striking “Such court, within the jurisdiction of
21 which such inquiry is carried on” and inserting “the United
22 States Court of International Trade”; and

1 (2) in subsection (c), by striking “Any court referred to in
2 subsection (b) of this section” and inserting “The United States
3 Court of International Trade”.

4 **TITLE IIIc AMENDMENTS TO**
5 **TITLE 28, UNITED STATES CODE**

6
7 **SEC. 301. CIVIL ACTIONS AGAINST THE UNITED STATES.**

8 Section 1581 of title 28, United States Code, is amended—

9 (1) in subsection (g)—

10 (A) by amending paragraph (1) to read as follows:

11 (1) “any decision of the Secretary of Treasury under
12 section 641 of the Tariff Act of 1930 to suspend, revoke,
13 or deny a customs broker’s license or permit or impose a
14 monetary penalty in lieu thereof and”;

15 (B) by striking paragraph (2); and

16 (C) by redesignating paragraph (3) as paragraph (2).

17 (2) in subsection (h), by striking Ahe would be irreparably
18 harmed unless@, and inserting Athere is good cause for the party to
19 be@;

20 (3) by redesignating subsections (i) and (j) as subsections (j)
21 and (k), respectively;

22 (4) by inserting after subsection (h) the following:

1 “(i) The United States Court of International Trade shall
2 have exclusive jurisdiction of any civil action commenced
3 against the United States, its agencies, or its officers, that arises
4 out of any of the following statutes:

5 “(1) The Export Administration Act of 1979
6 (50 U.S.C. App. 2401 et seq.).

7 “(2) The International Emergency Economic Powers
8 Act (50 U.S.C. 1701 et seq.).

9 “(3) The Trading with the Enemy Act (50 U.S.C.
10 App. 1 – 44).

11 “(4) Sections 38, 72, 73, and 81 of the Arms Export
12 Control Act (22 U.S.C. 2778, 2797a, 2797b, and
13 2798).

14 “(5) The Iraq Sanctions Act of 1990 (50 U.S.C. 1701
15 note).

16 “(6) The Foreign Narcotics Kingpin Designation Act
17 (21 U.S.C. 1901 et seq.).

18 “(7) The Clean Diamond Trade Act (19 U.S.C. 3901 -
19 3913).”;

20 (5) in subsection (j), as redesignated by paragraph (4) of this
21 sectionC

22 (A) by striking “subsections (a)-(h) of this section and
23 subject to the exception set forth in subsection (j)” and

1 inserting “subsections (a) through (i) and the exceptions set
2 forth in subsection (k);

3 (B) in paragraph (1), by striking “imports or”;

4 (C) in paragraph (2) –

5 (i) by inserting “taxes or,” after “duties”;

6 (ii) by striking “, or other taxes”;

7 (iii) by inserting “or exportation” after “importation”;

8 and

9 (iv) by striking “for reasons other than the raising of
10 revenue”.

11 (D) in paragraph (3) –

12 (i) by adding “or exportation” after “importation”;

13 and

14 (ii) by striking “for reasons other than the protection
15 of the public health or safety; or”;

16 (E) by renumbering paragraph (4) as paragraph (6);

17 (F) by inserting a new paragraph (4) as follows:

18 “(4) any prohibition or condition on the importation
19 or exportation of merchandise;”;

20 (G) by inserting a new paragraph (5) as follows:

21 “(5) importation or exportation without otherwise applicable
22 duties, fees, or other taxes on the importation or exportation of
23 merchandise, or deferral of such duties, fee, or other taxes; or”

1 (H) in paragraph (6) as renumbered by subparagraph (E),
 2 by striking “, and subsections (a)B(h) of this section” and
 3 inserting “, subsections (a) through (i) of this section, and
 4 subsections (a) and (b) of section 1582 of this title”;

5 (6) in subsection (k) as redesignated by paragraph (4) of this
 6 section, by inserting before the period “or any civil action arising
 7 under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), for
 8 which jurisdiction is specifically conferred upon the United States
 9 International Trade Commission or the United States Court of
 10 Appeals for the Federal Circuit”.

11 **SEC. 302. CIVIL ACTIONS COMMENCED BY THE UNITED**
 12 **STATES.**

13 (a) IN GENERAL.— Section 1582 of title 28, United States Code
 14 is amended to read as follows:

15 **“§ 1582. Civil actions commenced by the United States**

16 “(a) The United States Court of International Trade shall
 17 have exclusive jurisdiction of any civil action which is
 18 commenced by the United States—

19 “(1) to recover a civil penalty under —

20 (A) section 304 or 305 of title 13, United States

21 Code;

22 (B) section 2339B(b) of title 18, United

23 States Code;

1 (C) any provision of the Tariff Act of 1930;

2 (D) section 1906 (b) of the Intelligence

3 Authorization Act for Fiscal Year 2000 (21 U.S.C.

4 1906(b));

5 (E) section 38(e), 39A(c), or 40(k) of the Arms

6 Export Control Act (22 U.S.C. 2778(e), 2779a(c), or

7 2780(k));

8 (F) the Cuban Democracy Act of 1992 (22 U.S.C.

9 6001 et seq.);

10 (G) section 234 of the Atomic Energy Act of 1954

11 (42 U.S.C. 2282) (to the extent the penalty involves a

12 violation of section 53, 57, 62, 81, 82, 101, 103, or

13 109 of such Act (42 U.S.C. 2073, 2077, 2092, 2111,

14 2112, 2131, 2133, or 2139) and is related to imports

15 or exports);

16 (H) the International Emergency Economic

17 Powers Act (50 U.S.C. 1701 et seq.);

18 (I) the Iraq Sanctions Act of 1990 (50 U.S.C.

19 1701 note);

20 (J) section 16(b) of the Trading with the Enemy

21 Act (50 U.S.C. App. 16(b)); or

22 (K) section 11(c) of the Export Administration

23 Act of 1979 (50 U.S.C. App. 2410(c));

1 “(2) to recover a civil penalty arising from any
2 prohibition or condition on the importation or exportation
3 of merchandise;

4 “(3) to recover upon a bond relating to the
5 importation of merchandise required by the laws of the
6 United States or by the Secretary of the Treasury;

7 “(4) to recover customs duties; or

8 “(5) to enforce a summons under section 510 of the
9 Tariff Act of 1930 (19 U.S.C. 1510).

10 “(b) The United States Court of International Trade shall
11 have exclusive jurisdiction of any seizure, other than a seizure
12 of narcotics or other controlled substances, under—

13 “(1) any provision of the Tariff Act of 1930;

14 “(2) the Trading with the Enemy Act (50 U.S.C. App.
15 1 et seq.);

16 “(3) section 1 of title VI of the Act of June 15, 1917,
17 (22 U.S.C. 401; 40 Stat. 233); **or**

18 “(4) any provision setting forth a prohibition or
19 condition on the importation or exportation of
20 merchandise.”

21 “(c) The United States Court of International Trade shall
22 have exclusive jurisdiction of any civil action which is
23 commenced by the United States for the purpose of declaring a

1 provision of State law, or its application, invalid as inconsistent
2 with any international agreement giving the United States such
3 a cause of action.”.

4 **SEC. 303. FALSE CLAIMS ACT AND QUI TAM IN TRADE**
5 **RELATED CASES.**

6 Chapter 95 of title 28, United States Code, is amended by adding
7 at the end the following:

8 **“§ 1586. FALSE CLAIMS ACT AND QUI TAM IN TRADE**
9 **RELATED CASES.**

10 The United States Court of International Trade shall have
11 exclusive jurisdiction of any civil action brought by the United States
12 government under section 3729 of Title 31, United States Code, or by a
13 private person under section 3730 of Title 31, United States Code,
14 when the claims relate to any import or export transaction.”

15 **SEC. 304. PERSONS ENTITLED TO COMMENCE A CIVIL**
16 **ACTION**

17 Section 2631 of title 28, United States Code, is amended B

18 (1) by striking paragraph (3) of subsection (d);

19 (2) in subsection (g) B

20 (A) by amending paragraph (1) to read as follows:

21 “(1) A civil action to review any decision of the Secretary
22 of the Treasury to suspend, revoke, or deny a customs broker’s
23 license or permit or impose a monetary penalty in lieu thereof
24 under section 641 of the Tariff Act of 1930 (19 U.S.C. 1641)

1 may be commenced in the United States Court of International
2 Trade by the person whose license or permit was suspended,
3 revoked, or denied, or by the person against whom the decision
4 was issued.”;

5 (B) by striking paragraph (2); and

6 (C) by redesignating paragraph (3) as paragraph (2); and

7 (3) in subsection (i), by striking “(a)-(h)” and inserting

8 “(a)-(j)”.

9 **SEC. 305. TIME FOR COMMENCEMENT OF ACTION.**

10 Section 2636 of title 28, United States Code is amended B

11 (1) in subsection (d), by striking “or section 271 of such Act”;

12 (2) by amending subsection (g) to read as follows:

13 “(g) A civil action contesting any decision of the Secretary of

14 the Treasury to suspend, revoke, or deny a customs broker’s

15 license or permit or impose a monetary penalty in lieu thereof

16 under section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is

17 barred unless commenced in accordance with the rules of the

18 United States Court of International Trade within 60 days after

19 the date of the entry of the decision or order of such

20 Secretary.” and;

21 (3) in subsection (i), by striking “(a)-(h)” and inserting “(a)-

22 (j)”.

1 **SEC. 306. EXHAUSTION OF ADMINISTRATIVE**
2 **REMEDIES.**

3 Section 2637(a) of title 28, United States Code, is amended—

4 (1) by inserting “(1)” after “a civil action”; and

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

6 “(2) In this subsection, the term >liquidated duties,
7 charges, or exactions= does not include duties, taxes, or fees
8 that are the subject of a demand for payment or repayment
9 other than in accordance with sections 500 and 501 of the
10 Tariff Act of 1930 (19 U.S.C. 1500 and 1501), including
11 denials of requests for offsets under section 509(b)(6)(A) of
12 such Act (19 U.S.C. 1509(b)(6)(A)).”.

13 **SEC. 307. SCOPE AND STANDARD OF REVIEW.**

14 Section 2640(c) of title 28, United States Code, is amended by
15 striking “or section 271”.

16 **SEC. 308. RELIEF.**

17 Section 2643 of title 28, United States Code, is amended B

18 (1) in subsection (c)(2), by striking “or section 271”; and

19 (2) in subsection (e), by striking “641(b)(6) or 641(d)(2)(A)”

20 and inserting “641”.

1 **SEC. 309. ALTERNATIVE DISPUTE RESOLUTION**
2 **PROCEDURES.**

3 (a) IN GENERAL. Chapter 169 of title 28, United States
4 Code, is amended by adding at the end the following:

5 **“§ 2647. Alternative dispute resolution procedures**

6 “(a) The United States Court of International Trade shall
7 authorize by rule the use of alternative dispute resolution
8 processes in civil actions other than civil actions arising under
9 title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.)
10 (relating to countervailing duty and antidumping duty
11 proceedings), except that the use of arbitration may be
12 authorized only as provided in subsection (j). For purposes of
13 this section, an alternative dispute resolution process includes
14 any process or procedure, other than an adjudication by a
15 presiding judge, in which a neutral third party participates to
16 assist in the resolution of issues in controversy, through
17 processes such as early neutral evaluation, mediation, minitrial,
18 and arbitration.

19 “(b) The Chief Judge of the United States Court of
20 International Trade shall designate an employee, or a judicial
21 officer, who is knowledgeable in alternative dispute resolution
22 practices and processes to implement, administer, oversee, and
23 evaluate the court=s alternative dispute resolution program.

1 Such person may also be responsible for recruiting, screening,
2 and training attorneys to serve as neutrals and arbitrators in the
3 court=s alternative dispute resolution program.

4 “(c) This section shall not affect of title 9, United States
5 Code.

6 “(d) The Federal Judicial Center and the Administrative
7 Office of the United States Courts are authorized to assist the
8 United States Court of International Trade in the establishment
9 and improvement of alternative dispute resolution programs by
10 identifying particular practices employed in successful
11 programs and providing additional assistance as needed and
12 appropriate.

13 “(e) Except as provided under subsections (f) and (g), the
14 United States Court of International Trade shall provide by rule
15 that litigants in all civil cases other than civil actions arising
16 under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et
17 seq.) consider the use of an alternative dispute resolution
18 process at an appropriate stage in the litigation. The court shall
19 provide litigants in civil cases with at least 1 alternative dispute
20 resolution process, including early neutral evaluation,
21 mediation, minitrial, and arbitration, as authorized under this
22 section.

1 “(f) The United States Court of International Trade may
2 exempt from the requirements of this section specific cases or
3 categories of cases in which the use of alternative dispute
4 resolution would not be appropriate. In defining the
5 exemptions, the court shall consult with members of the bar,
6 including the responsible Assistant Attorney General.

7 “(g) Nothing in this section shall alter or conflict with the
8 authority of the Attorney General to conduct litigation on
9 behalf of the United States, with the authority of any Federal
10 agency authorized to conduct litigation in the United States
11 courts, or with any delegation of litigation authority by the
12 Attorney General.

13 “(h) The United States Court of International Trade shall
14 provide by rule for the confidentiality of alternative dispute
15 resolution processes and for the prohibition of disclosure of
16 confidential dispute resolution communications.

17 “(i) The United States Court of International Trade shall
18 adopt appropriate processes for making neutrals available for
19 use by the parties for each category of process offered. The
20 Court shall promulgate criteria and procedures for the selection
21 of neutrals on its panels. Each person serving as a neutral in an
22 alternative dispute resolution process should be qualified and
23 trained to serve as a neutral in the appropriate alternative

1 dispute resolution process. For this purpose, the court may
2 use, among others, magistrate judges who have been trained to
3 serve as neutrals in alternative dispute resolution processes,
4 professional neutrals from the private sector, and persons who
5 have been trained to serve as neutrals in alternative dispute
6 resolution processes. The United States Court of International
7 Trade shall issue rules relating to the disqualification of
8 neutrals.

9 “(j)

10 (1) Except as provided under subsections (f) and (g),
11 the United States Court of International Trade may allow
12 the referral to arbitration of any civil action pending
13 before it where the parties consent, except that referral to
14 arbitration may not be made ifC

15 “(A) the action is based on an alleged violation of
16 a right secured by the Constitution of the United
17 States; or

18 “(B) the amount in controversy, or the amount of
19 relief sought, is greater than \$150,000.

20 “(2) The court shall establish procedures to ensure
21 that consent to arbitration is freely and knowingly
22 obtained, and that no party or attorney is prejudiced for
23 refusing to participate in arbitration. For purposes of this

1 subsection, the court may presume that the amount in
2 controversy, or the amount of relief sought, is less than
3 \$150,000 unless counsel certifies that the amount in
4 controversy or amount of relief sought exceeds that
5 amount.

6 “(k)

7 (1) An arbitrator to whom an action is referred under
8 subsection (j) of this section shall have the power C

9 “(A) to conduct arbitration hearings;

10 “(B) to administer oaths and affirmations; and

11 “(C) to make awards.

12 “(2) The United States Court of International Trade
13 shall establish standards for the certification of arbitrators
14 and shall certify arbitrators to perform services in
15 accordance with such standards and this section. All
16 individuals serving as arbitrators in an alternative dispute
17 resolution program under this section shall be C

18 “(A) performing quasi-judicial functions; and

19 “(B) entitled to the immunities and protections
20 that the law affords to persons serving in such
21 capacity.

22 “(l) The rules of the United States Court of International
23 Trade relating to subpoenas shall apply to subpoenas for the

1 attendance of witnesses and the production of documentary
2 evidence at an arbitration hearing under this section.

3 “(m) An arbitration award made by an arbitrator under
4 this section, along with proof of service of such award on the
5 other party by the prevailing party or by the plaintiff, shall be
6 filed with the clerk of the United States Court of International
7 Trade promptly after the arbitration hearing is concluded.
8 Such award shall be entered as the judgment of the court after
9 the time has expired for requesting a trial de novo or judicial
10 determination. The judgment so entered shall be subject to the
11 same provisions of law and shall have the same effect as a
12 judgment of the court in a civil action, except that the judgment
13 shall not be subject to review in any other court by appeal or
14 otherwise. The court may provide, by rule, that the contents of
15 any arbitration award made under this section shall not be
16 made known to any judge who might be assigned to the case
17 until the court has entered final judgment in the action or the
18 action has otherwise terminated.

19 “(n) Within 30 days after the filing of an arbitration
20 award with the United States Court of International Trade
21 under subsection (m), any party may file a demand for a trial
22 de novo (in cases for which a trial de novo is provided by law)
23 or a judicial determination (in cases where no trial de novo is

1 provided). Upon demand for a trial de novo or judicial
2 determination, the action shall be restored to the docket of the
3 court and treated for all purposes as if it had not been referred
4 to arbitration. The court shall not admit at any trial de novo
5 evidence that there has been an arbitration proceeding, the
6 nature and amount of any award, or any other matter
7 concerning the conduct of the proceeding, unlessC

8 “(1) the evidence would otherwise be admissible in
9 the court under the Federal Rules of Evidence; or

10 “(2) the parties have otherwise stipulated.

11 “(o) The United States Court of International Trade shall,
12 subject to regulations approved by the Judicial Conference of
13 the United States, establish the amount of compensation, if
14 any, that each arbitrator or neutral shall receive for services
15 rendered in each case under this section. Under regulations
16 prescribed by the Director of the Administrative Office of the
17 United States Courts, the United States Court of International
18 Trade may reimburse arbitrators and any other neutrals for
19 actual transportation expenses incurred in the performance of
20 duties under this section.”.

21

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

2 The table of sections at the beginning of chapter 169 of title 28,
 3 United States Code, is amended by adding at the end the following:
 4 “2647. Alternate dispute resolution procedures.”.

5 **TITLE IVcAMENDMENTS TO**
 6 **OTHER ACTS**

7
 8 **SEC. 401. TRADING WITH THE ENEMY ACT.**

9
 10 The Trading with the Enemy Act (50 U.S.C. App. 1 et seq.)
 11 is amendedC

12 (1) in section 9(a) by striking “United States District Court for
 13 the District of Columbia or in the district court of the United States
 14 for the district in which the claimant resides, or, if a corporation
 15 where it has its principal place of business” and inserting “United
 16 States Court of International Trade”; and

17 (2) in section 17—

18 (A) in the heading, by inserting “; **THE UNITED**
 19 **STATES COURT OF INTERNATIONAL TRADE**”
 20 **AFTER “DISTRICT COURTS;”;**

21 (B) by striking “The” and inserting “(a) IN
 22 **GENERAL.—**Except as provided in subsection (b), the”; and
 23

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

2 “(b) UNITED STATES COURT OF
3 INTERNATIONAL TRADE.—The United States Court
4 of International Trade shall have jurisdiction to make and
5 enter all such rules as to notice and otherwise, and all
6 such orders and decrees, and to issue such process as may
7 be necessary and proper in the premises to enforce the
8 provisions of section 16(b) of this Act, with right of
9 appeal as provided in section 1295 of title 28, United
10 States Code.”.

11 **SEC. 402. EXPORT ADMINISTRATION ACT.**

12 (a) APPEAL.—Section 10(j)(3) of the Export Administration
13 Act of 1979 (50 U.S.C. App. 2409(j)(3)) is amended—

14 (1) in the first sentence, by striking “an appropriate
15 United States district court” and inserting “the United States
16 Court of International Trade”; and

17 (2) in the second sentence, by striking “United States
18 district courts” and inserting “United States Court of
19 International Trade”.

20 (b) PROCEDURES RELATING TO CIVIL PENALTIES
21 AND SANCTIONS.—Section 13(c)(3) of the Export Administration
22 Act of 1979 (50 U.S.C. App. 2412(c)(3)) is amended by striking

1 “United States Court of Appeals for the District of Columbia
2 Circuit” and inserting “United States Court of International Trade”.

3 (c) TEMPORARY DENIAL ORDERS. Section 13(d)(3) of
4 the Export Administration Act of 1979 (50 U.S.C. App. 2412(d)(3))
5 is amended by striking “United States Court of Appeals for the
6 District of Columbia Circuit” and inserting “United States Court of
7 International Trade”.

8 **SEC. 403. SECTION 219 OF INA.**

9 Section 219(c)(1) of the Immigration and Nationality Act
10 (8 U.S.C. 1189(c)(1)), is amended by striking “United States Court of
11 Appeals for the District of Columbia Circuit” and inserting “United
12 States Court of International Trade”.

13 **SEC. 404. SECTION 2339B, TITLE 18, UNITED STATES**
14 **CODE.**

15 Section 2339B, title 18, United States Code, is amended—
16 (1) by striking “district court”, “the trial
17 court”, “a court”, “the court”, and “court” each time the words
18 appear, and inserting “the United States Court of International
19 Trade”; and

20 (2) by striking “the appellate court”, “a court of appeals” and
21 “the court of appeals” each time the words appear, and inserting “the
22 United States Court of Appeals for the Federal Circuit”.

1 **TITLE VcREFERENCES AND**
2 **EFFECTIVE DATE**

3 **SEC. 501. REFERENCES.**

4 Except as otherwise expressly provided in this Act, any reference
5 in this Act, including any amendment made by this Act, to the “Bureau
6 of Customs and Border Protection” or the “Customs Service” shall be
7 considered to be a reference to the U.S. Customs and Border Protection
8 of the Department of Homeland Security.

9 **SEC. 502. EFFECTIVE DATE.**

10 This Act and the amendments made by this Act shall take effect
11 on the date that is 60 days after the date of enactment of this Act.