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THE SUGAR STABILIZATION ACT OF 1978

OCTOBER 5 (legislative day, SEPTEMBER 28), 1978.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 7108]

The Committee on Finance, to which was referred the bill (H.R. 7108) to amend the Tariff Schedules of the United States in order to suspend the duty on Yankee Dryer Cylinders until the close of December 31, 1981, having considered the same, reports favorably thereon with an amendment to the text and an amendment to the title and recommends that the bill as amended do pass.

I. SUMMARY

The committee amendment H.R. 7108, a bill which would temporarily (from date of enactment through December 31, 1981) permit duty-free entry of certain papermaking machinery (Yankee Dryer Cylinders), by striking all after the enacting clause and adding thereafter the substance of S. 2990, the Sugar Stabilization Act of 1978, as amended by the committee. As amended, H.R. 7108 would permit implementation by the United States of the International Sugar Agreement, 1977. The amendment would also establish a domestic sugar program to maintain a viable domestic sugar producing industry and protect the welfare of consumers and producers of sugar. The committee amendment would also extend the authority of the Secretary of the Treasury to waive countervailing duties under section 303 of the Tariff Act of 1930.

INTERNATIONAL SUGAR AGREEMENT

Title I of H.R. 7108, as amended by the committee, would provide the President with legislative authority to implement for the United

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States the International Sugar Agreement, 1977 (ISA). Title I would permit the President to limit entry of sugar from nonmember countries to areas, to prohibit the entry of sugar documentation required by the International Sugar Agreement, and to require the keeping of certain records and the making of reports.

DOMESTIC SUGAR PROGRAM

Market price objective.—Title II of H.R. 7108, as amended by the committee would establish a U.S. market price objective of 17 cents per pound (the median of the price range for free trade sugar under the ISA) for the 1978 sugar supply year. This price objective would be adjusted semiannually beginning October 1, 1979, based on changes in the parity index published by the Department of Agriculture and the Wholesale Price Index published by the Department of Labor.

Import fee.—A mandatory fee on imported sugar would be imposed as the primary method for achieving the U.S. market price objective. The Secretary of Agriculture would be required to impose a fee on sugar imports when he determines that the average daily price for imported raw sugar during a sugar supply year (October through September), or 6-month period thereof, will be less than the prevailing U.S. market price objective. The fee would be equal to an amount (not in excess of 20 cents per pound) which the Secretary determines will achieve the prevailing U.S. market price objective when added to the daily price for raw sugar imports.

Quantitative restriction.—As a secondary means of achieving the U.S. market price objective, the Secretary would be required to establish a global quantitative restriction on sugar imports. The Secretary would impose the quantitative whenever he determines the import fee alone will not achieve the U.S. market price objective for a sugar supply year, or 6-month period thereof.

Adjustments.—The Secretary would be required to suspend any import fee or quantitative restriction, make such other lesser adjustment to such fee or restriction, or both, as may be necessary to achieve the prevailing U.S. market price objective whenever he finds that the average of the daily prices for imported raw sugar imports for 20 consecutive market days exceeds the price objective by more than 20 percent. The Secretary would have to reestablish the fee or restriction, or both, or such portion thereof, as may be required to achieve the price objective whenever the average of the daily prices for imported raw sugar for 20 consecutive market days is less than the prevailing U.S. market price objective.

Refined sugar and sugar containing products.—Imports of refined sugar would be prohibited except under emergency conditions or in the face of an imminent shortage of refined sugar due to a lack of domestic refining capacity. Imports of sugar-containing products could be limited as a means of preventing circumvention of the objectives of the bill. A mandatory limitation would be imposed on imported sweetened chocolate, candy and confectionery.

Exemptions.—The following items would be exempted from fees and restrictions under the bill: (1) The first 10 tons of refined sugar imported from any foreign country in any sugar supply year; (2) the first 10 tons of sugar imported from any foreign country in any sugar supply year for religious, educational, or experimental purposes; (3)

liquid sugar imported in individual sealed containers not exceeding a capacity of 4 liters each; (4) sugar imported for the production of alcohol or livestocok feed for other than human consumption; and (5) sugar imported for the production of polyhydric alcohols not to be used as a substitute for sugar as a sweetener.

Labor Provisions

Title III of the committee amendment would require the producers of sugar beets and sugarcane to pay fieldworkers a minimum wage of \$3 per hour for the 1978 sugar supply year and an additional 20 cents per hour each year thereafter through the 1982 sugar supply year. Wage rates for Hawaii and Puerto Rico would be those established under labor union contracts or Federal or local law. Wages for field equipment operators would be required to be at least 10 percent more than those for fieldworkers.

Producers who fail to pay required wage rates would be liable for liquidated damages equal to the amount of unpaid wages. One or more employees, on behalf of themselves and other employees similarly situated would be permitted to bring an action for damages resulting from failure to pay minimum wages. The Secretary could also bring an action to recover unpaid wages and liquidated damages. Any hearings on claims for unpaid wages would be conducted by the Office of General Counsel of the Department of Agriculture with a right of appeal to the judicial officer of the Department and then to the U.S. District Court.

Discrimination against sugarcane and sugar beet fieldworkers who participate in any wage rate proceeding or investigation under the labor provisions of the act would be prohibited.

Producers would be prohibited from charging fieldworkers an amount for goods and services furnished to them in excess of the reasonable cost of those goods and services. Finally, fieldworkers would be covered by workmen's compensation.

Countervailing Duty Waiver Extension

Title IV of the bill would extend the authority of the Secretary of the Treasury to waive countervailing duties under section 303 of the Tariff Act of 1930 under the following conditions:

(1) The waiver authority would be extended if, before January 3, 1979, the President determines, upon the recommendation of the Special Representative for Trade Negotiations, and notifies Congress of his determination, that:

(a) Negotiations have been concluded establishing new international rules and procedures governing the use of internal and export subsidies which (i) adequately protect U.S. agricultural and industrial trading interests, and (ii) provide for effective enforcement of the substantive rules;

(b) The Multilateral Trade Negotiations (MTN) as a whole have been substantially completed; and

(c) Failure to extend the waiver will seriously jeopardize the completion of the MTN.

(2) The waiver authority would be extended to the earliest of the following dates:

(a) The date on which either House of Congress defeats on a vote of final passage the domestic implementing bill for the subsidy/countervailing code;

(b) The date of enactment of such implementing bill; or

(c) September 1, 1979.

(3) Existing waivers, which would continue in effect, and any future waivers made during the period of the waiver authority extension would be subject to the existing conditions in the law for granting waivers. All waivers would be subject to the existing congressional override provisions under which either House of Congress by majority vote may disapprove a waiver. If an override resolution is adopted, imports covered by that resolution become subject to countervailing duties immediately.

II. Purpose of the Bill

SUGAR PROGRAM

H.R. 7108, as reported by the committee and as it relates to sugar, is intended to (a) maintain a viable domestic sugar-producing industry capable of continuing to provide the larger part of the sugar consumed in the United States; (b) protect the welfare of consumers and producers by insuring supplies of sugar at fair prices in the United States and in the world market; (c) achieve these price and supply objectives through cooperation with sugar-producing and consuming countries under the export quota system of the International Sugar Agreement and the operation of a complementary import management program for the U.S. market; and (d) promote the export trade of the United States with sugar-producing countries of the world.

The high level of sugar consumption in the United States attests to the fact that the American people regard sugar as a desirable and vital commodity. In view of this, the Congress and the Federal Government have long recognized the importance of maintaining a viable domestic sugar industry.

As a nation which produces only about one-half of the sugar required to meet its domestic consumption needs, the United States must rely heavily on foreign imports. From 1934 through 1974, U.S. sugar policy was based on the Sugar Acts which prescribed a U.S. market price objective and set quotas on imports of sugar to defend the price objective. Throughout the 40-year history of the Sugar Acts' the United States was assured of a healthy indigenous production base, adequate levels of sugar from foreign suppliers, and stable prices (well below what is paid in many other developed nations).

After the record high levels of world sugar prices due to a world sugar shortage in 1974 and early 1975, a sugar surplus developed and prices rapidly fell. No longer removed from the world market by the Sugar Acts, U.S. market prices dropped sharply from a high of nearly 60 cents per pound in November 1974 to about 10 cents per per pound in the latter half of 1977.

Since late 1977, U.S. market prices have remained low. As excess stocks of sugar have continued to mount worldwide in the wake of a series of record crops, increasing amounts of foreign sugar, which cannot be sold in foreign markets controlled by trading monopolies, exclusive agreements, and the like, have been exported to the United States.

Pressures to export sugar have been so great that many producing countries have engaged in unfair trading practices to sell their product. After investigating charges that the European Communities (EC) subsidizes sugar they export to U.S. market the Treasury Department issued a finding that EC imports were, in fact, being heavily subsidized and imposed an unusually high countervailing duty of 10.8 cents a pound on EC imports. The Treasury also has under investigation allegations that imports of sugar from certain European countries are entering the United States in contravention of the Antidumping Act, 1921. This investigation may not be concluded for many months.

These activities have depressed domestic prices to the point where most domestic producers lose money on every pound of sugarcane and sugar beets they produce. Furthermore, these same pressures have resulted in the closing of a number of processing facilities upon which producers depend, reducing badly needed employment opportunities. If this situation were allowed to continue, the collapse of the U.S. sugar industry seems likely.

Domestically, if sugar producers are allowed to be driven out of business, then the United States will have to rely even more heavily on foreign supplies of sugar to meet consumer demand. For every pound of U.S. produced sugar bought, the money remains in this country and benefits the domestic economy. If, on the other hand, the United States must turn elsewhere, it would not only increase our balance-of-payments deficit but would put the United States increasingly at the mercy of the vicissitudes of world sugar trade and the high prices that occur with world sugar shortages.

The committee amendment implements the International Sugar Agreement. The ISA is intended to stabilize world sugar prices within a range of 15 to 19 cents per pound. Implementation of the ISA should complement the domestic sugar program under the bill by raising world sugar prices. The ISA should also facilitate cooperation between sugar exporting and importing countries.

Countervailing Duty Waiver Extension

That part of the committee amendment which extends the waiver authority for countervailing duties is intended to encourage the rapid and successful conclusion of the Multilateral Trade Negotiations (MTN) in Geneva, Switzerland. The conditions precedent for the extension of the waiver, together with the limitations in existing law, make the amendment useful to the Special Representative for Trade Negotiations in his efforts to achieve a subsidies/countervailing duty code which is in the best interests of the United States. Those conditions and limitations also insure that the waiver cannot be extended without good cause.

Under present law, the Secretary of the Treasury is required, upon compliant by a domestic industry, to impose countervailing duties, in addition to regular duties, on imports entering the United States if he finds that the imports receive a foreign subsidy. To permit the

President to avoid confrontations over the U.S. countervailing duty law while a subsidies code is being negotiated, Congress permitted countervailing duties to be waived, *i.e.*, not collected even though a subsidy exists, until January 3, 1979, under certain conditions. On September 28, 1978, the President sent a message to Congress asking that the countervailing duty waiver authority be extended until Congress completes its consideration of the results of the MTN. The President stated that "prospects for reaching agreement by year end on a subsidy/countervailing duty code which meets basic U.S. objectives are good." He also stated that failure to extend the waiver authority until Congress can consider whether or not to implement that code will "seriously jeopardize" the ability of the Special Representative for Trade Negotiations to negotiate such a code. The committee agrees with this assessment and provides in title IV of the amended bill a limited extension of the waiver authority beyond January 2, 1979.

III. General Explanation

The committee amended H R. 7108, a bill to temporarily (from the date of enactment through December 31, 1978) suspend the duty on most-favored-nation imports of Yankee Dryer Cylinders, a kind of papermaking machinery, with an amendment in the nature of a substitute. The substance of H.R. 7108 passed the Senate as an amendment to H.R. 8755.

The first 3 sections and titles I, II, and III of the amendment consists of the substance of S 2990, the Sugar Stabilization Act of 1978, as amended by the committee. The committee held hearings on S. 2990 on May 11, 1978. Both favorable and unfavorable testimony was received. The administration has opposed enactment of S. 2990. An explanation of H.R. 7108 as reported by the committee follows.

Sections 1, 2, and 3

Section 1 of the bill provides as the short title of the bill, the "Sugar Stabilization Act of 1978." Section 2 sets out the purposes of the bill. Section 3 contains definitions applicable to the act significant definitions include:

(1) The term "sugar" means raw sugar or direct-consumption sugar.

(2) The term "raw sugar" means any sugars, whether or not principally of crystalline structure, which are to be further refined or improved in quality to produce any sugars principally of crystalline structure or liquid sugar.

(3) The term "direct-consumption sugar" means any sugars priniicipally of crystalline structure and any liquid sugar which are not to be further refined or improved in quality.

(4) The term "quantitative restriction" means the total amount of sugar or liquid sugar, or that quantity of sugar-containing products, which may be entered from all foreign countries in the aggregate during any applicable period.

(5) The term "sugar supply year" means the twelve-month period beginning October 1 of any year and ending September 30 of the following year, designated by the calendar year in which it commences.

(6) The term "United States," when used in a geographical context, means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

TITLE I—INTERNATIONAL SUGAR AGREEMENT

Title I of H.R. 7108 as amended by the committee provides the necessary domestic legislation to implement the International Sugar Agreement, 1977 (ISA). While prices world-wide were declining rapidly in 1976 and 1977, the United States was taking a leading role in the negotiation of the ISA, which was concluded in late 1977 and is now before the Senate as a treaty for advice and consent. The ISA is designed to bring some stability, through export quotas and buffer stock requirements for exporting countries, to world sugar trade which is characterized by cyclical periods of very low and very high prices. The ISA aims to stabilize world market prices at between 11 and 21 cents per pound, with a "free-trade" range (no quota or stocking requirements operative) of 15 and 19 cents per pound.

IMPLEMENTATION

Section 101.—This section authorizes the President to: (a) limit the entry of sugar from any country, territory or area which is not a member of the International Sugar Organization; (b) prohibit the entry of sugar without documentation required by the International Sugar Agreement; (c) require the keeping of such records, statistics and information and the submission of such reports as the President may prescribe relating to the importation, distribution, prices and consumption of sugar; (d) take such other action as the President deems necessary or appropriate to implement the rights and obligations of the United States under the International Sugar Agreement; and (e) delegate the powers and duties conferred on the President under this title to such officers as he may direct.

Participation in the ISA places relatively few burdens on importing members. Importing countries are required to restrict quantities of sugar that can be imported from nonmember countries. When market prices are below 11 cents per pound, nonmember imports will be restricted to not more than 55 percent of the imports which occurred during an historical base period. When prices are above 11 cents per pound, imports will be limited to not more than 75 percent of that historical base. No restrictions will apply when prices rise above 21 cents per pound. Restrictions will be reinstated when prices fall below 19 cents per pound.

The other obligation of importing nations is to ensure that imported sugar has documentation, such as a stamp, which indicates that x cents-per-pound fee (not to exceed one-third of a cent and currently set at 0.28 cents per pound) has been paid on that sugar. The purpose of the fee is to assist exporters in building up and storing buffer stocks. The U.S. Government will not be responsible for the collection of the fee; rather, the fees are to be managed by parties in the sugar trade acting as agents for the International Sugar Organization for transfer to an international account.

Representatives of the administration have stated that the Department of State will be the lead agency responsible for United States participation in the ISA (although other agencies, such as the Customs Service, Treasury Department, and Agriculture Department will obviously be involved).

PENALTY

Section 102.—This section provides that any person failing to make any report or keep any record required under section 101, or making any false report or record, or knowingly violating any rule or regulation issued by the President under section 101, shall be punished by a fine of not more than $1,000 for each violation.

REPORT

Section 103.—This section provides for an annual report by the President to the Congress on operations under the International Sugar Agreement, including information on the general level of sugar prices and their relationship to the U.S. domestic sugar program and actions taken by the United States and the International Sugar Organization to protect the interests of domestic producers and consumers.

EFFECTIVE DATE

Section 104.—This section will make title I effective on the day the International Sugar Agreement enters into effect for the United States.

TITLE II—DOMESTIC SUGAR PROGRAM

From 1937 through 1974, U.S. sugar policy was based on the Sugar Acts, which prescribed a U.S. market price objective and set quotas on imports of sugar to defend the price objective. Under the last version of the Sugar Act, which expired at the end of 1974, about 28 percent of U.S. consumption of sugar was allocated to imports under country-by-country quotas.

After record high levels of world sugar prices in 1974 and early 1975 because of a world sugar shortage, a world sugar surplus developed and world prices began a steep drop. No longer insulated from the world market by the Sugar Acts, U.S. market prices dropped sharply from a high of nearly 60 cents per pound in November 1974 to about 10 cents per pound in the latter half of 1977.

In mid-1977, the President rejected a recommendation by the U.S. International Trade Commission for quotas on imports of sugar after the Commission found that increased imports of sugar were a substantial cause of the threat of serious injury to domestic sugar producers. Instead, the President proposed an income support program for sugar producers, offering supplemental payments of up to 2 cents per pound to make up the difference between a U.S. market price objective of 13.5 cents per pound and any actual lower U.S. market price. This program, as it was originally designed, was found to have no statutory basis. In September 1977, a revised payments program was implemented guaranteeing 13.5 cents per pound to growers by payments made through processors.

While problems were being encountered with the payments program, Congress provided in the Food and Agriculture Act of 1977 that the U.S. market price of the 1977 and 1978 crops of sugar beets and sugarcane would be supported through loans or purchases with respect to processed sugar at a price level not less than 52.5 percent of parity or 13.5 cents per pound, whichever is higher. Under this program, which became law in October 1977, the present loan rate, and hence the approximate U.S. market price, is 14.65 cents per pound. Further, fees on sugar imports have been established to the U.S. market price, and hence the loan rate, from being undercut. The program expires with the end of the current crop year.

In a second investigation undertaken after implementation of the price-support program under the Food and Agriculture Act of 1977, the International Trade Commission found that imports of sugar were entering the United States in sufficient quantity to render or tend to render ineffective, or materially interfere with the price-support operation conducted by the Department of Agriculture for sugarcane and sugar beets, or to reduce substantially the quantity of products being processed in the United States from domestic sugarcane and sugar beets. The Commission recommended increases in the import fee previously established by the President under section 22 of the Agricultural Adjustment Act, and if they proved ineffective in sustaining the domestic price-support level, that the President establish quantitative limitations on sugar imports. The recommendations were made April 17, 1978. As of this date no action has been taken.

Title II of H.R. 7108, as amended by the committee, establishes a domestic sugar program. It provides for the establishment of a U.S. market price objective, to be achieved by the use of fees on sugar imports, with backup authority for the establishment of quotas.

Domestic Market Price Objective

Section 201.—Subsection (a) of this section provides that the U.S. market price objective for the sugar supply year 1978 (October 1, 1978, through September 30, 1979) is the median of the price range for free trade sugar under the International Sugar Agreement (17 cents per pound, raw value). For the first semiannual period of the sugar supply year 1979, beginning October 1, 1979, and each semiannual period thereafter, the price objective must be adjusted, and announced within thirty days after the end of the previous semiannual period, so as to maintain for the semiannual period the same ratio between the adjusted price objective and the average of—

(1) the parity index (1967=100), and

(2) the Wholesale Price Index (1967=100)

for the immediately preceding 3 calendar months as the ratio that existed between—

(1) the price objective for sugar supply year 1978, and

(2) the simple average of such indices for the 12 calendar months immediately preceding July 1978.

Subsection (b) defines "parity index (1967=100)" as the Index of Prices Paid by Farmers for Commodities and Services, Including Interest, Taxes, and Farm Wage Rates, as published monthly by the Department of Agriculture; and "Wholesale Price Index (1967=100)" as such index for all commodities determined monthly by the Department of Labor.

The initial price objective established is that level which the Committee believes is needed, with adjustments in future years, to maintain a domestic sugar producing industry at about its present level *i.e.*, one capable of supplying the majority of the sugar consumed in the United States. Without such a price level, the United States will become more dependent on foreign imports to meet its sugar needs. With such dependency would come increasingly erratic prices to the consumer. The committee believes these would be periods of excessively high prices and a growing negative component to the U.S. trade balance, perhaps adding to inflation generally.

The market price objective provided is less than the cost of production of raw sugar in many areas, according to U.S. Department of Agriculture estimates. Louisiana, Idaho, Utah, Colorado, Kansas, Texas, and New Mexico all have higher costs of production. Even with this price level, some attrition will occur in the domestic industry.

It should also be noted that the market price objective is set at a level which existed several years ago, well after the record high prices of 1974 had sharply declined from this peak of about 60 cents per pound, and is only 16 percent above the last price objective which existed under the Sugar Act when it expired December 31, 1974. Between 1969 and 1977, the average rate of increase of the cost of production (excluding land costs) has been 8 percent. Thus, the 17 cent price objective only reflects increased production costs. Further, the price represents the median of the free trade price range under the ISA. This point was presumably decided upon as an appropriate level for world prices, and the committee believes it is an appropriate initial level for U.S. prices.

It has been claimed that establishing a price objective at the level provided for in this bill will be excessively inflationary. The committee believes that the figures cited by many in support of this assertion significantly overstated the potential cost to sugar consumers.

Committee and Congressional Budget Office estimates show that the potential impact of a 17 cent per pound price objective on the Consumer Price Index for all commodities will be an average of less than one-tenth of the 1 percent over the life of the bill. This estimate compares the 17 cent per pound price (escalated for increased costs) against a 14.65 cent per pound price held constant over the same period. The target price for the loan program in effect under the Food and Agriculture Act of 1977 is 14.65 cents per pound. The estimate also assumes that sugar users completely pass through all sugar price increases despite evidence that: (a) the profit margins of sugar users have recently widened substantially; and (b) sugar price changes are not completely passed through. Thus the cost estimate tends to overstate any potential inflationary effects.

The committee also noted that the domestic sugar industry has an enormous investment in fixed capital and land which cannot be adapted to alternative uses. A price objective which failed to maintain the domestic sugar industry at its current size would entail adjustment costs. The evidence presented to the committee during hearings was that these costs would be significant.

Finally, the committee believes that the sugar program implemented by this bill would act as an insurance mechanism protecting domestic sugar users from wild swings in future sugar prices. Sugar consumers, by paying a small additional amount, receive the benfits of assured supply and a stable market.

It has also been asserted by some that the price level provided for in this bill would call for increased U.S. production, making it more difficult to achieve the objectives of the ISA. The committee disagrees with this assessment. As previously indicated, the market price objective is actually below the cost of production for many sugar producing areas according to Department of Agriculture statistics. Further supply response studies by the Department of Agriculture indicate that for sugar beets a price of 18.4 cents per pound would be necessary through the 1976–79 period to maintain U.S. sugar beet acreage at the 1976 level. Hence, it is unlikely that there would be any overall expanded sugar beet acreage as a result of the price level set in the bill. Among the sugar beet producing regions, some would probably increase production and some would probably decrease production mostly in relation to costs of production.

For sugarcane, it is possible that some supply response would occur in Florida and possibly Texas at the price level set in the bill. The Hawaiian industry would work to increase yields but would not put more land resources into production. There would probably be declines in production in other areas that would somewhat offset any such gains in sugarcane production. With regard to supply response, it should be noted also that production expansion is limited by processing capacity. Increases in processing capacity require large capital investment. It is unlikely such quantities of capital will be available for such expansion.

Import Fee

Section 202.—This section provides for import fees to achieve the market price objective under section 201. Import fees would be the primary mechanism for achieveing the market price objective. For some time, world sugar prices have been depressed below the level of the cost of production of any producer. Unless controls are placed on the importation of sugars, domestic price levels cannot be maintained.

Subsection (a) provides that if the Secretary of Agriculture determines that the simple average of the daily price for imported raw sugar during semiannual period of a sugar supply year will be less than the market price objective in effect for such period under section 201, then the Secretary must impose an import fee on all sugar entered into the United States during such period. The Secretary would announce his determination at the same time he announces his determination with respect to the market price objective under section 201, except that for sugar supply year 1978 the Secretary could establish such fee at any time within 30 market days after the date of enactment of this act.

Subsection (b) provides that the amount of the fee imposed under subsection (a) during any semiannual period of a sugar supply year will be equal to the amount (not in excess of 20 cents per pound) which the Secretary determines will, when added to the simple average of the daily price for imported raw sugar during such period, achieve the market price objective in effect for such period under section 201. The amount of the fee determined under this formula for the second semiannual period of any sugar supply year will be increased by the amount by which the simple average of the daily market price for raw sugar plus the import fee during the first semiannual period of such year was less than the market price objective for such period. If that average price plus fee exceeded the price objective, the amount of the fee for the second semiannual period will be reduced accordingly.

An example will help illustrate how subsections (a) and (b) will operate. Assume that in the first semiannual period of a sugar supply year, the market price objective is 17 cents per pound and the Secretary, at the beginning of such period, estimates that the simple average of the daily price for imported raw sugar, as defined in this bill, will be 14 cents per pound during such period. The Secretary would then impose on sugar imports during that semiannual period a fee of 3 cents per pound.

Suppose that, in fact, during such period the actual simple average of the daily price for imported raw sugar was 15 cents per pound. When the 3 cents fee for such period is added to that price, a price of 18 cents per pound is achieved, on the average. If this occurs, then the Secretary will make an adjustment in the second semiannual period of that sugar supply year to account for it.

If, in the second semiannual period in the sugar supply year, the market price objective is 17.1 cents per pound and the Secretary estimates and determines that the simple average of the daily price for imported raw sugar in that period will be 14.5 cents per pound, then instead of imposing a fee of 3 cents per pound, the initial fee amount for the second period will be 2.6 cents per pound. This amount would then be adjusted by subtracting the amount by which the simple average of the daily price for imported raw sugar plus the import fee during the first semiannual period exceeded the market price objective for that period, or 1 cent per pound. The result will be imposition of a 1.6 cents per pound fee during the second semiannual period. The purpose of this adjustment is to bring the average domestic market price during a sugar supply year as close as possible to the average of the market price objectives during each semiannual period of that year.

In the past several years, the price of imported sugar has been so far below 17 cents per pound that the price objective for crop year 1978 cannot be achieved unless the Secretary immediately begins the imposition of import fees upon the enactment of this legislation. Under section 202 (a) the Secretary would set the level of these fees no later than 30 days after the passage of this act. In setting the fee, the Secretary is to be guided by the historical prices of sugar on the world market, the futures market, growing conditions, et cetera. The administration is expected to show good faith in working to come as close to the market price objective as possible.

Subsection (c) provides that any fee imposed under subsection (a) is to be considered a duty imposed under the Tariff Act of 1930 except for purposes of title V of the Trade Act of 1974. Thus, beneficiary developing countries under the Generalized System of Preferences would have to pay any fee imposed.

Quantitative Restrictions

Section 203.—This section would provide authority to the Secretary of Agriculture to impose import restrictions on sugar imports when import fees imposed under section 202 are not able to achieve the price objective. Quantitative restrictions are provided as a backup method to fees, which are the primary method of achieving the market price objective.

It has been argued that little sugar is traded in world markets at its true cost of production but rather that the "free market" tends to be a residual market in which sugar is priced arbitrarily and without relation to its cost to the producer. As a result, it is argued that the imposition of an additional fee will simply cause producers to lower their price—thus fees will never be effective, but will simply force the price of sugar downward, defeating the purposes of the ISA and of our domestic sugar program. If this argument has any validity, the quantitative restriction authority should permit the Secretary to deal with this as well as situations where radical changes in market conditions make a fee determination inaccurate.

Subsection (a) provides that if, at any time during a semiannual period of a sugar supply year, the Secretary determines that the market price objective in effect under section 201 will not be achieved by the import fees imposed under section 202, then the Secretary must limit the total amount of sugar which may be entered into the United States. The amount of sugar permitted entry into the United States under the quantitative restriction imposed would be the amount the Secretary determines is necessary to achieve, in conjunction with the import fees imposed under section 201, the market price objective in effect.

If the Secretary makes his determination during the second semiannual period of such year, then the Secretary must limit the amount of imported sugar during such period which will achieve, in conjunction with import fees in effect, a price equal to the average of the market price objectives in effect during the first and second semiannual periods of that year. The purpose of this provision is to bring the domestic price as close as possible to the average of the two market price objectives in effect each year.

Subsection (b) of this section permits the Secretary to review, from time to time, the effect of quantitative restrictions and to make such adjustments in the restriction as may be required to achieve the relevant market price objective.

Subsection (c) provides that any quantitative restriction imposed under this section must be imposed on a global basis. No country-by-country or other allocation, such as by auctioning of import licenses, is permitted. The restriction will be administered on a first-come, first-served basis.

Direct-Consumption Sugar

Section 204.—Subsection (a) provides that except as provided in subsection (c) of this section, no direct-consumption sugar (refined sugar) may be entered into the United States. This restriction will help to insure adequate domestic refining capacity.

Subsection (b) provides that the direct-consumption sugar limitations of this section may not be suspended under the President's authority to suspend the fees and quantitative restriction provisions in national emergency situations under section 307 of the bill. An exception to this rule is made if the President specifically finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar which requires its suspension.

Subsection (c) provides that whenever the Secretary, after public rulemaking procedures, finds that a lack of raw sugar refining capacity within the United States has created an imminent shortage of direct-consumption sugar for consumers in the United States, he may permit as much direct-consumption sugar to enter the United States as is necessary to meet the shortage.

Adjustments

Section 205.—This section requires the Secretary to suspend or make such lesser adjustment to any quantitative restriction and import fee established under the bill whenever the Secretary finds that the simple average of the daily price for imported raw sugar as defined in the bill, exceeds by more than 20 percent the current price objective for 20 consecutive market days. The Secretary will make the adjustment necessary to achieve the current market price objective. The Secretary must, however, reëstablish such fees or restrictions, or both, as may be required to achieve such price objective whenever the Secretary finds that the simple average of the price of raw imported sugar is less than the current price objective for 20 consecutive market days.

Sugar-Containing Products

Section 206.—This section provides authority for the Secretary to limit entry of sugar-containing products. Such a limitation is necessary to prevent circumvention of restraints on imports imposed under this bill, as well as the export restraints under the ISA. Sugar-containing products have occasionally been imported for purposes of conversion to sugar (as apparently did occur during the extremely high sugar prices of 1974). There is the possibility of the importation of flavored sugars and sirups. In addition, there is the possibility that as ISA members find the export of sugar limited during periods of low prices, they may seek to increase exports of sugar-containing or "sugar end use" products as a way of escaping the export restraints of the ISA. Therefore, the authority to restrict entry on these sugar-containing products should be provided.

Subsection (a) provides authority for the Secretary to limit the quantity of any sugar containing product, mixture, or beet sugar molasses to be entered from any country or area if the Secretary determines that the prospective entry of any such product or mixture or molasses will substantially interfere with the attainment of the objectives of the bill. The quantity to be entered from any country or area in any sugar supply year may not be reduced below the average of the quantities of such product, mixture, or beet sugar molasses annually entered during such 3-year period as the Secretary may select for which reliable data are available.

Subsection (b) provides that if, the Secretary determines that the prospective entry of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of the bill and there are not reliable data available of the entry of such product, mixture or molasses for three consecutive years, then the Secretary may limit the quantity to be entered during each sugar supply year from any country or area to a quantity which the Secretary determines will not substantially interfere with the attainment of the objectives of the bill. In the case of a sugar-containing product or mixture, the quantity from any one country or area may not be less than a quantity containing one hundred short tons, raw value, of sugar or liquid sugar.

Subsection (c) directs the Secretary to take into consideration certain factors in determining whether the actual or prospective entry of a quantity of a sugar-containing product or mixture will or will not substantially interfere with the attainment of the objectives of this act. These include the total sugar content of the product or mixture in relation to other ingredients or to the sugar content of other products or mixtures for similar use, the costs of the mixture in relation to the costs of its ingredients for use in the United States, the present or prospective volume of importations relative to past importations, the type of packaging, whether it will be marketed to the ultimate consumer in the identical form in which it is entered, the extent to which it is to be further subjected to processing or mixing with similar or other ingredients, and other pertinent information. In making determinations, the Secretary must follow the rulemaking requirements.

Subsection (d) requires the Secretary each calendar year to impose quantitative restrictions on the quantity of sweetened chocolate, candy, and confectionery provided for in items 156.30 and 157.10 of part 10, schedule 1, of the Tariff Schedules of the United States which may be entered. The limitation for any year will be determined in the fourth quarter of the preceding year. The quantity which may be entered shall be equivalent to the larger of (1) the average yearly quantity of such products entered during the 3 calendar years immediately preceding the year in which the determination is made, or (2) a quantity equal to 5 percent of the amount of sweetened chocolate, candy, and confectionery of the same description of U.S. manufacture sold in the United States during the most recent year for which data are available. The total quantity to be entered may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the past importations or entries from such countries.

Prohibited Acts

Section 207.—This section sets out certain prohibited acts. No person may import more than 100 pounds of sugar made from sugarcane or sugar beets grown outside the United States into the Virgin Islands. While the Virgin Islands are not part of the customs territory of the United States, this provision is intended to maintain the territory within the sugar market of the United States.

The section also prohibits the export of any sugar from the United States which is brought into the United States, unless it is exempt under section 208, or produced from beets or sugarcane grown in the United States. The export of sugar would distort the effectiveness of fees and quotas in meeting the price objective.

While not specifically provided, it is axiomatic that articles imported in excess of a quantitative restriction cannot be entered, or withdrawn from warehouse, for consumption. Anyone who violates the import fee and restriction provisions proclaimed by the President will be subject to penalties under customs law.

Exportation

Section 208.—Subsection (a) provides that sugar or liquid sugar entered into the United States under an applicable bond established pursuant to orders or rules issued by the Secretary of Agriculture for the the express purpose of subsequently exporting the equivalent quantity of sugar or liquid sugar as such, or in manufactured articles, shall not be charged against any quantitative restriction if effect under section 203.

Subsection (b) provides that exportation within the meaning of sections 309 (relating to supplies for certain vessels and aircraft) and 313 (relating to drawback and refunds on articles made from imported merchandise) of the Tariff Act of 1930 will be considered to be exportation within the meaning of this section.

Exceptions

Section 209.—This section provides for certain exceptions to the quantitative restriction and fee provisions, providing in particular that these restraints will not apply to (1) the first 10 short tons, raw value, of direct consumption sugar or liquid sugar entered from any foreign country in any sugar supply year; (2) the first 10 short tons, raw value, of direct consumption sugar or liquid sugar entered from any foreign country in any sugar supply year for religious, sacramental, educational, or experimental purposes; (3) liquid sugar entered from foreign countries in individual sealed containers of such capacity as the Secretary may determine, not in excess of 4 liters each; (4) any sugar or liquid sugar entered for the production (by distillation or other means) of alcohol or for livestock feed or the production of livestock feed, not including any such alcohol or resulting byproducts for human food consumption; or (5) any sugar or liquid sugar entered for the production of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar as a sweetener in human food consumption.

These exceptions are designed to eliminate problems for the Customs Service in administering this title, by exempting de minimus imports and sugar carried by travelers for personal use, and by continuing in modified form, an exemption contained in the Sugar Act of 1948, as amended during the 1960's, for sugars used for manufacturing certain chemicals and pharmaceuticals, which are not to be used as a substitute for sugar as a sweetener in human food consumption.

TITLE III—GENERAL PROVISIONS

This title contains a number of general provisions relating to the domestic sugar program, the most important one related to treatment of sugar farm workers.

Labor Provisions

Section 301.—This section contains the farm labor provisions reported by the House Committee on Agriculture in H.R. 13750, a House bill also designed to establish a domestic sugar program. The committee believes these provisions provide for fair wages and sound working conditions for sugar field workers, and adopted them intact.

As described in the report of the House Committee on Agriculture, subsection (a) specifies minimum wages, beginning with the sugar supply year 1978, which every producer of sugar beets and sugarcane for sugar must pay to each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane wages. When employed on a time basis, the rates per hour are required to be not less than $3 for sugar supply year 1978 and an additional 20 cents each year thereafter for all areas except Hawaii and Puerto Rico. For Hawaii and Puerto Rico, the wage rates are as required by labor union agreement or Federal or local law. Rates for field equipment operators must be not less than 10 percent more than the above rates. These higher rates apply to persons who operate the type of field equipment in the production of sugar cane which would qualify them for premium wages in regulations issued under prior sugar legislation. Operators of similar equipment in sugar beet production would also be covered by premium rates.

When employed on a piecework basis, the rates must be not less than the rates for the 1978 crop as published in the Federal Register of January 10, 1978 (42 F.R. 1476), increased each sugar supply year beginning October 1979 in the same proportion as the hourly rates are increased.

Subsection (b) provides remedies against any producer who fails to pay the wages provided for in the act. Any such producer is liable to the employee or employees affected in the amount of the unpaid wages and in an additional equal amount as liquidated damages.

An action to recover unpaid wages and liquidated damages may be instituted against any producer in any Federal or State court of competent jurisdiction by any one or more employees for himself or themselves and other employees similarly situated. No employee may be a party plaintiff unless he gives his consent in writing to become such party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to any plaintiff, allow a reasonable attorney's fee to be paid by the defendant, and costs of such action. The right to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary in an action under section 303 in which restraint is sought of any further delay in the payment of unpaid wages owing to such employee by a producer liable therefor.

Subsection (c) provides that the Secretary may supervise the payment of the unpaid wages owing to any employee or employees. The agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) to unpaid wages and liquidated damages.

Subsection (c) also provides a dispute mechanism to resolve claims made by fieldworkers for unpaid wages. It provides a process through which claims for unpaid wages may be settled out of court if the employee elects to do so, thus avoiding the expense of delay of litigation. Investigations made thereto would be made by the Office of Inspector General as specified in subsection (h). Any hearing on a claim for unpaid wages must be conducted by an attorney of the Office of the General Counsel of the Department of Agriculture. The decision of such attorney is required to be issued promptly and the extent possible within 30 days after the conclusion of the hearing. Within 30 days after the issuance of such decision, any person adversely affected by the decision may obtain review by filing a petition with the judicial officer appointed by the Secretary. Any person adversely affected by a decision of the judicial officer may obtain judicial review of the decision by filing a complaint, within 30 days, with the United States district court for the district in which the person resides. The findings of the judicial officer as to the facts, if supported by substantial evidence, will be final and conclusive.

The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid wages and an equal amount as liquidated damages. The right to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary unless such action is dismissed without prejudice on motion of the Secretary. Any sums recovered by the Secretary on behalf of an employee pursuant to this subsection are to be held in a special account and paid to the employee or employees affected. Any sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

Subsection (d) provides that actions for unpaid wages and liquidated damages shall be barred unless commenced within two years after the cause of action accrued.

Subsection (e) prohibits all producers of sugar beets and sugarcane from discharging or in any other manner discriminating against any employee engaged in the production, cultivation and harvesting of sugar feets or sugarcane because such employee has assisted, or participated in any manner in an investigation, proceeding, or litigation under the labor provisions of the act. Any person knowingly violating this subsection upon conviction, is subject to a fine of not more than $1,000 for each such violation.

Subsection (f) prohibits all producers of sugar beets and sugarcane from charging (or permitting to be charged, directly or indirectly) persons employed on the farm in the production, cultivation, or harvesting of sugar beets and sugarcane, an amount in excess of the reasonable cost for furnishing any such person goods or services customarily furnished to such employees. Any person knowingly violating this subsection, upon conviction, is subject to a fine of not more than $1,000 for each such violation.

Subsection (g) provides for the Secretary to issue regulations to assure that the producer shall furnish workmen's compensation insurance to each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane during the time so employed. Such insurance coverage must meet the requirements of the law in States in which such insurance is mandatory, or such standards as are established by law in States in which such insurance is not mandatory.

Subsection (h) provides for investigations of possible violations of the labor provisions of the act to be conducted by the Office of the Inspector General of the Department of Agriculture. It is expected that information resulting from the investigation will be referred to the Office of General Counsel for appropriate legal action.

Regulations

Section 302.—Subsection (a) authorizes the Secretary to make such rules as may be necessary to carry out the provisions of the act. Any person knowingly violating any rule issued under this section is subject to a fine of not more than $1,000 for each such violation.

Subsection (b) provides that each determination issued by the Secretary in connection with the market price objective, quotas, and fees must be promptly published in the Federal Register and accompanied by a statement of the bases and considerations upon which such determination was made.

Jurisdiction of Courts

Section 303.—This section vests the district courts of the United States with jurisdiction over any action to enforce, or to prevent and restrain any person from violating, the provisions of the act or any order or rule issued under the act, and to review any rule issued or determination made under the act in accordance with chapter 7 of title 5, United States Code. The U.S. attorneys are delegated authority to institute proceedings to enforce the remedies and to collect the penalties provided for in the act. Any remedies provided for in the act are in addition to, and not exclusive of, any of the remedies or penalties existing at law or in equity.

Civil Penalty

Section 304.—This section subjects any person who knowingly brings, or attempts to bring, or aids in the bringing of, sugar into the United States without the payment of any import fee imposed under section 202 or in excess of any quantitative restriction imposed under section 203 to a civil penalty in an amount equal to three times the market value, at the time of the commission of any such act, of that quantity of sugar or liquid sugar, or any sugar-containing product, on which no import fee is paid or by which any quota is exceeded. The civil penalty is recoverable in a civil suit brought in the name of the United States.

Reports

Section 305.—This section requires that upon the request of the Secretary, all persons engaged in the manufacturing, marketing, transportation, or industrial use of sugar and other sweeteners (including those not derived from sugar beets or sugarcane) must furnish the Secretary with such information as the Secretary deems necessary to enable him to administer the provisions of the act. Any person willfully failing or refusing to furnish such information or furnishing willfully any false information, is subject to a penalty of not more than $2,000 for each such violation. All information required to be furnished to the Secretary under this section must be kept confidential by all officers and employees of the Department of Agriculture.

Investment by Officials

Section 306.—This section prohibits any person, while acting in any official capacity in the administration of the act, from investing or speculating in sugar or liquid sugar, contracts relating thereto, or the stock or membership interest of any association or corporation engaged in the production or manufacturing of sugar or liquid sugar. Any person violating this section upon conviction is subject to a fine of not more than $10,000 or imprisonment of not more than 2 years, or both.

Suspension

Section 307.—This section requires the President by proclamation to suspend import restrictions and fees under the act whenever the President finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar. The suspension may continue until the President finds and proclaims that the facts which occasioned the suspension no longer exist.

Surveys and Investigations

Section 308.—Subsection (a) authorizes the Secretary to conduct such surveys and investiagtions as he deems necessary regarding the manufacturing, marketing, transportation, or industrial use of sugars. Any information obtained may not be made public with respect to the separate operations of any person or company from which such information has been derived.

Subsection (b) authorizes the Secretary to condcut surveys, investigations, and research. The Secretary may make available to the public any information collected under this subsection as the Secretary deems necessary to carry out the provisions of the act.

Subsection (c) requires the Secretary to determine and announce the average daily price for imported raw sugar whenever the New York Coffee and Sugar Exchange is prevented for any reason from quoting daily spot prices for raw sugar.

Termination

Section 309.—This section provides that the provisions of titles I, II, and III of the act shall terminate at the close of September 30, 1983.

TITLE IV.—COUNTERVAILING DUTY WAIVER EXTENSION

This title provides for the extension for no more than 9 months of the Secretary of the Treasury's authority to waive countervailing duties. Under section 303 of the Tariff Act of 1930, the Secretary of the Treasury is required, upon complaint by a domestic industry, to impose countervailing duties, in addition to regular duties, on imports entering the United States if he finds that the imports receive a foreign subsidy. The additional duty, which is equivalent to the amount of subsidy, is intended to offset the foreign subsidy practice.

In the Trade Act of 1974, Congress directed the President to seek new international rules on subsidy practices in the Multilateral Trade Negotiations. To permit the President to avoid confrontations over the U.S. countervailing duty law while a subsidies code is being negotiated, Congress amended section 303 to permit countervailing duties to be waived, *i.e.*, not collected even though a subsidy exists, until January 3, 1979, under certain conditions. Those conditions are (1) the foreign government is substantially reducing the effect of the subsidy, (2) there is a reasonable prospect that trade negotiations will result in codes reducing nontariff barriers, such as subsidies, and (3) the imposition of the countervailing duty would jeopardize the satisfactory conclusion of such negotiations.

The waiver authority has been exercised 17 times. The value of imports subject to countervailing duty waivers was about $600 million in 1977. Countervailing duties not collected on these imports totaled about $47 million in 1977. The pricnipal products among those imports are dairy products (including cheese), canned hams, rubber footwear, and fish. These and other affected imports come from the European Community, Canada, Korean, and others. A complete list of countervailing duty actions involving waivers follows:

TABLE 1.—COUNTERVAILING DUTY ACTIONS INVOLVING WAIVERS

Country	Date of waiver	Product	Subsidy on date of waiver	Subsidy on Jan. 4, 1979	1977 imports (millions)	Potential duty revenue (thousands) Previous subsidy	Potential duty revenue (thousands) Jan. 4 subsidy
EEC	May 19, 1975	Dairy products	Varied	Unchanged	$92.1	[1] $13,000	(2)
EEC	Dec. 2, 1975	Canned hams	57 units of account per 100 k	16.5–20 units of account per 100 k	191.5	[1] 42,500	[1] $18,000
Korea	Jan. 5, 1976	Rubber footwear	0.7 percent ad valorem	Unchanged	108.2	757	(2)
Mexico	Jan. 7, 1976	Steel, carbon, and high strength plates.	$0.76 per ton	do	(3)	(3)	(3)
Austria	do	Cheese	Soft cheese, $0.02–$0.40 per pound; hard cheese, $0.20–$0.33 per pound.	do None	17.1	[1] 4,859	[1] 192
Switzerland	Jan. 8, 1976	do	$0.45 per pound	Unchanged	16.8	6,026	(2)
Brazil	Jan. 12, 1976	Leather handbags	14 percent ad valorem	1 percent ad valorem	6.0	840	60
Norway	May 27, 1976	Cheese	$0.40–$0.50 per pound	Hard cheese—None; soft cheese—Unchanged.	22.4	7,457	423
Finland	June 18, 1976	do	$0.49 per pound	$0.19 per pound	22.4	11,911	4,618
Sweden	July 1, 1976	do	$0.40 per pound	$0.20 per pound	3.0	1,120	560
Canada	April 12, 1977	Fish	17 percent ad valorem	1 percent ad valorem	4.4	748	44
Denmark	Jan. 5, 1978	Butter cookies	30 percent ad valorem	Unchanged	5.7	1,710	(2)
Uruguay	Jan. 30, 1978	Leather handbags	17.4 percent ad valorem	2 percent ad valorem	4.1	713	82
Do	do	Nonrubber footwear	27 percent ad valorem	do	20.7	4,761	414
Do	do	Leather apparel	12 percent ad valorem	do	17.8	2,136	356
Columbia	April 24, 1978	Leather handbags	5.5 percent ad valorem	None	6.0	330	None
Canada	June 16, 1978	Fish	17 percent ad valorem	1 percent ad valorem	68.1	11,577	681
Total					607.3	110,455	47,263

[1] Estimate. [2] Unchanged. [3] Less than 1.

On January 2, 1979, the waiver authority terminates. Any waivers in effect on that date will expire. Countervailing duties will be collected beginning on January 3.

The negotiation of a subsidy/countervailing duty code is well advanced in the Multilateral Trade Negotiations (MTN). While important issues are yet to be resolved, the administration believes that negotiations can be concluded before the January 2 expiration of the countervailing duty waiver authority.

Under current law, the waiver authority terminates before the period in 1979 when the subsidy-countervailing duty code will be under review by the Congress. Even if our trading partners agree in December 1978, to a subsidy code which imposes increased discipline on their subsidy practices, some of their exports will become subject to countervailing duties on January 3, 1979. The Europeans and others have stated that it will be difficult for them to meet U.S. requests for concessions, particularly on agricultural products, unless the countervailing duty waivers continue until Congress decides whether or not to approve the subsidy-countervailing duty code.

On September 28, the President sent a message to Congress requesting the extension of the authority to waive countervailing duties during the period when the results of the MTN will be under review by the Congress in order to avoid trade confrontations during period (See Attachment A). The committee, based on its oversight of the trade negotiations, agrees with the President's assessment of the problem. The committee believes that the conditions it imposes on the extension will strengthen the hand of our trade negotiators in their effort to secure the best possible agreement for the United States.

Section 401 of H.R. 7108, as amended by the committee, provides that the waiver authority will be extended if the President, prior to January 3, 1979, upon the recommendation of the Special Representative for Trade Negotiations (STR), determines and notifies Congress that:

(*a*) Negotiations have been concluded establishing new international rules and procedures governing the use of internal and export subsidies which (1) adequately protect U.S. agricultural and industrial trading interests, and (2) provide for effective enforcement of the substantive rules.

(*b*) The MTN as a whole has been substantially completed; and

(*c*) Failure to extend the waiver will seriously jeopardize the completion of the MTN.

(2) The waiver authority would be extended to the earliest of the following dates:

(*a*) The date on which either House of Congress defeats on a vote of final passage the domestic implementing bill on the subsidy/countervailing code;

(*b*) The date of enactment of such implementing bill; or

(*c*) September 1, 1979.

(3) Existing waivers, which would continue in effect, and any future waivers made during the period of the waiver authority extension would be subject to the existing conditions and continuing waivers. All waivers would be subject to the existing congressional override provisions under which either House of Congress by majority vote may disapprove a waiver. If an override resolution is adopted, imports covered by theat resolution become subject to countervailing duties immediately.

IV. Vote on the Committee in Reporting the Bill

In compliance with section 133 of the Legislative Reorganization Act of 1946, the committee states that the bill was ordered reported by a voice vote.

V. Budgetary Impact of the Bill

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act, the following statements are made relative to the costs and budgetary impact of the bill.

The provisions of the bill do not provide new budget authority or tax expenditures. The following table presents the estimated impact of Titles I, II, and III of the bill. Negative numbers indicate a reduction in outlays, an increase in revenues, or a decrease in the Federal deficit.

BUDGET IMPACT

[In millions of dollars]

	Fiscal year—				
	1979	1980	1981	1982	1983
Net effect on revenues due to import fees and quotas	−221	−279	−379	−475	−575
Decreased outlays for domestic loan programs	−450	0	0	0	0
Net budget impact	−671	−279	−379	−475	−575

Title IV has a one time budget impact of no more than $32 million in F.Y. 1979. The committee had not received the Congressional Budget Office report under section 403 of the Congressional Budget Act at the time the bill was filed.

VI. Regulatory Impact of the Bill

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the committee states that the provisions of the bill should not result in new major and continuing regulatory activity. A quota is imposed and fees are already collected on imports of sugar under existing law. The committee believes the reporting and information submission requirements of the bill are not burdensome and will result in more information about the sugar trade becoming available, with a stabilizing effect on the world and domestic sugar market.

VII. Changes in Existing Law

In compliance with paragraph (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown below (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

(d) Temporary Provision While Negotiations Are in Process.—(1) It is the sense of the Congress that the President, to the extent practicable and consistent with United States interests, seek through negotiations the establishment of internationally agreed rules and procedures governing the use of subsidies (and other export incentives) and the application of countervailing duties.

(2) If, after seeking information and advice from such agencies as he may deem appropriate, the Secretary of the Treasury determines, at any time during the four-year period beginning on the date of the enactment of the Trade Act of 1974, that—

(A) adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

(B) there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

(C) the imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations;

the imposition of the additional duty under this section with respect to such article or merchandise shall not be required during the remainder of such four-year period. This paragraph shall not apply with respect to any case involving non-rubber footwear pending on the date of the enactment of the Trade Act of 1974 until and unless agreements which temporize imports of non-rubber footwear become effective.

(3) The determination of the Secretary under paragraph (2) may be revoked by him, in his discretion, at any time, and any determination made under such paragraph shall be revoked whenever the basis supporting such determination no longer exists. The additional duty provided under this section shall apply with respect to any affected articles or merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of any revocation under this subsection in the Federal Register.

"(4)(A) That four-year period specified in paragraph (2) shall be extended until the data provided in subparagraph (B) if, upon the recommendation of the Special Representative for Trade Negotiations, the President determines, and notifies both Houses of Congress of his determination, on or before January 2, 1979, that—

"(i) negotiations on an agreement or agreements establishing internationally agreed rules and procedures governing the use of agricultural and industrial subsidies have been concluded,

"(ii) the Multilateral Trade Negotiations as a whole, and agreements providing for the reduction or elimination of barriers to, or other distortions of, international trade, in particular, have been substantially completed,

"(iii) failure to extend such four-year period would be likely to seriously jeopardize the successful conclusion of such agreements, including the agreement or agreements on subsidies, and

"(iv) the agreement or agreements on subsidies establish (I) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests insofar as they are adversely affected by such subsidies, and (II) more effective provisions on notification, consultation, and dispute settlement that will provide for timely resolution of disputes involving the use of subsidies in international trade.

"*(B) The date to which the four-year period shall be extended under subparagraph (A) is the earliest of the following:*

"*(i) the date on which either House of Congress defeats on a vote of final passage, in accordance with the provisions of section 151 of the Trade Act of 1974, implementing legislation with respect to a multilateral agreement or agreements governing the use of subsidies,*

"*(ii) the date of enactment of such implementing legislation, or*

"*(iii) September 1, 1979.*

"*(C) If the four-year period specified in paragraph (2) is extended under subparagraph (A), any determination made under this subsection by the Secretary of the Treasury which is in effect on January 2, 1979, shall remain in effect until the earliest of the following:*

"*(i) the date to which the four-year period is extended under subparagraph (A), notwithstanding any provision to the contrary in any such determination,*

"*(ii) the date such determination is revoked under paragraph (3), or*

"*(iii) the date of adoption of a resolution of disapproval of such determination under subsection (e)(2).*".

[Attachment A]

To the Congress of the United States:

I am today submitting to the Congress a proposal for legislation to extend for a brief period the authority of the Secretary of the Treasury under section 303(d) of the Tariff Act of 1930 to waive the application of countervailing duties. I hope that the Congress will be able to enact the necessary legislation before adjournment *sine die.*

If not extended, the waiver authority will expire on January 2, 1979. This would seriously jeopardize satisfactory conclusion of the Multilateral Trade Negotiations (MTN) underway in Geneva. Unless the waiver authority is extended to cover the period during which the results of the MTN will be under review by the Congress, our ability to press ahead with the negotiations would be sharply limited.

As stipulated by the Congress in the Trade Act of 1974, negotiation of a satisfactory code on subsidies and countervailing duties is a primary U.S. objective in the MTN. The United States is seeking through such a code improved discipline on the use of subsidies which adversely affect trade. In our view, a satisfactory subsidy/countervailing duty code must include (1) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests insofar as they are adversely affected by such subsidies, and (2) more effective provisions on notification, consultation and dispute settlement that will provide for timely resolution of disputes involving the use of subsidies in international trade.

My Special Representative for Trade Negotiations has informed me that the prospects for reaching agreement by year end on a subsidy/countervailing duty code which meets basic U.S. objectives are good—provided that the waiver authority can be extended until such a code has been submitted so, and acted upon, by the Congress under the procedures of the Trade Act of 1974. In this connection, the legislation I am proposing would provide that the countervailing duty waiver authority will expire as scheduled on January 2, 1979, unless we are able to report to the Congress before that date that a subsidy/countervailing duty code has been negotiated among the key countries participating in the MTN and that the MTN itself has been substantially concluded.

Under the countervailing duty waiver authority, the imposition of countervailing duties may be waived in a specific case only if "adequate steps have been taken to eliminate or substantially reduce the adverse effect" of the subsidy in question. This provision and the other limitations on the use of the waiver authority which are currently in the law would continue in effect if the waiver authority is extended. Thus, U.S. producers and workers will continue to be adequately protected from the adverse effects of subsidized competition.

A successful conclusion to the MTN is essential to U.S. economic policy. If the waiver authority is not extended, such a successful conclusion will, as I have noted, be seriously jeopardized. Accordingly, I urge the Congress to act positively upon this legislative proposal as quickly as possible.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1978.*

PROPOSED LEGISLATION

Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) as amended, is further amended by adding the following new sentence at the end of subsection (d)(2):

"The 4-year period specified in the first sentence of this paragraph shall be extended until August 1, 1979, provided that before January 3, 1979, the President informs both Houses of Congress that agreement on a code governing the use of subsidies and countervailing duties has been reached and that the Multilateral Trade Negotiations as a whole have been substantially completed and provided further that any determination by the Secretary of the Treasury made pursuant to this section and in effect on January 2, 1979, shall, notwithstanding any expiration date set forth therein, remain in effect until August 1, 1979, unless prior thereto the Secretary has reason to, and does, revoke such determination."

O