

herein are incorporated in the FAR within 30 days from the date this order is issued.

**Sec. 6. Government Use of Patented Technology.** (a) Each agency shall, within 30 days from the date this order is issued, modify or adopt procedures to ensure compliance with Article 1709(10) of the NAFTA regarding notice when patented technology is used by or for the Federal Government without a license from the owner, except that the requirement of Article 1709(10) (b) regarding reasonable efforts to obtain advance authorization from the patent owner:

(1) is hereby waived for an invention used or manufactured by or for the Federal Government, except that the patent owner must be notified whenever the agency or its contractor, without making a patent search, knows or has demonstrable reasonable grounds to know that an invention described and covered by a valid United States patent is or will be used or manufactured without a license; and

(2) is waived whenever a national emergency or other circumstances of extreme urgency exists, except that the patent owner must be notified as soon as it is reasonably practicable to do so.

(b) Agencies shall treat the term "remuneration" as used in Articles 1709(10) (h) and (j) and 1715 of the NAFTA as equivalent to "reasonable and entire compensation" as used in section 1498 of title 28, United States Code [section 1498 of Title 28, Judiciary and Judicial Procedure].

(c) In addition to the general provisions of section 7 of this order regarding enforceable rights, nothing in this order is intended to suggest that the giving of notice to a patent owner under Article 1709(10) of the NAFTA constitutes an admission that the Federal Government has infringed a valid privately-owned patent.

**Sec. 7. Judicial Review.** This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

**Sec. 8. Effective Date.** This order shall take effect upon the date of entry into force of the NAFTA for the United States [Jan. 1, 1994].

WILLIAM J. CLINTON

**LIBRARY REFERENCES**

**Administrative Law**

Copyrights under Agreement, see West's Federal Practice Manual § 4081.  
 Jurisdiction over antidumping and countervailing duties, Agreement, see West's Federal Practice Manual § 4208.  
 Non-immigrants under Agreements, see West's Federal Practice Manual § 6580.  
 Patentable subject matter, Agreement, see West's Federal Practice Manual § 3910.  
 Trademarks under Agreement, see West's Federal Practice Manual § 4120.

**American Digest System**

Customs Duties ¶1 to 11.

**Encyclopedias**

C.J.S. Customs Duties § 1, 6, 7, 13 to 19.

**WESTLAW ELECTRONIC RESEARCH**

Customs Duties cases: 114k[add key number]  
 See WESTLAW guide following the Explanation pages of this volume.

**§ 3312. Relationship of the Agreement to United States and State Law**

**(a) Relationship of Agreement to United States law**

**(1) United States law to prevail in conflict**

No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

**(2) Construction**

Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, including any law regarding—

(i) the protection of human, animal, or plant life or health,

(ii) the protection of the environment, or

(iii) motor carrier or worker safety; or

(B) to limit any authority conferred under any law of the United States, including section 2411 of this title; unless specifically provided for in this Act.

**(b) Relationship of Agreement to State law**

**(1) Federal-State consultation**

**(A) In general**

Upon the enactment of this Act [December 8, 1993], the President shall, through the intergovernmental policy advisory committees on trade established under section 2114c(2)(A) of this title, consult with the States for the

AMERICAN LIBRARY

purpose of achieving conformity of State laws and practices with the Agreement.

**(B) Federal-State consultation process**

The Trade Representative shall establish within the Office of the United States Trade Representative a Federal-State consultation process for addressing issues relating to the Agreement that directly relate to, or will potentially have a direct impact on, the States. The Federal-State consultation process shall include procedures under which—

(i) the Trade Representative will assist the States in identifying those State laws that may not conform with the Agreement but may be maintained under the Agreement by reason of being in effect before the Agreement entered into force;

(ii) the States will be informed on a continuing basis of matters under the Agreement that directly relate to, or will potentially have a direct impact on, the States;

(iii) the States will be provided opportunity to submit, on a continuing basis, to the Trade Representative information and advice with respect to matters referred to in clause (ii);

(iv) the Trade Representative will take into account the information and advice received from the States under clause (iii) when formulating United States positions regarding matters referred to in clause (ii); and

(v) the States will be involved (including involvement through the inclusion of appropriate representatives of the States) to the greatest extent practicable at each stage of the development of United States positions regarding matters referred to in clause (ii) that will be addressed by committees, subcommittees, or working groups established under the Agreement or through dispute settlement processes provided for under the Agreement.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal-State consultation process established by this paragraph.

**(2) Legal challenge**

No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

**(3) Definition of S**

For purposes of cludes—

(A) any law

(B) any Sta insurance.

**(c) Effect of Agreement**

No person other than

(1) shall have an

(A) the Agree thereof, or

(B) the Norm operation or th eration; or

(2) may challenge of law, any action other instrumenta political subdivisio inaction is inconsi: Agreement on Env can Agreement on

(Pub.L. 103-182, Title I, §

**Termination of S**

*Section to cease during any period NAFTA country, se as a note under sec*

**HISTOI**

Revision Notes and Legislati  
1993 Acts. House F  
103-361(Parts I-III), see 19  
Cong. and Adm. News, p. 25

**References in Text**

This "Act", referred to in :  
is the North American Free  
ment Implementation  
103-182, Dec. 8, 1993, 10  
For complete classification  
the Code, see Short Title  
under section 3301 of this  
bles.

Upon the enactment of  
ferred to in subsec. (b)(1)(A)  
the enactment of Pub.L.

of State laws and practices

process

establish within the Office representative a Federal-State working issues relating to the or will potentially have a Federal-State consultation under which—

ne will assist the States in hat may not conform with aintained under the Agree- ment before the Agreement

ned on a continuing basis ent that directly relate to, ect impact on, the States; ded opportunity to submit, rade Representative infor- mation to matters referred to in ve will take into account eceived from the States elating United States posi- ed to in clause (ii); and ed (including involvement ppropriate representatives of tent practicable at each United States positions in clause (ii) that will be committees, or working Agreement or through provided for under the

ct (5 U.S.C. App.) shall nsultation process estab-

ereof, may be declared e on the ground that the it with the Agreement, d States for the purpose lid.

(3) Definition of State law

For purposes of this subsection, the term "State law" includes—

- (A) any law of a political subdivision of a State; and
- (B) any State law regulating or taxing the business of insurance.

(c) Effect of Agreement with respect to private remedies

No person other than the United States—

- (1) shall have any cause of action or defense under—
  - (A) the Agreement or by virtue of Congressional approval thereof, or
  - (B) the North American Agreement on Environmental Cooperation or the North American Agreement on Labor Cooperation; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement, the North American Agreement on Environmental Cooperation, or the North American Agreement on Labor Cooperation.

(Pub.L. 103-182, Title I, § 102, Dec. 8, 1993, 107 Stat. 2062.)

Termination of Section Upon Termination of NAFTA Status

*Section to cease to have effect with respect to any country during any period in which such country ceases to be a NAFTA country, see section 109(b) of Pub.L. 103-182, set out as a note under section 3311 of this title.*

HISTORICAL AND STATUTORY NOTES

**Revision Notes and Legislative Reports**  
1993 Acts. House Report No. 103-361(Parts I-III), see 1993 U.S. Code Cong. and Adm. News, p. 2552.

**References in Text**  
This "Act", referred to in subsec. (a)(2), is the North American Free Trade Agreement Implementation Act, Pub.L. 103-182, Dec. 8, 1993, 107 Stat. 2057. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

Upon the enactment of this Act, referred to in subsec. (b)(1)(A), means upon the enactment of Pub.L. 103-182, 107

Stat. 2057, which enacted this section, and which was approved Dec. 8, 1993.

The Federal Advisory Committee Act (5 U.S.C. App.), referred to in subsec. (b)(1)(B), is Pub.L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in Appendix 2 to Title 5, Government Organization and Employees.

**Effective Dates**  
1993 Acts. Section to take effect on Dec. 8, 1993, and to cease to have effect, with respect to a country, during any period in which a country ceases to be a NAFTA country, see section 109 of Pub.L. 103-182, set out as notes under section 3311 of this title.

AMERICAN IN...