

**SENATE FINANCE COMMITTEE STAFF
SUMMARY OF THE UNITED STATES-CHILE
FREE TRADE AGREEMENT IMPLEMENTATION ACT***

Sec. 1 Short Title; Table of Contents

This section provides the short title of the Act as the “United States-Chile Free Trade Agreement Implementation Act.”

Sec. 2 Purposes

This section sets forth the purposes of the Act, *e.g.*, to approve and implement the U.S.-Chile Free Trade Agreement (the Agreement).

Sec. 3 Definitions

This section provides definitions for the Act.

**TITLE I – APPROVAL OF, AND GENERAL
PROVISIONS RELATING TO, THE AGREEMENT**

Title I approves the bill and establishes the general regulatory authority for the President to implement the Agreement.

Sec. 101 Approval and Entry into Force of the Agreement

This section provides Congressional approval for the Agreement and its accompanying Statement of Administrative Action. Section 101 also authorizes the President to exchange notes with Chile to provide for the entry into force of the Agreement on or after January 1, 2004.

Sec. 102 Relationship of the Agreement to United States and State Law

This section establishes the relationship between the Agreement and U.S. law. It clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law.

Section 102 also clarifies the relationship between the Agreement and state law and precludes any private right of action or remedy against a federal, state, or local government, or against a private party, based on the provisions of the Agreement.

* NOTE: This summary covers only those provisions in the bill that are within the jurisdiction of the Committee on Finance.

Sec. 103 Consultation and Layover Provisions for, and Effective Date of, Proclaimed Actions

This section sets forth traditional consultation and layover steps that must precede the President's implementation of any tariff modifications by proclamation. Under the consultation and layover provisions, the President must obtain the advice of the private sector and the U.S. International Trade Commission (ITC) on a proposed action. The President must submit a report to the Senate Committee on Finance and the House Committee on Ways and Means setting forth the action proposed, the reasons therefore, and the advice of the private sector and the ITC. The Act sets aside a 60 day period following the date of transmittal of the report for the Committees to consult with the President on the action.

Sec. 104 Implementing Actions in Anticipation of Entry into Force and Initial Regulations

This section provides the authority for new or amended regulations to be issued, and for the President to proclaim actions implementing the provisions of the Agreement, on the date the Agreement enters into force.

Sec. 105 Administration of Dispute Settlement Proceedings

This section authorizes the President to establish or designate within the Department of Commerce an office responsible for providing administrative assistance to dispute settlement panels established under Chapter 22 of the Agreement. This section also authorizes the appropriation of funds to support this office.

Sec. 106 Arbitration of Certain Claims

This section authorizes the United States to utilize the Investor-State Dispute Settlement Procedures to arbitrate claims covered by the Agreement that involve government contracts.

Sec. 107 Effective Dates; Effect of Termination

This section provides effective dates for the Act. Section 107 also provides that the provisions of the Act will no longer be in effect should the Agreement cease to be in force.

TITLE II – CUSTOMS PROVISIONS

Title II authorizes changes to U.S. customs law which are necessary or appropriate to implement the Agreement.

Sec. 201 Tariff Modifications

This section authorizes the President to implement by proclamation the continuation, modification or elimination of tariffs as the President determines to be necessary or appropriate to carry out the terms of the Agreement.

Section 201 also authorizes the Secretary of the Treasury to assess duties in accordance with the agricultural safeguard provisions of the Agreement.

Sec. 202 Rules of Origin

This section provides the rules of origin of the Agreement. This section also authorizes the President to modify certain of the Agreement's specific rules of origin by proclamation, subject to the consultation and layover provisions of Section 103 of the Act.

Sec. 203 Drawback

This section implements Article 3.8 of the Agreement, which will phase out duty drawback and duty deferral programs between the United States and Chile over three years, beginning eight years after the Agreement enters into force.

Sec. 204 Customs User Fees

This section provides for the immediate elimination of the merchandise processing fee for goods qualifying for preferential treatment under the terms of the Agreement.

Sec. 205 Disclosure of Incorrect Information; Denial of Preferential Tariff Treatment; False Certificates of Origin

This section provides that the United States may not impose a penalty on an importer who makes an invalid claim for preferential tariff treatment under the Agreement if, after discovering that the claim is invalid, the importer voluntarily corrects the claim. This section also authorizes penalties for fraud and abuse.

Sec. 206 Reliquidation of Entries

This section permits an importer to claim preferential tariff treatment for originating goods within one year of their importation.

Sec. 207 Recordkeeping Requirements

This section sets forth the requirement that a U.S. exporter or producer issuing a Chile FTA Certificate of Origin keep a copy of the certificate for a period of five years from the date of issuance of the certificate.

Sec. 208 Enforcement of Textile and Apparel Rules of Origin

If, per the terms of the Agreement, the Secretary of the Treasury requests that Chile conduct a verification with respect to a Chilean exporter or producer to determine whether claims of origin are accurate, this section authorizes the President to direct the Secretary of the Treasury to take “appropriate action” while the verification is being conducted. Such appropriate action includes suspending the liquidation of entries of textile and apparel goods, publishing the identity of the person subject to the verification, and, in certain circumstances, denying the entry of goods into the United States.

Sec. 209 Conforming Amendments

This section makes conforming amendments to the Tariff Act of 1930 to reflect changes in paragraph numbering as a result of amendments resulting from the Agreement.

Sec. 210 Regulations

This section requires the Secretary of the Treasury to prescribe such regulations as may be necessary to carry out provisions of the Agreement concerning rules of origin, drawback, and customs user fees.

TITLE III – RELIEF FROM IMPORTS

Title III establishes bilateral and textile and apparel safeguards.

Sec. 301 Definitions

This section provides definitions for this title.

**SUBTITLE A – RELIEF FROM IMPORTS
BENEFITING FROM THE AGREEMENT**

Sec. 311 Commencing of Action for Relief

This section sets forth provisions regarding the commencement of bilateral safeguard investigations. Pursuant to the terms of the Agreement, Section 311 also exempts from investigation, under this section, Chilean articles that have been the basis previously for according relief to an industry under the Agreement’s bilateral safeguard provisions, or that are subject at the time the petition is filed to relief under the global safeguard statute in Chapter 1 of title II of the Trade Act of 1974 (Section 201).

Sec. 312 Commission Action on Petition

This section establishes deadlines for U.S. International Trade Commission (ITC) determinations following the initiation of a bilateral safeguard investigation. Section 312

also provides that, if the ITC makes an affirmative determination or a determination that the President may consider to be an affirmative determination, the ITC must find and recommend to the President the amount of import relief that is necessary to remedy or prevent the serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Sec. 313 Provision of Relief

This section authorizes the President to provide relief under the bilateral safeguard provisions of the Act.

Sec. 314 Termination of Relief Authority

This section terminates the President’s authority to take action under the bilateral safeguard provision at the end of the appropriate “transition period”, which is ten years for most goods, and twelve years in the case of goods with a duty phase-out of twelve years.

Sec. 315 Compensation Authority

This section authorizes the President to provide trade compensation to Chile when the United States imposes relief through a bilateral safeguard action.

Sec. 316 Confidential Business Information

This section incorporates procedures regarding the release of confidential business information to apply in bilateral safeguard investigations.

SUBTITLE B – TEXTILE AND APPAREL SAFEGUARD MEASURES

Sec. 321 Commencement of Action for Relief

This section sets forth procedures regarding the commencement of action for relief under the Agreement’s safeguard mechanism available to domestic textile and apparel industries.

Sec. 322 Determination and Provision of Relief

This section sets forth provisions regarding the President’s determination as to whether a U.S. industry is eligible for relief under the textile and apparel safeguard mechanism.

Sec. 323 Period of Relief

This section provides that the maximum period of relief under the textile and apparel safeguard shall be three years.

Sec. 324 Articles Exempt from Relief

This section exempts textile and apparel articles from relief under the textile and apparel safeguard if relief previously has been granted to such articles under this safeguard.

Sec. 325 Rate After Termination of Import Relief

This section provides that, on termination of import relief, the rate of duty on imports of the textile or apparel article that had been subject to the safeguard action will be duty-free.

Sec. 326 Termination of Relief Authority

This section provides that the authority to grant relief under the textile and apparel safeguard with regard to Chilean textile and apparel goods will expire eight years after the duties such goods are eliminated.

Sec. 327 Compensation Authority

This section authorizes the President to provide trade compensation for actions taken pursuant to the Agreement's textile and apparel safeguard provisions.

Sec. 328 Business Confidential Information

This section sets forth provisions concerning the release of business confidential information submitted to the President in connection with the request for action pursuant to the textile and apparel safeguard provisions.

TITLE IV – TEMPORARY ENTRY OF BUSINESS PERSONS

Title IV of the Act implements U.S. commitments under Chapter 14 of the Agreement, which governs the temporary entry of business persons. These provisions are within the jurisdiction of the Committee on Judiciary.