1 EXECUTIVE SESSION

2 TUESDAY, JULY 31, 1984

ORIGINAL

3 U.S. Senate

4 Committee on Finance

5 Washington, D.C.

6 The committee met, pursuant to notice, at 9:26 a.m. in
7 room SD-215, Dirksen Senate Office Building, the Honorable
8 Robert Dole (chairman) presiding.

9 Present: Senators Dole, Packwood, Danforth, Chafee,
10 Heinz, Symms, Grassley, Long, Baucus, Bradley, Mitchell, and
11 Pryor.

12 Also present: Ambassador William Brock, U.S. Trade
13 Representative.

14 Also present: Mr. Claude Gingrich, U.S.T.R. General
15 Counsel; Mr. Leonard Santios, U.S.T.R. Counsel; Mr. Ted
16 Kassinger, U.S.T.R. Counsel; Mr. Mikel Rollyson, U.S.T.R.
17 Tax Counsel; Mr. Jeff Lang, U.S.T.R. Counsel for Minority
18 Staff; Mr. Roderick A. DeArment, Chief Counsel and Staff
19 Director, Finance Committee; Mr. Michael Stern, Minority
20 Staff Director; Mr. Richard Belas, Assistant Staff Director,
21 Senate Finance Committee; and Ms. Mary Levontin, Joint
22 Committee on Taxation.

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1 The Chairman. Let's see, Rich, do you want to take up
2 the pension equity matter first? I think we can dispose
3 of that quickly and then move into the tariff and trade.
4 Mr. Belas. Mr. Chairman, there should be a revised
5 comparision of the House and Senate bills that should be
6 passed out for the members.
7 The description is fairly fulsome. There are 16 pages,
8 but I think that is probably an excess of caution on the
9 part of the staff.
10 The Chairman. Could you first sort of bring us up to
11 speed on what the status of it is? I mean, it's passed the
12 House, and we've been negotiating with the Labor Committee.
13 Mr. Belas. That's correct.
14 The Chairman. It's a matter that I think everybody
15 supports, if we can just work out the minor differences.
16 Mr. Belas. That's correct, Mr. Chairman. The Senate
17 first passed a bill of this type last year. The House
18 marked up, working basically from the Senate bill. And
19 so the bills are very similar. They of course have the
20 ability to have another six months for further comments and
21 technical corrections to it, and I think the 16 pages that
22 are in front of you reflect mostly technical changes which
23 probably is an excess of caution on the part of the staff
24 to make sure that all of them are before the committee.
25 We have been working with the Labor Committee staffs on

1 the Senate side, as well as the Education, Labor, and Ways
2 and Ways and Means Committee staffs on the House side, to
3 iron out any differences between -- remaining differences
4 between -- the Senate and House bills.

5 I think there about five major differences, as opposed
6 to the 16 pages worth of technical changes, between those.

7 The Chairman. Tell us what the bill does.

8 Mr. Belas. The bill does two major things -- it
9 provides that pension benefits will start to be accrued by
10 employees at an earlier age, and once they become
11 participants in a plan they will be able to take into
12 account for vesting purposes when the benefits are -- in fact,
13 the employees, upon retirement, at an earlier age. We will
14 take into account after this bill is enacted all employment
15 from age 18 on, which is a significant improvement.

16 The second major difference is that a survivor benefit
17 will be available at a much earlier age to a spouse of a
18 participant. Under current law a survivor benefit is not
19 necessary to be provided until the employee has reached age
20 55. The Senate bill would have lowered that requirement to
21 age 45; the House lowers that requirement even further to
22 provide that a joint survivor benefit -- a survivor benefit
23 to a surviving spouse -- must be provided once a benefit has
24 been vested by the participant.

25 The Chairman. As I understand, you have been working

1 out, I believe -- because there is a Labor Committee
2 exercise of some jurisdiction -- in an effort to compromise
3 the differences. Has that been worked out to the satisfaction
4 of Treasuty and the Labor Committee and others?
5 Can Treasury make a comment?
6 Mr. Rolliston. Yes. We strongly support the bill as
7 amended.
8 The Chairman. So what we would try to do now is adopt
9 a committee amendment to offer to the House bill which is
10 pending on the floor. Is that correct?
11 Mr. DeArment. The bill actually is pending in the
12 committee, so we would amend it appropriately and report the
13 bill as amended.
14 Mr. Belas. We sent over a bill which was on a House-
15 passed revenue bill, and they sent back to us a totally
16 separate vehicle.
17 The Chairman. So what is the amendment we propose to
18 offer?
19 Mr. Belas. If I may, let me point out two or three major
20 differences:
21 One, on the break in service rules, the House was more
22 generous and applied that for vesting purposes, not just for
23 participation purposes, the break in service rules would be
24 amended.
25 Senator Bradley. Excuse me. I didn't hear that.

1 Mr. Belas. If an employee works for a number of years
2 and then leaves -- for instance, to have a child and take
3 the child up to school age -- under our bill when the
4 employee returns there would not be a year waiting period
5 to get back into the pension plan; you would take into account
6 the prior years prior to the break.
7 In the House bill, not only would you include for
8 participation purposes, so you would immediately get back
9 into the pension plan when you get back, but you would also
10 include those early years for vesting purposes. For instance,
11 if you had worked for five years and then took five years off
12 and then came back, and the plan had a 10-year vesting rule,
13 you would only have to work for an additional five years.
14 The staff recommendation would be that you would take the
15 House provision, which is a more favorable provision for
16 employees.
17 The Chairman. Next?
18 Mr. Belas. The next major difference is in the joint
19 survivor rules, which I mentioned -- the House bill provides
20 for a survivor benefit at an earlier time period than under
21 the Senate bill. Once again, we would recommend that you
22 might seriously consider taking the House bill, which again
23 is more advantageous to surviving spouses.
24 Senator Chafee. Mr. Chairman?
25 The Chairman. Senator Chafee.

1 Senator Chafee. Rich, what is the effect of that
2 vesting that you just mentioned previously? Could that
3 possibly be a deterrent against the employee getting his or
4 her job back again? In other words, the downside of it
5 from the company's point of view might be so substantial that
6 they would mitigate against rehiring?
7 Mr. Belas. It certainly could have that effect, but
8 current experience shows that a very small percentage of
9 employees actually return after a five-year break in service,
10 and our best guess from the IRS is that it would not have
11 a significant actuarial increase in cost to the plan.
12 Senator Chafee. So it wouldn't be a deterrent?
13 Mr. Belas. It could, but as a practical matter I don't
14 think it will.
15 Senator Chafee. Thank you.
16 The Chairman. Now, have you been checking out -- in
17 other words, it's our hope that if we can get together on
18 an amendment that it might be accepted by the House without
19 the necessity of a conference. Is that correct?
20 Mr. Belas. We have met both with the Education and
21 Labor and the Ways and Means staffs, and we tried to work this
22 out so that it could avoid conference. That's correct.
23 The next point you might want to note is that we had a
24 rule in present law that said the survivor annuity is
25 forfeited if the participant dies within two years after an

1 election to have a joint survivor benefit, and that was to
2 provide against adverse selection by sick employees. The
3 House does not have that rule, it repeals that rule from
4 present law, on the basis that many of the plan adminis-
5 trators they talked to said they would never apply that
6 anyhow because it would cause such bad employee morale, so it
7 was irrelevant. We would suggest taking the House provision.

8 The Chairman. Have you addressed the concerns
9 expressed by GM and I think one other group?

10 Mr. Belas. That is coming up here. There is one
11 probable real serious question that has arisen from the House
12 bill, that they codified two revenue rulings in a manner
13 that caused a lot of concern.

14 I think the statement of the committee, of Ways and
15 Means, was fairly precise in what they intended to cover.
16 The statutory language was far broader than was necessary.

17 We would suggest that the committee try to address the
18 question of accrued benefits and as well accrued subsidized
19 early retirement benefits and retirement-type benefits, as
20 well as optional forms of benefits as was intended by the
21 House, but to significantly redraft those provisions to make
22 sure that nonretirement-type benefits such as Social Security
23 supplements -- which is what GM was concerned about -- death
24 benefits, preretirement disability benefits, plant shutdown
25 benefits to the extent they did not continue after

1 retirement age, and medical benefits would not be affected
2 by this rule, which I think was the major concern by the
3 pension community.
4 There is also a question as to whether the effective
5 date we would suggest to you would be today, so that there
6 would not be a window period for people to elect to amend
7 their plans in order to get around this rule. There is a
8 question as to whether certain collectively bargained plans
9 such as GM is undergoing right now, which are in negotiation,
10 should be protected until the end of this year, for
11 instance, so that the negotiations which may have at this
12 point already included discussions of the retirement benefits
13 would not have to be renegotiated.
14 The Chairman. You can par that out, can't you?
15 Mr. Belas. Yes. The only thing that you should be
16 aware of is that the UAW might think differently as to
17 whether GM's negotiations should be grandfathered under this.
18 We didn't have a recommendation to you; I think that is just
19 a member decision.
20 One thing that you should be aware of is that our
21 description of what benefits are affected would significantly
22 allay the fears of GM, because the Social Security supple-
23 ment that they were concerned about would not be one of the
24 types of accrued benefits that would be affected by this
25 statutory change.

1 The Chairman. Are there other provisions that are not
2 technical in nature?
3 Mr. Belas. There is one major change that I think you
4 should be aware of dealing with joint survivor benefits for
5 employees who terminated either before January 1 of 1976 or
6 between 1976 and the day of enactment, as to when they
7 would be allowed to have a joint survivor benefit election.
8 The House bill automatically provides for joint
9 survivor benefits for these people. That could create a
10 major administrative problem for plans, as well as an
11 unexpected adverse surprise to participants who find that
12 their pension benefits are reduced unexpectedly.
13 We would suggest to you to provide a procedure where the
14 plan must notify these plan participants and allow them to
15 obtain joint survivor coverage. That will be a significant
16 improvement over their condition under present law, without
17 running the risk that people will inadvertently have their
18 benefits reduced.
19 The Chairman. Again, I haven't addressed Treasury each
20 time, but I assume that you are in accord with the explan-
21 ation.
22 Mr. Rolliston. Yes, we agree with each of those
23 suggestions, Senator.
24 The Chairman. Well, insofar as the one error, we don't
25 want to get involved in some labor dispute. What can we do

to avoid that? I don't think we want to

Mr. Belas. I think one thing you could do is, you could grandfather plans that are currently collectively bargained plans that are in negotiations today and have it only apply after the current -- technically you would draft it differently, but it would effectively take care of plans that began negotiations after the date of enactment.

The Chairman. That doesn't prejudice anyone?

Mr. Belas. No. That means that they would be under current law, which is what this bill is intending to cover, anyhow.

The Chairman. Are there any questions?

Senator Bradley. Mr. Chairman, on the last point, could you restate that, Mr. Belas?

Mr. Belas. Sure.

The section that we are dealing with, dealing with when do you protect accrued benefits that are removed by plan amendment, is one where what staff was intending to do over on the House side and what we would try to do for you is to effectively codify current law.

There is a question as to what current law is. It's a clarification which provides explicitly that employees will not be able to be denied an accrued benefit in certain circumstances, like subsidized early retirement.

We would suggest to you to make that effective date

1 today, with no inference as to what prior law was.
2 There is a question as to what happens where a
3 collective bargaining agreement is being negotiated today,
4 and the parties may have already negotiated out employee
5 benefits and are only dealing with other matters. Should
6 you require them to renegotiate that?
7 In the particular case of GM, our suggestion to you would
8 be to clarify that these accrued benefits that we would be
9 assuring could not be removed or reduced would not include
10 a Social Security supplement, a Social Security type
11 benefit that would apply only for early retirees before
12 Social Security would kick in and then would be dropped.
13 I think that would take care of GM's concern; I think they
14 wrote a letter to some members saying that this might cost
15 them $750 million, if they were not allowed to have that
16 flexibility.
17 So in the particular case of GM I think it is not a
18 major issue for them.
19 But there is a possibility that there are other
20 collective bargaining agreements being negotiated today which
21 are not aware of this change. Perhaps it would be
22 appropriate to grandfather those negotiations.
23 Senator Bradley. On another occasion, did you say?
24 Mr. Belas. I am saying, other than the UAW-GM deal
25 there may be another collective bargaining situation which

1 doesn't know about this.

2 The Chairman. Now, I think for the record you should put

3 in the statement which sets forth all of the technical

4 changes. I want to make certain, now -- Treasury, do you

5 have any comments? In other words, do you agree with the

6 suggested compromise, and the Administration would support

7 it? Is that correct?

8 MH. Rolliston. That is correct. We strongly support

9 this.

10 The Chairman. Is the Joint Committee represented?

11 Ms. Levontin. Yes.

12 The Chairman. Do you have any problems with this?

13 Ms. Levontin. No, Senator.

14 The Chairman. Do you like it?

15 (Laughter)

16 Ms. Levontin. I do, Senator.

17 The Chairman. That's what I thought. Well, that's

18 good.

19 All right, then, if there are no objections, we would

20 amend the House bill which is before the committee and report

21 it. And hopefully we could take action on that some time

22 before next weekend.

23 Now, let's move to the --

24 Mr. DeArment. Mr. Chairman, we will act to report out

25 4280 as amended.

1 The Chairman. Now, do we have to vote on Buck Chapoton's
2 resolution?
3 Mr. DeArment. We were just going around and getting
4 signatures. If you want to have a formal vote, you can.
5 The Chairman. I think the record should show that we
6 have unanimous approval of that resolution.
7 Mr. DeArment. So far, there have been no negatives,
8 Senator.
9 Senator Bradley. Mr. Chairman, I think, also, the
10 record should reflect that you had not only unanimous but
11 equally strong on this side of the aisle.
12 The Chairman. Thank you.
13 Well, let's move on. Where are the trade people?
14 Mr. DeArment. I think they are waiting in the wings
15 behind us.
16 (Pause)
17 Senator Packwood. Mr. Chairman, I would like to ask for
18 this committee to vote for a resolution asking the
19 International Trade Commission to do a study. It's a routine
20 resolution that relates to the issue of "filberts" as we
21 used to call them, or "hazelnuts" as they are more commonly
22 called in the East. And all I want is the International
23 Trade Commission to do a study relating to the quality of
24 imports and the duties that are now on them, and whether
25 they should be changed. And when they are done with the study

1 I may have further recommendations.

2 So, could I ask the committee to vote on a resolution

3 asking the International Trade Commission to do the study?

4 The Chairman. Without objection. And Senator Danforth

5 has a similar resolution.

6 Senator Danforth. I do, Mr. Chairman. Senator Mitchell

7 and I have a similar request for the ITC, with respect to

8 nonrubber footwear. Following its negative June 6th decision

9 on injury in the nonrubber footwear case, the ITC would be

10 asked to monitor developments in that industry. Specifically,

11 the ITC would report to the Finance Committee on a quarterly

12 basis on nonrubber footwear production, employment,

13 unemployment, imports, import share of the market,

14 capacity utilization, and plant closings. These reports

15 would reflect data gathered in the normal course by the

16 Department of the Census and the Bureau of Labor Statistics.

17 Senator Mitchell. Mr. Chairman, if I may just say a

18 word on behalf of this proposal. The United States footwear

19 industry is suffering under an avalanche of imports that is

20 rising so rapidly that almost any figure utilized is almost

21 immediately obsolete -- the percentage of imports is rising

22 that rapidly and dramatically. And this would be very useful

23 and helpful. I commend Senator Danforth and am pleased to

24 join with him in this effort.

25 Senator Bradley. Mr. Chairman, when would this report

1 be issued? Is this quarterly?

2 Senator Danforth. Quarterly.

3 Senator Bradley. And when would be the first report?

4 Is it in 1985?

5 Senator Danforth. How quickly could it be?

6 Mr. Santios. It would be a quarterly report. March of

7 '85 would be the first date.

8 Senator Pryor. Mr. Chairman, I would like to join, if

9 I could, with Senator Danforth and Senator Mitchell in that

10 request. I would like my name to be added as a cosponsor

11 for that study.

12 The Chairman. Without objection, we will request the

13 study, and we'll be happy to add Senator Pryor's name to it.

14 Now, what we would like to do, and Senator Danforth is

15 Chairman of the Trade Subcommittee, I would just like to make

16 a statement ahead of time and see if we could maybe get some

17 loose agreement on that.

18 We have a number of tariff bills that have been hanging

19 around -- for how many months?

20 Mr. Kassinger. Since November, Mr. Chairman.

21 The Chairman. November of what year?

22 (Laughter)

23 Mr. Kassinger. '83 -- since we last marked up tariff

24 bills.

25 The Chairman. And a number of members have an interest

1 in those, and I'm certain a number of people in the audience
2 have an interest in them.
3 What we would like to do is put together a package of
4 the noncontroversial tariff bills, a compromise or whatever
5 we can work out on GSP. And then we have already approved
6 in this committee the free trade zone for Israel. Is that
7 correct?
8 Mr. Kassinger. We have also already approved GSP,
9 Mr. Chairman.
10 The Chairman. All right. It would be a question of
11 putting that together as a package.
12 Now, I understand -- I am not going to foreclose -- that
13 other Senators have other matters they would like to add to
14 this package. I have discussed with Senator Baker as
15 recently as yesterday how much time he will give us on a
16 trade bill, because if there are controversial matters added,
17 it just takes one or two Senators to kill the entire package.
18 So what I would hope we might do is to go ahead and take
19 care of the noncontroversial items, and then I know Senator
20 Heinz and Senator Mitchell and others may have other
21 amendments, and see if we could adopt a procedure whereby we
22 would have staff gather up other amendments from other
23 Senators on the committee, work with Ambassador Brock -- who
24 indicated a willingness just a few minutes ago to do that --
25 see if we can put together an amendment that we could offer

1 on the floor, or we can come back to the committee. But it
2 seems to me we are getting into a time bind here as far as
3 markup is concerned.

4 Would that bother anybody, if we did it that way?

5 Senator Long. Mr. Chairman, I am willing to go along
6 with that proposal, with this reservation -- that by the time
7 we call this bill up out there, if we are looking at a
8 situation, we might not have the opportunity to act on some
9 of these controversial measures that are very important. If
10 we have no other option, then we may be compelled to offer
11 an amendment that has to do with the more controversial items.

12 There are several areas -- there is no point in my going
13 into it in detail, but you have several industries who have
14 real problems, and they are well represented either on this
15 committee or on the Senate floor. If those Senators don't
16 have anything else they can offer their amendments on, I
17 don't see that they are going to have much choice but to
18 go ahead and offer their amendments on what they do have,
19 which is a noncontroversial bill.

20 How would you folks handle that?

21 The Chairman. Well, I understand the problem; I think
22 the question is whether those Senators also have provisions in
23 the bill we can agree on that they would like to pass, or
24 whether we can resurrect another vehicle and add some of the
25 controversial items. Or maybe we can resolve some of the

1 controversial items. I don't know whether Ambassador Brock
2 has looked at all of these. I have a list that says a number
3 of these are controversial; I am not certain how the judgment
4 was made. But I think we could take care of some of those in
5 the process that I suggested. Working with Jeff on your side
6 and Ted and Len and others, we might be able to hammer out
7 some of those.

8 Do you have any in mind, Jeff, where you have a problem?

9 Mr. Lang. I'm sorry, Senator, I was answering a
10 question.

11 The Chairman. Senator Long raised a good point: What
12 do we do with those that members would probably offer in any
13 event? My point is, Senator Baker said he might give us one
14 day for a trade bill. So it doesn't take any genius to
15 figure out that if somebody doesn't like it because they won't
16 take his amendment, he won't let the bill pass. So I guess
17 that's the problem.

18 Senator Long. Well, any Senator can offer an amendment;
19 that's the point.

20 The Chairman: Sure.

21 Senator Long. But how are we going to handle this
22 thing, if we can't offer the Senators something they can
23 offer their amendment on? I am talking about the contro-
24 versial amendment.

25 Mr. Lang. Well, there are a few vehicles in the

1 committee. But the fact is, probably some provisions of what
2 you will send out will be controversial as well, Senator.
3 There is likely to be some controversy about GSP and Title 3
4 of 3398, and perhaps about even the Israel-Canada free trade.
5 So I suppose there are never any guarantees.

6 Senator Long. I am willing to go along for now, but I
7 think you should consider that.

8 The Chairman. I understand that. In fact, if it gets
9 bogged down we just won't act on it. I mean, we have at most
10 about 25 legislative days.

11 Senator Danforth. Can I ask, Mr. Chairman -- I had not
12 thought of this before, but previously I recall we have had a
13 kind of double-track operation on tax bills, where we have
14 had a relatively noncontroversial plus must-do tax
15 legislation, and then we have had the possibility of a second
16 bill which can at least be an opportunity for people to
17 bring up the controversial items. I wonder if that would be
18 possible in this case, if we could agree to a bill which would
19 be must-do, plus noncontroversial items. And then if we
20 could have a second track which would give people an
21 opportunity to bring up a steel quota or a copper quota, or
22 whatever controversial items they wanted to bring up.

23 Senator Heinz. Does the Senator from Missouri place
24 the steel quota legislation in the non-must-do category?

25 (Laughter)

1 The Chairman. We'd be glad to resurrect. It would be
2 like trying to buy a ticket on the titanic, I think, as
3 far as your amendment was concerned.
4 Senator Heinz. Mr. Chairman, I think you put it very
5 well. The question is, can we pass the trade bill this
6 year? I don't know the answer to that question, but I do
7 know that if we are going to pass a trade bill this year two
8 things have to occur: First, we have to be able to deal with
9 it on the floor of the Senate in a day; that is, we cannot
10 have prolonged debate on anything. Secondly, the bill that
11 is passed has to be one that the President will sign.
12 Other than to just urge people to exercise restraint,
13 I don't know how to do it, unless we can say, "Well, there
14 is another House-numbered bill somewhere, and we can have a
15 second track." It prcbably won't go anywhere, but on the
16 other hand if people insist on offering very controversial
17 items or debating at length on this bill, it won't go anywhere
18 either.
19 The Chairman. We still have the boat bill, don't we,
20 on the floor of the House?
21 Mr. DeArment. That's correct, Mr. Chairman, although
22 we still had another cargo to carry on that one.
23 The Chairman. That enterprise zone is going to load it
24 up.
25 Mr. DeArment. In the committee we have H.R. 2389, which

1 was a House-passed private relief bill for the Raby Estate.

2 The Chairman. Well, then we could use that for --

3 Mr. DeArment. That is one possibility. We used the

4 companion bill, the Redfield Estate bill to pass the Social

5 Security matter earlier this week.

6 The Chairman. How many noncontroversial -- quote,

7 noncontroversial, end qucte -- tarriff matters are there?

8 Mr. Kassinger. We have 30, Mr. Chairman, today.

9 Mr. DeArment. In addition to the ones already on 3398,

10 how many are there.

11 Mr. Kassinger. There are 46 on 3398, I believe.

12 The Chairman. So we have quite a few out there right

13 now, right? And I assume some of those the members of this

14 committee have an interest in?

15 Senator Mitchell. Mr. Chairman, may I ask a question

16 on that point? You have identified three areas of proposed

17 amendments to H.R. 3398. Is it now your present intention to

18 leave H.R. 3398 as is and make no changes in that?

19 The Chairman. No. What I thought we might do is to

20 put together the noncontroversial package, then take a look

21 at matters that you want to propose, that Senator Heinz

22 wants to propose, and maybe other members I'm not aware of,

23 and get together with Ambassador Brock to see what we can

24 agree on in the next week, and offer a committee amendment or

25 just offer an amendment on the floor to this

1 "noncontroversial" package, then agree that we are going to
2 table everything else, and see if we can pass it.
3 Senator Mitchell. Actually, my question was directed at
4 something different. As staff has indicated, there are a
5 number of what are being described as "noncontroversial"
6 tariff measures included in H.R. 3398. As we deal with the
7 first item on the list, which is miscellaneous tariff
8 matters, noncontroversial, that are not included in 3398,
9 unless we have some assurance or unless we know that
10 noncontroversial matters now in 3398 will not at some later
11 point be stripped -- obviously there is some desire to make
12 sure they are kept in, and I guess that is my question. Are
13 there provisions in H.R. 3398 that there is some present
14 intention on your part or on the Administration's part to
15 strip so that we would then know whether we have to act now
16 with respect to them?
17 The Chairman. I don't think so. I don't believe there
18 are, are there, Ted?
19 Mr. Kassinger. No, these are simply additions to the
20 bill, Senator Mitchell.
21 Senator Mitchell. Fine.
22 The Chairman. Okay. Jack, do you want to proceed?
23 Senator Danforth. Well, Mr. Chairman, Attachment A is
24 a list of the specific tariff bills, the miscellaneous
25 tariff bills, and these have been circulated by press

1 release. Most of them are noncontroversial.

2 My suggestion would be that Ted or Len simply read the

3 numbers of those without even describing them -- everybody

4 has them before them. Just read the numbers of those to which

5 there is no known controversy, and then we could agree to

6 those first.

7 The Chairman. Is that this package, Jack?

8 Senator Danforth. That is this package, Attachment A.

9 The Chairman. It might be helpful also, if there is a

10 Senator interested, read his or her name.

11 Mr. Kassinger. The first list that the members have,

12 Mr. Chairman, is a list of the tariff bills for which we

13 received no comments in opposition.

14 The first is S. 1954, introduced by Senator Johnston,

15 relating to geophysical equipment. The second one is

16 S. 2022 by Senator Moynihan; the next is S. 2054 by Senator

17 Symms, as are the next two: S. 2055 and S. 2056.

18 The Chairman. Those are Symms, Symms and Symms?

19 Mr. Kassinger. That is correct.

20 The next is S. 2092, sponsored by Senator Bentsen.

21 The next is S. 2172, sponsored by Senator Wallop, as

22 are the next two: S. 2197 and S. 2198.

23 S. 2332 is sponsored by Senator Bentsen.

24 S. 2333 is sponsored by Senator Bentsen, as is S. 2334.

25 S. 2493 is sponsored by Senator Moynihan.

1 S. 2596 is sponsored by Senator Matsunaga.

2 S. 2613 is sponsored by Senator Heinz.

3 S. 2739 is sponsored by Senator Dodd.

4 S. 2787 is sponsored by Senator Heinz.

5 S. 2838 is sponsored by Senator Chafee.

6 S. 2865 is sponsored by you, Mr. Chairman.

7 And then we have listed two amendments that are not
8 in the forms of bills but are amendments to provisions that
9 are currently on H.R. 3398. The first relates to the
10 effective dates that are in H.R. 3398. Because the bill
11 has been on the floor for some time, many of those dates are
12 out of date. And the last is a clarifying amendment to
13 H.R. 3398 relating to antique firearms.

14 Senator Danforth. Mr. Chairman, if those are non-
15 controversial, I wonder if we could just agree first that
16 agree to those?

17 The Chairman. Is that all right?

18 Senator Heinz. Mr. Chairman, it was my understanding
19 that there were three other noncontroversial bills, S. 2426,
20 S. 2427, and S. 2542. I see one of them. I'm sorry, I see
21 them on the second list here.

22 Mr. Kassinger. That is correct, Senator.

23 Senator Heinz. All right. Thank you.

24 Senator Mitchell. May I make an inquiry at this point,
25 Mr. Chairman?

1 The Chairman. Sure.

2 Senator Mitchell. I now have three lists before me. The
3 first is entitled "Attachment A, Miscellaneous Tariff Bills,"
4 which contains two columns. Then there is a document,
5 "Revised Noncontroversial Tariff Bills," and then there is a
6 third document, "Revised Controversial Tariff Bills."

7 Mr. Kassinger. Senator Mitchell, the first list is
8 simply all of the bills that we knew a week ago might be
9 brought up in the markup. It is a list of the bills for
10 which background material were provided, and should be
11 inclusive of all of them.

12 Senator Mitchell. My first question is, what is the
13 standard by which something is listed as a miscellaneous
14 tariff bill but then is determined to be controversial and
15 therefore left off the list you read? I am referring
16 specifically to S. 2194.

17 Mr. Kassinger. It was my understanding, Senator, that
18 that bill had been worked out. I understand now that you
19 still have some remaining concerns; but when I discovered
20 that, it was too late to reprint this list. I apologize for
21 that.

22 Senator Mitchell. Oh. If it worked out, that's fine
23 with me. I don't mind it being off the list for that
24 reason, but I was unaware of that.

25 Senator Danforth. Yes?

1 Senator Grassley. What I would like to do at this point
2 is bring up a subject that deals with S. 2863. It is
3 sulfa quanadine.
4 Senator Danforth. I wonder, before you do that, if we
5 could just adopt the noncontroversial list.
6 Senator Grassley. Well, the reason I want to bring this
7 up at this point is because, see, this is one I wanted to
8 offer on the floor, and you advised me to bring it up in
9 the committee the next time we had. This is one that
10 Congressman Frenzl had offered in the House, and it's one
11 the Administration has approved, and it is also one in which
12 there is no private sector opposition.
13 Senator Danforth. Why don't we recognize you
14 immediately after we adopt this noncontroversial list?
15 Senator Grassley. That is all right with me. The only
16 thing was, I thought we were supposed to get it in at this
17 point.
18 Senator Baucus. If the Senator would yield, I have one
19 more question. There is another list I have here of non-
20 controversial tariff bills "as modified." Is that just an
21 extension of the present list of noncontroversial bills?
22 Or is that still another category of noncontroversial bills?
23 Mr. Kassinger. That is still another category, Senator.
24 I think it is Senator Danforth's intention to bring that up
25 next.

1 Senator Baucus. But is that in any more dangerous
2 condition than the first list?
3 Senator Grassley. That is the same question I have.
4 Senator Danforth. Well, here is what I would suggest:
5 Let's dispose of this list. Then maybe, Ted, you can suggest
6 other bills, other tariff bills, which are sort of on the
7 next order -- virtually noncontroversial ones that you think
8 members of the committee may have a strong interest in, and
9 let's see if we could adopt that as the second rung. And
10 then, finally, if the Senator wants to bring up something else
11 that is on one of these lists, fine.
12 Senator Mitchell. Excuse me. I have no objection to
13 that. All I am asking is, how is it determined that something
14 goes on one list or another? I don't mind acting on the
15 noncontroversial things, but it would be nice to know what
16 makes one noncontroversial and therefore go on this first
17 preferred list and something go on another list.
18 Senator Danforth. The committee puts out a press
19 release just listing the bills that have been introduced and
20 sees whether or not there is any negative response to it.
21 And if there is no negative response to the press release,
22 then it is placed on the noncontroversial list.
23 Senator Mitchell. So the decisive criterion is whether
24 or not anybody has expressed a negative opinion?
25 Senator Danforth. That's right. These bills have been

1 around for months, and the staff knows of no opposition to
2 this first list.
3 Mr. Kassinger. Senator, we also asked the International
4 Trade Commission to prepare reports on each one of the bills
5 for us, and they often are able to turn up people who are
6 concerned about the bills. The Administration also goes
7 through all of the bills and determines whether or not they
8 have any concern or whether there are any Senators or
9 domestic industries that have a concern.
10 So, basically, this list of noncontroversial tariff
11 bills is a list of bills for which we were unable to find
12 anyone who had any concern about them.
13 The next list we will do is a list of bills for which
14 there was concern about the bills as introduced, but we have
15 been able to resolve those concerns.
16 Senator Mitchell. Is S. 2194 in that category?
17 Mr. Kassinger. I wanted to clarify that. S. 2194 was
18 a bill that had a counterpart on the House side. The bill was
19 not marked up in the House Subcommittee on Trade because the
20 people supporting the bill had their concerns satisfied by
21 the Virgin Islands. And I was under the impression that that
22 applied to your concern as well. We have someone here from
23 the Interior Department to discuss this further with you,
24 but I did not put it on the list because I thought it was
25 no longer an issue -- that is, the bill addressed an issue

1 that had been taken care of administratively by the
2 Administration. That was perhaps an error on my part.
3 Senator Mitchell. I am not clear, then, whether that
4 means it qualifies for the noncontroversial list or not.
5 Mr. Kassinger. S. 2194 would not be noncontroversial
6 because there was opposition to it from the Virgin Islands.
7 Senator Mitchell. Then I will take it up at the
8 appropriate point.
9 Senator Symms. Mr. Chairman, before we adopt this list
10 I would like to ask staff a question about Senator Bentsen's
11 bill, S. 2092, zinc. Who is the zinc expert down here that
12 I can ask? What is unwrought zinc?
13 Mr. Lang. Unwrought zinc refers to various kinds of
14 zinc from which slabs would be made -- ores, scrap, and
15 other materials.
16 Senator Symms. But is that included in this?
17 Mr. Lang. Unwrought zinc is the subject of Senator
18 Bentsen's bill. Senator Bentsen's bill would work a duty
19 reduction on the unwrought zinc but not on slab zinc.
20 Senator Symms. I guess the question I have is, we have
21 a couple of zinc producers that actually send their zinc up --
22 they mine it in Idaho and send it up to Trail, British
23 Columbia. It is processed and comes back. Does that take
24 care of that problem, too? To bring the slab zinc back into
25 the United States?

1 Mr. Lang. No, because the importation of slabs duty-free
2 would be a controversial issue; whereas, the importation of
3 unwrought zinc such as ores and scrap and so on is non-
4 controversial.
5 In fact, in the House these matters were raised as two
6 separate bille, one applying to unwrought zinc and one
7 applying to slabs, and the Trade Subcommittee approved the
8 unwrought bill on the grounds that it was noncontroversial
9 and did not approve the slab zinc bill on the ground that
10 it was controversial.
11 Senator Symms. I don't have any objection to adopting
12 this, Mr.Chairman, as it now is; but I was wondering if maybe
13 we could discuss this between times when the committee breaks
14 up and the next time, to try to make sure we are addressing
15 all of them.
16 Senator Danforth. Well, can we agree to the non-
17 controversial list?
18 (No response)
19 Senator Danforth. Okay, without objection that is
20 agreed to.
21 Now, is your proposal, Ted, to now move on to those
22 bills which are only controversial because of technical
23 matters that you think can be worked out?
24 Mr. Kassinger. Or substantive matters that have been
25 worked out. Every member should have a list entitled

1 "Noncontroversial Tariff Bills, As Modified." Senator
2 Mitchell, do you have that list?
3 Senator Mitchell. Yes, I do. I have it.
4 Mr. Kassinger. Again, these are nine tariff bills for
5 which there was concern expressed, generally from a domestic
6 company or the Administration, and we were able to work out
7 an agreement among those who had a concern and those who
8 supported the bill.
9 The first two are sponsored by Senator Heinz, S. 2426 and
10 S. 2427. The Administration objected to those portions of
11 the bill which would have made them retroactive, and it is
12 my understanding that Senator Heinz is agreeable to elimin-
13 ating that portion.
14 Senator Heinz. That is correct.
15 Mr. Kassinger. S. 2428; Senator Exxon has a bill
16 relating to the tariff classification of lamp posts -- steel
17 lamp posts. His bill as drafted would have somewhat changed
18 the duty now currently applicable to those articles, and he
19 is agreeable to drafting it in a way that maintains the
20 current duty.
21 S. 2440, sponsored by Senator Randolph, relating to
22 certain chemicals -- there was a group of five chemicals
23 covered by this bill. There was objection from domestic
24 producers of one of the chemicals, and Senator Randolph is
25 agreeable to eliminating that one chemical.

S. 2479, Senator Bentsen -- again this is a tariff reclassification of certain napthas. It would have resulted in part in a tariff increase, and it is my understanding that Senator Bentsen agrees to draft it in a way that would not change the tariffs.

S. 2542, sponsored by Senator Heinz.

(Continued on next page)

1 Mr. Kassinger. Senator Heinz relates to lace braiding
2 machines. There was some objection from a Rhode Island
3 company that made these machines, and their concern will be
4 taken care of by limiting the bill to decorative machines,
5 machines that make decorative lace.
6 S. 2642, Senator Goldwater's bill, simply was introduced
7 without the operative section of the bill.
8 S. 2839 relates to sets of wearing apparel. The
9 administration raised a question about the technical
10 drafting of the bill.
11 And the last is S. 2867, introduced by Senator
12 Baucus, which relates to a problem of importing two
13 spectrometers which may enter duty free. They were not.
14 And this would reauthorize the reopening of the refund
15 proceeding.
16 As far as we know, there are no objections to these
17 bills, as corrected.
18 Senator Danforth. All right. Is there any objection
19 to these bills, as corrected?
20 (No response)
21 Senator Danforth. All right. Without objection, they
22 will be agreed to.
23 Now, Senator Grassley, did you have --
24 Senator Grassley. Yes. Twenty-eight sixty-nine, and I
25 hope the facts are as -- 2863. And I hope the fact are as I

1 believe them to be. That originally I asked -- put this on
2 the floor. Senator Danforth and staff suggested that we
3 ought to wait until we have a second tariff bill, which I
4 did. A companion bill was offered by Congressman Bill
5 Frenzel on the House side this year. The bill was passed
6 onto the full committee without controversy or objection
7 from the administration or from the private sector.
8 And the purpose of the bill is to suspend the duty on
9 a sulphur quanadine until the close of December 31st,
10 1986.
11 Are there any questions? Does anybody take a contrary
12 position to what I just stated?
13 Senator Danforth. Ted, what can you tell us about
14 this?
15 Mr. Kassinger. Nothing, Senator, I regret to say.
16 We do have a group of very similar chemicals that are the
17 subject of tariffs on. They charge $33.98, and they are
18 non-controversial. But I don't have any information on
19 this one.
20 Senator Danforth. You don't know whether or not there
21 is a controversy on this?
22 Senator Grassley. What's the result of this being
23 brought to the staff's attention at a staff meeting?
24 Mr. Kassinger. Well, we did receive it at about 4:30
25 Friday afternoon, Senator Grassley. I understand, Senator,

1 that the administration has looked at it and does not object.

2 Senator Grassley. All right. Is there anything more

3 that we ought to add?

4 Senator Danforth. Is there any objection to adding it?

5 (No response)

6 Senator Danforth. All right, without objection.

7 Senator Bradley. Mr. Chairman, is it in order to make

8 further suggestions?

9 Senator Danforth. Sure.

10 Senator Bradley. I have a proposal to extend the

11 suspension of duty on natural graphite until January 1, 1988.

12 The administration has testified in favor of this provision

13 in the House, and I know of no opposition. And I would like

14 to add it to the list.

15 Senator Chafee. Mr. Chairman, is there a list or

16 something where these bills describe? We have got this

17 weighty volume here of miscellaneous tariff bills. Does

18 yours have a number?

19 Senator Bradley. Twenty-eight eighty. It is not in

20 the list.

21 Mr. Kassinger. Senator Chafee, I didn't know about the

22 bill before Friday night.

23 The Chairman. Claude, do you have a position on this?

24 Mr. Gingrich. We have no objection.

25 Senator Danforth. All right, without objection.

1 I have one with respect to milk products, so-called
2 high tech milk products, and whey protein derivatives. And
3 the issue is whether high tech milk and whey protein
4 derivatives are brought into the United States under the
5 quota relating to milk products or whether they are brought
6 in under the quota relating to protein products. And this
7 is S. 2883. And this would provide that they would be
8 classified as milk products.
9 The products are whey protein concentrates, lacktabumen,
10 and milk protein concentrates.
11 The Chairman. I understand the administration has no
12 objection.
13 Mr. Gingrich. We haven't seen it.
14 The Chairman. That's why you don't object to it.
15 (Laughter)
16 Senator Danforth. I'm also hopeful that the Ways and
17 Means Committee would agree to it.
18 (Laughter)
19 Senator Danforth. Is there any objection?
20 (No response)
21 Senator Danforth. All right, without objection, that
22 is included.
23 Also with respect to Senator DeConcini's telescope,
24 this has been agreed to by the committee previously, but
25 there is a technical problem, as I understand it, with the

1 telescope provision as it has been reported by the
2 committee. And there is a technical amendment with respect
3 to Senator DeConcini's telescope.
4 Mr. Kassinger. Just one note, Senator. We have never
5 taken this bill up in the committee, but we have twice
6 approved it as amendments on the floor to various bills.
7 There is no objection to the substance of the bill.
8 Senator Danforth. All right, without objection, that is
9 agreed to.
10 The Chairman. I was given a memo by Senator Humphrey.
11 Has that been addressed?
12 Mr. Kassinger. Senator Humphrey has the same concern
13 that Senator Mitchell raised about there being parts of
14 H.R. 3398 that might be dropped. And that's not a concern.
15 The Chairman. All right.
16 Senator Long. Mr. Chairman, Senator Moynihan asked
17 that I have the committee consider a matter having to do
18 with Puerto Rico. And he said that the administration, that
19 he believed, would not object to it. Would you explain what
20 that is, Mr. Lang?
21 Mr. Lang. Yes, sir. This amendment would amend the
22 Tariff Act of 1930, but have its principal effect on the
23 Caribbean Basin Initiative. Under the Caribbean Basin
24 Initiative, products receive duty free entry when they are
25 imported from eligible countries so long as 35 percent of the

1 value of the product was added in the Caribbean region. It
2 needn't be added in one country. It can be added in two
3 or more countries.
4 One of the qualifying eligible areas is Puerto Rico,
5 but Puerto Rico, unlike other Caribbean areas, is within
6 the customs territory of the United States, which means
7 that when a product is entered into Puerto Rico, it is
8 subject to U.S. customs duties.
9 So if a product is manufactured in one Caribbean
10 country but the 35 percent rule cannot be met until further
11 manufacture occurs in Puerto Rico, the product would be
12 subjected to U.S. duty before the 35 percent requirement
13 could be met.
14 This provision would correct that oversight in the
15 Caribbean Basin Initiative legislation by permitting
16 the Customs Service to, in effect, withhold collection of
17 duties on the product imported, and on products that are
18 imported for purposes of meeting the CBI qualification.
19 The Chairman. Does the administration support this?
20 Mr. Kassinger. They have no objection.
21 Senator Danforth. All right, without objection, that is
22 agreed to.
23 Now, Ambassador Brock, it's my understanding that you
24 have something else that you have to go do. And that you
25 would like to leave. I know that Senator Heinz has an

1 interest in S. 1351, dealing with the trade with
2 non-market economies, and S. 2139, the comprehensive trade
3 law reform, and also that Senator Mitchell has an interest
4 in S. 1627 on small business remedies. And I'm sure that
5 there are some items in those bills which would be
6 controversial and not acceptable to the administration, but
7 under the suggestion made by Chairman Dole, I wonder if you
8 would be agreeable to meeting with Senator Heinz and Senator
9 Mitchell and seeing if there are aspects of those bills which
10 could be agreed to by the administration, with a view toward
11 amendments being offered on the floor.

12 Senator Heinz. Mr. Chairman, may I just say first of
13 all that I have a minor tariff bill that I want to bring up
14 before we get to that.

15 Senator Danforth. Sure.

16 Senator Heinz. Secondly, may I dispose of that before
17 we get into the question you have just posed?

18 Senator Danforth. Of course. Ambassador Brock wants
19 to leave and I was hopeful that we could let him go, if we
20 could get a general agreement.

21 Senator Heinz. On your question, Ambassador Brock and
22 I discussed the non-market economies bill on Friday, which
23 the administration supports and which you have a modification
24 to which is acceptable to me. And I don't know whether --
25 my understanding is the administration would prefer my

1 original version but finds yours acceptable. And I'm just
2 wondering if Ambassador Brock has any problems with our
3 dealing with the non-market economies bill.
4 It seems to be, at least insofar as the administration
5 is concerned, what they want.
6 Ambassador Brock. Mr. Chairman, the proposal made by
7 the Chairman of the full committee was one that was
8 attractive to me because there are a number of these bills
9 that Senator Heinz and others have offered that we have
10 agreed to support in the past.
11 The only caveat was whether or not they were
12 non-controversial. And I would be inclined to hear the
13 wishes of the chairman in getting a bill with a minimum of
14 opposition when it gets to the floor.
15 What I had hoped to do was to simply urge that the
16 committee put into a committee amendment those two bills
17 that it has already approved on the tariff negotiating
18 authority on the GSP. And we would be happy to sit down and
19 look at any other specific proposals, particularly the
20 non-market proposal and provide whatever support we can to
21 a committee amendment that would include that particular
22 approach.
23 It's hard for me to say, generally, that we approve
24 of something without seeing the specific language. But I
25 think Senator Heinz has offered language that we have agreed

1 to in the past, if the modification is acceptable to us.

2 I think if we could work on the premise that these

3 would be agreed to after the staff has had a chance to be

4 very sure that we are talking about the same thing, then I

5 think we can move.

6 The Chairman. If we could work that out, we could

7 probably offer a committee amendment which would include

8 what we could take that was not controversial. I assume

9 once it has been raised in a public session, we are going

10 to find out rather quickly if there is opposition.

11 Ambassador Brock. Right.

12 Senator Heinz. Mr. Chairman, what is the procedure we

13 would use to determine what would and would not be a

14 committee amendment?

15 The Chairman. Well, I would hope that what you,

16 Senator Mitchell and others -- I know Senator Long has a

17 problem too with an area -- and Ambassador Brock and

18 Senator Danforth could work out and put into a committee

19 amendment, could go out today and we would report out the

20 two bills we have agreed to, the GSP and the trade zone,

21 plus the non-controversial bills, and then go to work at a

22 staff level with the Ambassador and his staff on this

23 committee amendment, and I think we could probably take a

24 portion of what you have in mind.

25 Senator Heinz. Mr. Chairman, I understand that and

1 that's fine, but I don't understand how the committee -- are
2 we going to poll the committee?

3 The Chairman. Yes.

4 Senator Heinz. Sometimes if there are objections to
5 polling the committee, it cannot be done. I assume we have
6 unanimous consent to poll the committee on this.

7 The Chairman. When we get the committee back together.

8 Senator Long. I was hoping, Mr. Chairman, that we
9 could simply call the committee together. Many years ago,
10 this committee that would report a major bill -- that was
11 before I ever became a member of it -- but before the bill
12 was considered by the Senate, they would meet again, have
13 the modifications that the bill ought to have, ideas that
14 had arisen since the bill had been reported, and when they
15 reported that bill, they would modify it so that they took
16 into account subsequent developments.

17 And it seems to me that we could meet, we could talk
18 about these suggestions that the Senator has in mind and
19 maybe some others that might arise between now and then.

20 Senator Danforth. Can I ask what the time of the meeting
21 would be? Hopefully -- I mean Senator Baker said we could
22 have a day which would be either this week or next week on
23 the floor.

24 The Chairman. I think that's one reason we need to get
25 something out there.

Senator Long. I think that's all fine, but may I just say, Senator, that -- I'm just speaking here as a minority member -- but if this bill is amended on the House side, as could happen, you know -- by the time we say here are some things we want to think about and as far as we are concerned they are non-controversial, they might say as far as we are concerned, we have thought about all these matters and here are some things we want to talk about. So you might as well talk to them in conference about it and see what they want to add on.

So it might become a significant bill before it becomes law. And I think that we ought to keep in mind that one day just might not be adequate and that this bill might become sufficiently important and significant that it might take more than one day. And I don't think it's asking too much.

Senator Danforth. No. I think it may well take more than one day. The only problem is that Senator Baker said that the most time he could give us is about one day.

Senator Long. Well, I think the Senator of Illinois knows how some of these things works. It doesn't take anything but one man to sort of take an interest in matters that come before the Senate and say, well, I would be willing to let these matters go on through provided that you could allocate us enough time to consider these various

1 important areas of legislation.

2 The Chairman. When could we --

3 Senator Heinz. Mr. Chairman, would you yield for one

4 second?

5 The Chairman. Yes.

6 Senator Heinz. Clearly, it would be desirable for us to

7 handle all these issues in the best possible and most

8 efficient way, and I would like to see us do that. Hopefully,

9 we can decide on a further committee amendment before the

10 bill comes to the floor. If we don't do that, I'm going to

11 have to offer a non-committee amendment or two -- maybe more.

12 I don't know what we are going to see -- on the floor and

13 that would probably make it more difficult for Senator Baker,

14 Senator Danforth, all of us, to get our trade bill off the

15 floor in a day because all of these trade amendments really

16 benefit from fine-tuning at the committee level. When they

17 come up without the attention of the committee -- it may be

18 the intention of the sponsor that they be instantly adopted,

19 and it may be the intention of the chairman of the committee

20 or Bill Brock, but the nature of things is that it only takes

21 one person to throw the switch on the railroad track and

22 derail the railroad train.

23 So I would hope that in the interest of accommodating

24 rapid action, that we will, in fact, have a committee

25 amendment or additional committee amendments, as the case may

1 be, prior to that famous one day.

2 The Chairman. I agree with that. I think what I

3 would like to do, and I don't know of any objection to it,

4 is to report out the non-controversial bills and those we

5 don't think are controversial -- the ones we have already

6 adopted -- along with those two provisions we have adopted

7 earlier on GSP and the trade zone, get it to the floor,

8 start work like this afternoon with Senator Mitchell,

9 Senator Heinz and Senator Long and others who have some

10 other matters along with this, the trade staff and others,

11 and as soon as we can figure out what we can do, we can

12 call the committee back and approve a committee amendment.

13 And that has much more chance of passing, as Senator

14 Heinz points out, if it is a committee amendment.

15 Is there anybody else that has something we couldn't

16 agree on right now?

17 Senator Mitchell. Mr. Chairman?

18 The Chairman. Go ahead, George.

19 Senator Mitchell. Well, I'm certainly agreeable in

20 attempting to do that.

21 The Chairman. We are serious about it. We are going

22 to try to do that.

23 Senator Mitchell. Right. And I understand the

24 problem. If I may make one further suggestion. Obviously,

25 the matters we are discussing are not new. They have been

1 been around for a while. And I anticipate that because of
2 the pressures of time that much of my legislation will be
3 deemed controversial, and, therefore, will not be able to
4 be included as part of this.
5 I know we don't all agree that we equate controversy
6 with value. Therefore, I think there is much in it of
7 value.
8 I wonder to the extent that if we can't get reasonable
9 progress in that, because of good faith objections by others,
10 we can't have a mark-up on these bills. Let's have a
11 mark-up and go ahead and let members vote up or down,
12 whether they are for it or not, and try to do it in that
13 way.
14 The Chairman. That's certainly all right. About the
15 other, it might be more productive.
16 Senator Mitchell. I understand that, Mr. Chairman. And
17 I want to take the first step. And I'm agreeable, and I
18 understand everybody will work in good faith. But
19 reasonable people can disagree.
20 I would just like to say that if we can't make any
21 progress in that way -- and we will all try -- that we have
22 a mark-up and we vote on this legislation.
23 The Chairman. I know Senator Cohen has already stopped
24 me and has the same concerns that you have expressed in the
25 small business area. He has sent a letter to the committee,

1 which we will make a part of the record. But we could do
2 that too.
3 Senator Pryor. Mr. Chairman, in your proposed package
4 and in taking this to the floor, would that also be an
5 appropriate place to attempt to amend S. 1718? That's on
6 the GSP. Would that be an appropriate way? If we had an
7 amendment to do that when --
8 The Chairman. We have already agreed to that once, but
9 you can still offer an amendment.
10 Senator Pryor. I do have one additional amendment
11 that I don't think would be controversial.
12 But I don't want to bring that up if it is the
13 inappropriate time. But if it's coming to the floor like
14 this, it might be an appropriate time to do this.
15 Senator Danforth. Mr. Chairman, I think -- we reported
16 out a GSP extension bill. And the idea was to include
17 that bill as part of this amendment. But as I understand
18 it, you have a further amendment to it?
19 Senator Pryor. Yes. And that, Mr. Chairman, would
20 relate to watches and it would be -- we have no watch
21 business left in this country, as we all know. There are
22 only 1,600 employees, I think, left in the whole nation.
23 And so we would like to remove watches from this. We don't
24 think it would be controversial.
25 Senator Danforth. How do you feel about that, Mr.

1 Ambassador?

2 Ambassador Brock. We haven't supported any additional

3 product exclusions, Mr. Chairman. Maybe I misunderstood.

4 Senator Chafee. Mr. Ambassador, it's hard to hear

5 you. Could you speak a little more into the mike, please?

6 Ambassador Brock. I guess I said I didn't understand.

7 What is being proposed, Jess?

8 Mr. Lang. My understanding of Senator Pryor's

9 amendment is that watches would be taken off the excluded

10 list so that they would be eligible for GSP.

11 Senator Pryor. That is correct.

12 Ambassador Brock. I wouldn't have any objection to that.

13 We would still have to take into consideration in our

14 granting of GSP whether or not it was controversial or

15 import sensitive.

16 Senator Pryor. I understand.

17 Ambassador Brock. So taking it off the excluded list

18 does not simply mean that it would be given a GSP status.

19 Mr. Lang. But under Senator Pryor's amendment you

20 would still have that.

21 Ambassador Brock. We would have the authority. No,

22 I would have no objection to that.

23 Senator Danforth. All right, without objection.

24 The Chairman. You might want to take a look at it to

25 be certain.

1 Ambassador Brock. Yes, we would like to look at it.

2 Senator Symms. Mr. Chairman.

3 Senator Danforth. Senator Symms.

4 Senator Symms. Mr. Chairman, I have got a couple or

5 three items that I would like to at least reserve a --

6 Senator Danforth. Is that processed satisfactorily to

7 you, Ambassador Brock?

8 Ambassador Brock. Yes.

9 Senator Danforth. Us getting together on those

10 various proposals. Senator Heinz, is that satisfactory with

11 you?

12 Ambassador Brock. We would be happy to participate as

13 of noon today.

14 Senator Heinz. Yes, it's satisfactory. I have the

15 feeling that having worked on the non-market economies bill

16 for five years, and having met at some length on it, we

17 probably can have a fairly brief meeting.

18 Ambassador Brock. I think so, too.

19 Senator Heinz. But anything to accommodate our two

20 chairmen.

21 The Chairman. I thought you were close.

22 Senator Heinz. We have got an agreement.

23 The Chairman. Oh.

24 Senator Heinz. No one wants to say that we have one

25 so I thought I would go along with it. I thought I would be

1 a nice guy for a change.

2 (Laughter)

3 Senator Heinz. Of course, there is an item here --

4 Senator Symms. Mr. Chairman, one point I do want to

5 bring up that has brought some controversy is this question

6 about eggs that are grown in the United States and exported

7 to Canada.

8 The Chairman. Grown?

9 (Laughter)

10 Senator Symms. Yes, grown, that's correct.

11 Senator Bradley. You mean potatoes?

12 Senator Symms. The eggs go up to Canada and then they

13 are processed to take out an enzyme called "lisocine"

14 that is used in different medicines. Then a few of those

15 processed yolks come back to the United States. Now for

16 some reason, the egg producers, the USDA -- and I don't

17 know what the trade rep's position is -- have opposed this.

18 But I have always thought our agricultural policy was to

19 help encourage exports of our products.

20 And it amounts to like 10 loads a week. And what they

21 want to do is reduce the tariff, the duty, on the dried egg

22 yolk back when it comes back in this country from $.27 down

23 to about $.05-1/2. If the product had been processed in a

24 foreign country from an equivalent amount of eggs, most of

25 eggs will not come back to the United States. Some 60 percent

1 of them will be exported.

2 There is some controversy over it, but I would hope

3 we could at least keep this option open to take a look at

4 that. Either the egg producers are wrong or I am wrong.

5 And it's possible that I am mistaken about how this would

6 affect out egg producers. But I can't, for the life of me,

7 see why egg producers wouldn't be jumping on the bandwagon

8 encouraging the exporting of between 500,000 and a million

9 cases of eggs to Canada for the next seven years in order

10 to meet these requirements.

11 Otherwise, these eggs are going to be brought in from

12 Israel and Holland where they will be then -- then there

13 will be a bigger glut of eggs in North America. So I

14 hope we could have our trade people look at this and USDA

15 and take another look at this thing and possibly try to

16 still get it on this bill.

17 And then we want to work with you on the zinc question.

18 Another non-related question, Mr. Chairman, I think that I

19 would like to look at is this employer provided educational

20 assistance.

21 The Chairman. On the tariff bill?

22 Senator Symms. Well, it is a revenue question. We

23 might at least look at that. There is a lot of momentum for

24 that to pass. And this would be an opportunity.

25 But then the last thing is that Senator Packwood is going

1 to offer an amendment on the Columbia Snake River customs
2 district office. And I have spoken to this on the floor
3 because I know Senator Baucus was concerned about it.
4 The people in the Snake River drainage are very
5 interested in clearing customs through Portland, Oregon
6 instead of Great Falls, Montana. We don't anticipate any
7 changes, and I'm not advocating changing the number of
8 staff people in Great Falls or anything, but we would
9 certainly like to get this straightened out here and
10 hopefully it could be done on this bill.
11 Senator Packwood will be speaking to that at some time.
12 Is that out of order or is it in order?
13 The Chairman. Depending on how many votes you have.
14 (Laughter)
15 The Chairman. We will try to work it out. Do you have
16 a problem with it?
17 Senator Baucus. I would advise to wait on that at
18 this point because we do have a problem with it. I think
19 it's possible, but probably improbable. But it still has
20 to be worked out. It's not yet worked out.
21 Senator Symms. We will work it out. We will get
22 Senator Packwood and you can get together on it. And I
23 would like to be involved in that.
24 But I would like to go back to the egg point, Mr.
25 Chairman, which is certainly appropriate for this bill. And

1 I hope that all of our colleagues will look at some of this,
2 and at the proper time I would like to bring that up and
3 at least hash it out here a little bit because for every one
4 of the charges that have been made, there is a rebuttal
5 that appears to me like it's something we ought to be
6 encouraging and not discouraging.
7 And a million cases of eggs is a lot of eggs to get
8 exported out of the country.
9 Senator Danforth. Senator Dole?
10 The Chairman. Well, I would just say to Senator Symms
11 that we -- Mr. Gingrich, are you willing to look at that
12 carefully? Have you looked at it yet?
13 Mr. Gingrich. Not yet. We will look at it right
14 away.
15 The Chairman. Then we will see if you can figure out
16 the other thing with Senator Baucus. I'm not sure about the
17 educational thing. Certainly not on this bill, but I know
18 there is a lot of support for it.
19 I would like to move, Senator Danforth, if there is no
20 objection, that we report out those two measures.
21 Senator Heinz. Mr. Chairman, reserving the right to
22 object, I just want to raise the S. 230, the cordage duty
23 suspension issue.
24 The Chairman. Is that one that is listed on the
25 controversial?

1 Senator Heinz. It's not listed because it's one that
2 the committee previously acted favorably on. It was part
3 of the boat bill, I guess, that we reported. And what I
4 would really like to do is make the committee an offer it
5 can't refuse, noting that we passed it once. If we can
6 pass it again, I won't make my speech.
7 (Laughter)
8 Senator Chafee. Well, put that down as controversial,
9 Mr. Chairman.
10 (Laughter)
11 Senator Chafee. I voted against this the last time.
12 This has a lot of opposition from farmers and from
13 fishermen. What the proposal is is to place the same
14 tariff on plastic cordage as it exists on fiber cordage.
15 Senator Heinz. No, that's not the proposal.
16 Senator Chafee. All right, let's hear it.
17 Senator Heinz. Well, I don't want to press it here.
18 I will raise it on the floor. But just for Senator Chafee's
19 edification, let me present him with two examples of rope.
20 They are exactly the same. They are made of the same
21 material except one has a slight physical difference which is,
22 if you can figure it out, that rope A is $.12-1/2 a pound
23 plus 15 percent ad valorem duty and rope B because of a
24 technicality doesn't. The National Farmers Union no longer
25 objects to the bill. They once did. The National Grange

1 once objected to the bill. They no longer do.

2 Let's just put in the record the letters from those
3 farm organizations. And I won't press the case at this
4 point.

5 (THE LETTERS FROM SENATOR HEINZ FOLLOW:)

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Hainz

NATIONAL FARMERS UNION

MAY 4 1984

May 1, 1984

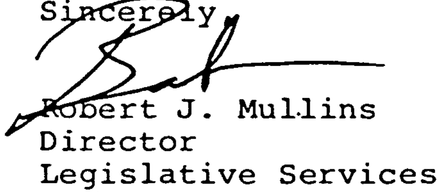
The Honorable Fortney H. Stark
U.S. House of Representatives
1034 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Stark:

After having been briefed by your staff on H.R. 1624 and reviewing the issues involved therein I wish to inform you that National Farmers Union no longer is opposing H.R. 1624 or its Senate companion.

I appreciate your staff having taken the time to bring this issue to our attention.

Sincerely,



Robert J. Mullins
Director
Legislative Services

cc: Marlene Saritzky

600 Maryland Avenue, S.W. • Suite 202 • Washington, D.C. 20024 • Phone (202) 554-1600

Harris 2

national grange

1616 H STREET, N.W. WASHINGTON, D.C. 20006 (202) 628-3507

Robert M. Frederick, Legislative Director

April 6, 1984

The Honorable Fortney H. (Pete) Stark
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Stark:

I want to express my personal appreciation to you and your staff, especially Marlene Saritzky, for investigating the cordage issue. I was not aware that the two products in question were the same material, only imported in different widths.

Having this knowledge and knowing of farmers' preference for sisal baler twine, the Grange no longer is opposing H.R.1624 or its Senate companion, S.230.

Sincerely,

Robert M Frederick

Robert M. Frederick
Legislative Director

RMF:khv

1 The Chairman. I think you are correct. The time we
2 brought this up on the floor, we had those objections.
3 Senator Heinz. Yes. We had those two organizations
4 withdraw their objections.
5 The problem, Mr. Chairman, just briefly, is that there
6 are two absolutely, for all intents and purposes, identical
7 products. Because someone has found a loophole, we are
8 treating like products very differently.
9 If Senator Chafee objects to the way we treat these,
10 fine, let's vote on whether we should repeal the duty that
11 was enacted many years ago and let's face that. But let's
12 not let people just because they have got some slightly
13 different way of twisting the yarn rewrite American trade
14 and tariff laws. That's the issue. We will deal with it
15 on the floor unless Senator Chafee wants to withdraw his
16 objection. If he doesn't, I understand. He's perfectly
17 within his rights to do that.
18 The Chairman. I think the Farm Bureau still objects,
19 but you are working on them, I understand.
20 Senator Chafee. And the New Bedford's Fishermens
21 Cooperative also objects. Now maybe these things can be
22 straightened out, but as I understand, we are going to have
23 another hearing anyway before we get to the -- and this could
24 well come up as an approved committee amendment as part of
25 it.

1 Senator Heinz. You meant not a hearing but a mark-up.

2 Senator Chafee. Mark-up, yes.

3 The Chairman. What I was going to propose is that
4 a subcommittee chairman would report out the two bills we
5 have already approved to, the GSP and the trade zone, plus
6 all those non-controversial items we have agreed to. We
7 do that much now. We start work on the so-called
8 controversial list to see if we can remove some of the
9 concerns that anybody might have. We also work on Senator
10 Mitchell's program along with Senator Heinz and Senator
11 Symms. And I'm certain there are others who would like
12 to raise some questions. Senator Long has a problem.

13 But go ahead and report out what we have so that we
14 can go to Senator Baker and say we have reported out a trade
15 bill, and now we want the time.

16 And I'm willing to work with Senator Danforth. How
17 about early next week? Monday?

18 Mr. DeArment. We could do it early next week.

19 The Chairman. Monday afternoon.

20 Mr. DeArment. I think we are free Monday afternoon.

21 The Chairman. Friday? We have a hearing Friday.

22 Mr. DeArment. We have a hearing Friday. That's the
23 computed interest hearing.

24 Senator Pryor. Mr. Chairman, are you including the
25 creation of the trade zones more or less in a non-controversial

1 status?

2 The Chairman. Well, we assume there will be some

3 controversy.

4 Senator Pryor. I just wanted to say that I think there

5 will be quite a bit of controversy about some of those

6 particular items. We might just inform Senator Baker.

7 The Chairman. I think we understand that you have a

8 problem in one area there.

9 Senator Mitchell. Mr. Chairman, if I may merely

10 request that S. 2194, which apparently inadvertently was

11 left off both the controversial and non-controversial list,

12 be put back on so that in this further discussion we are

13 going to have, that will be included.

14 The Chairman. That seems reasonable.

15 (Laughter)

16 The Chairman. You don't care which list it's on.

17 (Laughter)

18 Senator Mitchell. I have just been handed a letter

19 from Interior objecting to it so I accept the fact that under

20 the ground rules under which we are operating, that makes it

21 controversial. But I think it can be worked out, and I

22 would like to be sure that it is included in what we are

23 going to do apparently early next week.

24 Senator Danforth. I would also like to ask the staff

25 if they would circulate a press release on S. 2881 and S.

1 2882, introduced by Senator Helms as to whether they
2 draw any controversy.
3 Senator Bradley. Mr. Chairman, I wonder if we could
4 think of adding to the non-controversial list S. 2877, which
5 is an amendment that would ensure importers who have
6 products in transit when tariffs are changed by
7 administration action, would receive the tariff that was in
8 effect when they had the contract originally signed.
9 Senator Heinz. Mr. Chairman, New Bedford Fishermens
10 Cooperative --
11 The Chairman. Is that controversial?
12 Senator Heinz. Yes.
13 Senator Danforth. Mr. Chairman, you made a motion and
14 is there an objection?
15 Senator Long. May I just mention one item? I believe
16 that we might want to look at the matter of neckties before
17 we report this bill out because some years ago there was a
18 judgment of this committee, and I think Mr. Strauss at that
19 point was the negotiator, that we were going to provide
20 sufficient help for the necktie people so that they could
21 stay in business, and we did.
22 And I think that someone figured out a way by using
23 silk instead of using other fibers that they could put our
24 people out of business. If we don't do something about it,
25 I think that is likely to happen. So I think that should

1 be looked at.

2 The Chairman. Can we do that as we work with Brock,

3 Jeff and others to try to work out the next amendment?

4 I know that's controversial.

5 Mr. Lang. Yes, sir.

6 The Chairman. It is controversial.

7 Mr. Lang. I think the administration may have objected

8 to it, as well as the retailers.

9 The Chairman. That doesn't mean we can't work it out

10 with the administration.

11 Mr. Lang. Right.

12 The Chairman. I think at the moment I would like to

13 just --

14 Mr. Kassinger. Yes.

15 Senator Heinz. There is one other issue that I don't

16 know if we can agree on for committee amendment, but it's

17 something we really ought to address.

18 The Chairman. Could we act on the motion first?

19 Senator Heinz. Oh, I'm sorry. By all means.

20 Mr. DeArment. Mr. Chairman, this motion would be to

21 report out all the items you suggested as a committee

22 amendment to H.R. 3398.

23 Senator Danforth. Without objection, it is agreed to.

24 Senator Heinz. Mr. Chairman, one issue that I would

25 like to bring up for the committee's consideration is

1 addressing as it affects Section 201, the Chatta decision
2 by the Supreme Court, which struck in the escape clause the
3 so-called Congressional override one house veto. There are
4 a number of relatively neutral ways of fixing it, but I
5 think -- I think it is fair that we ought to try and do
6 something about it that is reasonable.

7 I have discussed this with Ambassador Brock last Friday
8 when I met with him. And his view is that as long as it is
9 neutral vis-a-vis previously existing pre-Chatta law, that
10 while the administration probably doesn't like having an
11 override, nonetheless they can't really object to us
12 correcting something that was stricken by the court.

13 And I would hope we could work at the staff and members
14 level to arrive at something appropriate there.

15 Senator Danforth. All right. Senator Baucus.

16 Senator Baucus. Mr. Chairman, we all know the
17 President has before him the ITC recommendations with
18 respect to copper, the 201 copper case. We don't know how
19 the President is going to decide that, whether it is
20 quotas of tariffs.

21 But due to the straits the copper industry is in because
22 Chile and other companies have dumped copper, I would hope
23 that the committee would hold hearings immediately after the
24 President's decision in the event the President does not
25 enact quotas on copper imports to the United States.

1 That decision is due by mid-September, about

2 September 14th. We would have time in September, then, to

3 have a hearing at least on the action the President takes

4 with respect to copper imports and Section 201.

5 Senator Heinz. We might want to combine that with steel.

6 Senator Baucus. I thought you might ask that.

7 Senator Heinz. For --

8 Senator Danforth. How are we fixed for a hearing

9 possibility, Rod, for the subcommittee in late September?

10 Mr. DeArment. I don't have my book with me for the

11 September hearings, but I am sure we have a lot of open dates,

12 if we can work out a date.

13 Senator Danforth. As far as I am concerned, a

14 subcommittee hearing would be --

15 Senator Baucus. I would appreciate that.

16 Senator Heinz. Would you object to combining it with

17 steel?

18 Senator Baucus. Well, let's see how we can work that

19 out. It may work out well, but let's see what the dates

20 are.

21 The Chairman. I think we have a lot of time. We hadn't

22 planned on doing a lot in September so this will give us

23 something to look forward to.

24 (Laughter)

25 Mr. Santios. Mr. Chairman, I have a correction on one

1 item. The committee's request to the ITC to footwear. We
2 had talked about the first report being due March of 1985.
3 It probably ought to be due, the first report, October of
4 1984, January of 1985 and so on.
5 Senator Danforth. That's better.
6 The Chairman. Do you think that's a good idea?
7 Mr. Santios. The situation on footwear is changing
8 rather rapidly. March of 1985 is a fairly long time away,
9 if we are interested in current reports.
10 Senator Long. Well, since that matter came up, the ITC
11 came to the conclusion that although -- the ITC came up with
12 the amazing conclusion, bless their hearts, that although
13 the manufacturers have lost 70 percent of their market, that
14 that did not constitute injury. And they reached that
15 conclusion on the theory that the industry was making a
16 profit. Well, the reason they are making a profit is that
17 they have found a way to buy some of the imports and be the
18 agent to sell some of the imports so that by selling some
19 importing shoes, they manage to make a profit.
20 Now back when this whole matter was before us on the
21 other bill, and Mr. Strauss was negotiating it, I told him
22 at that time that the way to handle this problem is to tell
23 the people who are making the shoes that you will let them
24 have the quotas so that if you are making 10 percent of
25 American shoes, we will give you 10 percent of the quota.

1 Now the fact is that the consumer wasn't benefiting
2 from those imports. They were selling those things for the
3 same price it would cost if you were manufacturing them
4 here and selling them as domestic products. The consumer
5 was getting no benefit out of that.

6 So that being the case, my thought was, well, why not
7 let the American producer, and even the American worker, get
8 in on some of that bonanza. And apparently Mr. Strauss
9 negotiated. At that point, he got no takers. They didn't
10 understand what he was talking about.

11 And, subsequently, apparently, the idea began to get
12 through to some of them, that they would just buy some of
13 these imports and sell them and they could make a profit
14 there where they weren't making a profit on producing the
15 shoes.

16 And it occurred to me that that's what we should have
17 done all the time and that way we wouldn't have had to give
18 away all these jobs. We could have had a lot of the jobs
19 left for us. And everybody could have made the same number
20 of shoes you wanted to make.

21 But there is no doubt that unless we take an interest
22 in this industry, they are not going to survive. And I can
23 just say that as a complete statement. We have no shoe
24 manufacturers in Louisiana. And I am going to just sit
25 and watch them go out of business if they are content to go

1 out of business but at some point you ought to take a look
2 at the thing and say, look here, we want to continue to
3 produce shoes in the United States or not because if we
4 just proceed on the theory that if they can make money by
5 selling the other guy's shoes, that they are not hurt, then
6 they are gone.

7 The Chairman. That takes care of the trade matters.
8 And I would just say to members, if you are interested, we
9 hope to bring up the child support conference report maybe
10 later today or tomorrow. We are in conference on the
11 disability bill. We have submitted an offer to the House.

12 Is there anything else we have to do?

13 Senator Danforth. Mr. Chairman, I don't know if we
14 can do this this week, but I would urge the staff, first, to
15 try to convene the cast of characters and work out what you
16 can work out today. And, secondly, if there is some way to
17 hold the second mark-up this week -- because I really do --

18 Mr. DeArment. Senator Danforth, we will try to convene
19 a meeting the first thing this afternoon if we can get
20 everybody that is involved here there.

21 Senator Danforth. Do you think you can arrange the
22 mark-up this week?

23 Mr. DeArment. Probably the best day to aim for would
24 be some time on Friday, if we are going to do it this week,
25 after the computed interest hearing.

1 The Chairman. It depends on what the results are. If
2 you get an agreement, you won't take long for mark-up. If
3 you don't, you may be here all week. I know a lot of
4 members feel strongly about being on the controversial
5 list, and we need to take a hard look. I know Senator
6 Levin asked me to take care of his bells. I think they are
7 bells. School bells.
8 Mr. Lang. Yes. They are bells for Kalamazoo College,
9 Senator.
10 The Chairman. We had that big tax bill go through on
11 the church bells, didn't we?
12 Mr. Lang. That was the bells for the Methodist
13 Church.
14 The Chairman. It's where I go to church.
15 Mr. DeArment. Yes.
16 Senator Long. As I recall, is this not correct. That
17 in conference, those House conferees just took to the idea
18 that they weren't going to consider those trade amendments.
19 Wasn't that what happened?
20 Mr. Lang. In the conference on the tax bill?
21 Senator Long. Yes.
22 Mr. Lang. Yes, sir.
23 Senator Long. My recollection was that we took those
24 trade amendments on the bill, and the House did not have
25 any particular objections to those amendments that we took on

1 trade so far as I recall. But I think the state has
2 simply taken the view that the state wanted to meet with
3 us and talk about trade and they wanted to have their ideas
4 considered while we talked to them about our ideas.
5 And that being the case, they refused to accept any
6 trade amendments. And that being the case, those that the
7 Senate agreed to presumably ought to be considered again
8 when they go to Congress on any bill.
9 Mr. Lang. I think that's correct, Senator, although
10 there is a letter from Congressman Givens indicating that
11 one or two of those provisions had been considered in the
12 House and rejected, implying that they might not object only
13 to the procedure but also to the substance of those two
14 provisions.
15 But that did not apply to Senator DeConcini's
16 telescope amendment. It was objected to purely on --
17 Senator Long. My impression is that there is something
18 in the bill on their side that they want, then they will
19 negotiate. That's my thought.
20 The Chairman. What about the debt ceiling? When do
21 we have to raise that again? After the convention?
22 Mr. DeArment. The administration has requested an
23 increase. But as I understand it, the predictions are that
24 they will be able to survive until September.
25 The last time we extended it, we did not have a date

1 certain when the increase expired, but gave an amount, and
2 this is subject to some calculation.
3 The Chairman. What would happen if the Republic
4 Platform Committee adopted a provision? It wouldn't
5 increase the debt ceiling any more.
6 Mr. DeArment. If we followed through on that
7 suggestion, it might mean that we also don't pay Social
8 Security benefits and the like.
9 The Chairman. Well, I wouldn't be surprised.
10 Senator Long. Why don't you just pay what you want to
11 pay and don't pay what you don't want to pay? That's the
12 way I would do it.
13 (Laughter)
14 Mr. DeArment. At least the lawyers that have looked
15 at this question says that the administration doesn't have
16 that right to pick and choose among the obligations. They
17 would be cutting checks, and those checks would be presented
18 for payment, and they would be honored to the extent that
19 they had the money, and didn't exceed the debt. And who got
20 to the bank last, was lost.
21 The Chairman. Take your check to the polling place
22 in November.
23 The point is we don't have much else to do this year,
24 hopefully. I think the debt ceiling. And a lot of people
25 have got ideas about another tax bill, but I'm not one of

1 those so don't get anxious about a lot of amendments. I
2 don't see how we could even do that if we wanted. There
3 are some who would like to add a few provisions.
4 So let's try to work out seriously with the members
5 who have these problems. We don't have to keep it off our
6 bill just because the House objects. You understand that.
7 I mean we are a separate body over here.
8 (Laughter)
9 Mr. DeArment. Mr. Chairman, we will plan to have a
10 meeting, then, of all the players at 2:00 this afternoon
11 in this room. And we will call the absent members.
12 The Chairman. There are going to be some proxies.
13 (Whereupon, at 11:59 a.m., the mark-up session was
14 concluded.)
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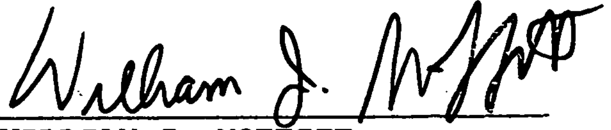
C E R T I F I C A T E

This is to certify that the foregoing proceedings of an executive session before the United States Senate, Committee on Finance, Tuesday, July 31, 1984, were held as herein appears, and that this is the original transcript thereof.



WILLIAM J. MOFFITT
Official Reporter

My Commission Expires April 14, 1989

United States Senate

COMMITTEE ON FINANCE

ROBERT J. DOLE, CHAIRMAN

Senator Dole -

Senator Cohen wanted you to note for the record his efforts on behalf small business if Senator Mitchell raises this issue.

Len Santos

WILLIAM V. ROTH, JR., DEL., CHAIRMAN

CHARLES H. PERCY, ILL.
TED STEVENS, ALASKA
CHARLES McC. MATHIAS, JR., MD.
WILLIAM S. COHEN, MAINE
DAVID DURENBERGER, MINN.
WARREN B. RUDMAN, N.H.
JOHN C. DANFORTH, MO.
THAD COCHRAN, MISS.
WILLIAM L. ARMSTRONG, COLO.
THOMAS F. EAGLETON, MO.
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JIM SASSER, TENN.
CARL LEVIN, MICH.
JEFF BINGAMAN, N. MEX.
DAVID PRYOR, ARK.

JOAN M. McENTEE, STAFF DIRECTOR AND CHIEF COUNSEL
IRA S. SHAPIRO, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON
OVERSIGHT OF GOVERNMENT MANAGEMENT

WASHINGTON, D.C. 20510

SUBCOMMITTEE
WILLIAM S. COHEN, MAINE, CHAIRMAN

WARREN B. RUDMAN, N.H.
JOHN C. DANFORTH, MO.
CARL LEVIN, MICH.
JEFF BINGAMAN, N. MEX.

SUSAN M. COLLINS, STAFF DIRECTOR

July 30, 1984

The Honorable Robert Dole
Chairman
Senate Committee on Finance
SD-219
Washington, D.C. 20510

Dear Bob:

I am writing to urge the Senate Finance Committee to adopt trade law reforms to assist small businesses in gaining greater access to the trade relief process. As you know, last year I introduced S.50, the Small Business and Agricultural Trade Remedies Act of 1983, which includes several provisions designed to make our current trade laws more accessible to small businesses that are being hurt by unfair trade practices or excessive imports.

I first introduced small business trade legislation in early 1982, after chairing oversight hearings on the trade problems affecting industries in states bordering Canada. The testimony at that hearing convinced me that many of our nation's small businesses are precluded from receiving trade relief under our current system. The extensive documentation requirements, lengthy review process, and complexity of the trade laws make it very difficult for a small business or industry to file and obtain relief. It is not unusual for the costs incurred in a trade remedy case to run as high as $100,000 to $150,000. In light of such high costs, many small businesses simply cannot afford to pursue their rights under the trade laws.

Time and time again I have watched industries which are being hurt by imports pursue the frustrating process of trade relief. Many have been denied relief -- not because their claims lacked merit -- but because of the bureaucratic maze and high costs they must overcome in order to be successful under our trade laws. In recent

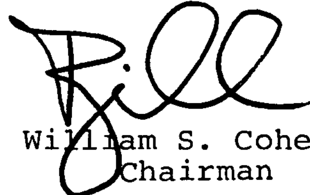
years, the potato, fishing, and wood products industries, as well as others in my own state of Maine, have confronted these problems in seeking trade relief.

My legislation, which has been the subject of hearings before the Subcommittee on International Trade, would address these problems by creating within the Department of Commerce a special office to assist small businesses in any trade relief proceeding. Specifically, the Small Business Trade Assistance Office would assist small businesses in their preparation for and participation in any trade relief proceeding and would be authorized to intervene on behalf of the petitioner in trade relief cases. The office would also be authorized to defray the costs of trade relief by reimbursing needy small businesses for a portion of their expenses incurred in bringing trade cases. I urge the Committee to report legislation creating this office in order to ensure that small businesses are given adequate assistance in dealing with the complexities and high costs of pursuing trade relief.

I also strongly encourage the Committee to adopt other necessary reforms contained in my legislation that would assist small businesses, such as lowering the standard of material injury in antidumping and countervailing duty cases, requiring the International Trade Commission to consider the special circumstances of small businesses in determining whether material injury exists, and consolidating the judicial review process in antidumping and countervailing duty cases. Similarly, I urge the Committee to address some of the peculiar problems facing small businesses in bringing cases under section 201, the so-called "escape clause" process. My legislation would, for example, require the President to give more weight to regional considerations when ruling on section 201 cases filed by small businesses.

For too long, small businesses which are truly being hurt by imports have been precluded from receiving realistic trade relief due to the cost and complexity of our trade laws. I strongly urge the Finance Committee to take this opportunity to make our trade remedies available to this important sector of our economy.

Sincerely,



William S. Cohen
Chairman

Press Release No. 84-15

PRESS RELEASE

FOR IMMEDIATE RELEASE
July 31, 1984

UNITED STATES SENATE
COMMITTEE ON FINANCE
SD-219 Dirksen Senate
Office Building

FINANCE COMMITTEE APPROVES NOMINATION, RETIREMENT EQUITY ACT, AND TRADE BILLS

The Honorable Robert J. Dole (R., Kansas), Chairman of the Committee on Finance, today announced that the Committee took the following actions at a markup this morning.

1. The Committee approved and ordered favorably reported the nomination of Dodie Truman Livingston to be Commissioner of the Administration of Children, Youth, and Families of the Department of Health and Human Services.

2. The Committee agreed to report the Retirement Equity Act of 1984 with amendments. The Retirement Equity Act was originally reported by the Committee on October 24, 1983, and passed by the Senate on November 18, 1983. The House adopted similar provisions with certain modifications on May 24, 1984. The principal provisions adopted by the Committee are as follows:

a. Periods of Employee Service Taken Into Account Under Pension, Profit-Sharing, and Stock Bonus Plans

Maximum age conditions.--The Committee agreed to reduce from 25 to 21 the maximum age a pension, profit-sharing, or stock bonus plan ("qualified plan") generally can require an employee to attain as a condition of becoming a participant in the plan. Additionally, a plan is not permitted to ignore service after age 18 for purposes of determining the vested portion of a participant's benefit. The Committee also agreed to reduce the maximum age conditions for employees of certain educational institutions.

Break in service rules.--The Committee agreed that, in the case of a nonvested participant, years of service with the employer or employers maintaining a qualified plan before any period of consecutive 1-year breaks in service are required to be taken into account for participation and vesting purposes after a break in service unless the number of consecutive 1-year breaks in service equals or exceeds the greater of (a) 5 years or (b) the aggregate number of years of service before the consecutive breaks in service.

Thus, these provisions will prevent loss of certain accumulated credits due to an employee's extended absence from service with the employer.

Maternity and paternity leave.--The Committee agreed to provide rules relating to crediting of service for cases in which an employee is absent from work because of maternity or paternity leave. Certain hours of absence (up to 501 hours) on account of pregnancy, birth, adoption, or certain child care are taken into account

in determining whether a break in service has occurred under the participation and vesting rules.

b. Survivor Benefit Requirements

A defined benefit or money purchase pension plan will be required to provide automatic survivor benefits (1) in the case of a participant who retires under the plan, in the form of a qualified joint and survivor annuity, and (2) in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, in the form of a qualified preretirement survivor annuity. Any defined contribution plan other than a money purchase plan must provide a survivor benefit unless (1) the participant does not elect benefits in the form of a life annuity, (2) the plan pays the full vested account balance to the participant's surviving spouse if the participant dies, and (3) the plan is not a direct or indirect transferee of a plan required to provide automatic survivor benefits.

A participant will be given the opportunity to waive the qualified joint and survivor annuity and the qualified preretirement survivor annuity unless the plan fully subsidizes the cost of the benefits. In addition, an election to waive a qualified joint and survivor annuity or a qualified preretirement survivor annuity is not to be effective unless it is in writing and is signed by the participant and the participant's spouse.

The Committee agreed to define the period during which a participant may waive a survivor benefit (or revoke such a waiver) to mean (1) in the case of a qualified joint and survivor annuity, a period of time that does not end more than 90 days before the annuity starting date; or (2) in the case of a qualified preretirement survivor annuity, a period beginning on the first day of the plan year in which the participant attains age 32 and ending on the date of the participant's death.

c. Assignment or Alienation of Benefits in Divorce, Etc., Proceedings

In the case of certain judgments, decrees, or orders relating to child support, alimony payments, or marital property rights pursuant to a State domestic relations law (a qualified domestic relations order), the Committee clarified that such orders do not result in a prohibited assignment or alienation of benefits under the spendthrift provisions of the Code or ERISA. In addition, an exception to the general ERISA preemption rule will be provided for qualified domestic relations orders.

The Committee agreed to require that a qualified domestic relations order identify the parties involved and provide specific instructions for determining the portion of plan benefits payable to an alternate payee (a spouse, former spouse, or child) under the order. Benefits under the order will be required to be in a form otherwise provided by the plan. The Committee also agreed to provide procedures to be followed by the plan administrator when the benefits payable under an order are in dispute.

d. Cash Out of Certain Accrued Benefits

The Committee agreed that a qualified plan may cash out a separated participant's benefit without the participant's consent if the value of the benefit does not exceed $3,500. The limit under present law is $1,750. For purposes of determining the present value of the participant's benefit, the plan may not use an interest rate that is greater than

the rate used by the Pension Benefit Guaranty Corporation (PBGC) for valuing a lump sum distribution upon plan termination.

e. Notice of Forfeitability of Benefits

Present law requires that a plan furnish a participant with a statement of benefits under certain circumstances. The Committee agreed to require that the statement include a notice that certain benefits may be forfeitable in the event the participant dies before a particular date.

f. Notice of Rollover Treatment

Under present law, a plan administrator is not required to notify a plan participant receiving a qualifying rollover distribution that the distribution may be rolled over, tax-free, within 60 days of the date of distribution. The bill requires the plan administrator to provide notice to participants and beneficiaries that distributions may be eligible for (1) rollover to an IRA or another qualified plan or (2) 10-year income averaging. The Secretary of the Treasury is to develop officially approved notices that may be used to satisfy this requirement.

g. Reduction in Accrued Benefits

Under present law, a pension plan must specify the methods used to calculate plan benefits, and a qualified plan may not generally be amended to reduce previously accrued benefits. The Committee agreed to include provisions relating to the permitted effect of amendments with respect to previously accrued benefits. These benefits will not include nonretirement benefits such as social security supplements, death benefits, preretirement disability benefits, plant shutdown benefits to the extent they do not continue after normal retirement age, or medical benefits.

h. Study by the General Accounting Office

The Committee agreed to direct the General Accounting Office (GAO) to conduct a detailed study of the effect on women of the rules relating to pension, profit-sharing, and stock bonus plans. The results of this study are to be reported to various committees of the Congress no later than January 1, 1990.

i. Effective Dates

The provisions of the bill generally are effective for plan years beginning after December 31, 1984. In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified by the date of enactment, the provisions are not effective for plan years beginning before the earlier of (1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension agreed to after the date of enactment) or (2) January 1, 1987. Special effective dates apply with respect to the qualified survivor benefit provisions and the provisions governing reductions in accrued benefits.

3. The Committee approved and ordered favorably reported a Committee amendment to H.R. 3398, an omnibus miscellaneous tariff and trade bill previously reported by the Committee. The Committee amendment consists of noncontroversial miscellaneous tariff bills; S. 1718, a bill to renew the Generalized System of Preferences that was ordered favorably reported previously by the Committee; and S. 2746, a bill to authorize negotiations for a

free-trade area with Israel and with Canada, that was also previously reported favorably by the Committee. S. 1718, as previously reported, was amended to exclude watches from the existing list of import-sensitive items ineligible for GSP treatment.

The following miscellaneous tariff bills were approved by the Committee:

S. 1954.--A bill to apply duty-free treatment with respect to articles exported for purposes of rendering certain geophysical or contracting services abroad, and later returned.

S. 2022.--A bill to suspend temporarily the duty on diphenyl guanidine and di-ortho-tolyl guanidine.

S. 2054.--A bill to suspend for a 3-year period the duty on hydarazone, 3- (4-methylpiperazinyliminomethyl) rifamycin SV (an antibiotic known as rifampin).

S. 2055.--A bill to suspend for a 3-year period the duty on 5H-Dibenz (b,f,)azepine-5-propanamine, 10, 11-dihydro-N-methyl-, monohydrochloride (a tricyclic antidepressant known as desipramine hydrochloride).

S. 2056.--A bill to suspend for a 3-year period the duty on 3-(Hydroxydiphenylacetyl)oxy)-1,1-dimethyl piperidinium bromide (a drug known as mepenzolate bromide).

S. 2092.--A bill to continue until the close of June 30, 1989, the existing suspension of duties on certain forms of zinc.

S. 2172.--A bill to suspend for a 3-year period the duty on Clomiphene citrate.

S. 2197.--A bill to suspend for a 3-year period the duty on Terfenadine.

S. 2198.--A bill to suspend for a 3-year period the duty on Dicyclomine hydrochloride.

S. 2332.--A bill to suspend for a 3-year period the duty on lactulose (4-0-beta-D-Galactophyranosyl-D-fructose).

S. 2333.--A bill to suspend for a 3-year period the duty on iron-dextran complex.

S. 2334.--A bill to suspend for a 3-year period the duty on nicotine resin complex.

S. 2426.--A bill to provide for the temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate (as amended).

S. 2427.--A bill to provide for the temporary suspension of the duty on mixtures of potassium 1-(p-chlorophenyl)-1, 4-dihydro-6-methyl-4-oxophridazine-3-carboxylate ("Fenridazine-potassium") and formulation adjuvants (as amended).

S. 2428.--A bill relating to classification of imported steel tubes used in lampposts, resulting in a column 1 duty rate of 10 percent ad valorem and a column 2 rate of 45 percent ad valorem (as amended).

S. 2440.--A bill to suspend the duty on certain benzoid chemicals until the close of June 30, 1986. The chemicals are: trichlorosalicylic acid; m-amino-phenol; 6-amino-1-

naphthol-3-sulfonic acid; and, 4-acetaminobenzenesulfonyl chloride (as amended).

S. 2479.--A bill to amend the Tariff Schedules of the United States to clarify the classification of any naphtha described as both a petroleum product and a benzenoid chemical. The effect would be to provide the same tariff treatment to naphthas described as benzenoid chemicals as that provided naphthas described as petroleum products (as amended).

S. 2493.--A bill to extend for 4 years the temporary suspension of duty on tartaric acid and certain tartaric chemicals. The chemicals are potassium salts, cream of tartar and sodium tartrate (Rochelle salts).

S. 2542.--A bill to suspend until July 1, 1987, the duty on lace-braiding machines and parts thereof.

S. 2596.--A bill to extend duty-free treatment to scrolls or tablets imported for use in religious observances.

S. 2613.--A bill to suspend the duties on circular knitting machines designed for sweater or garment length knitting until the close of December 31, 1989.

S. 2642.--A bill to suspend until July 1, 1989, the duty on yttrium bearing ores, materials, and compounds containing by weight more than 19 per centum but less than 85 per centum yttrium oxide equivalent (as amended).

S. 2739.--A bill to extend for two additional years the suspension of duty on uncompounded allyl resins.

S. 2787.--A bill to suspend for a 3-year period the duty on o-Benzyl-p-Chlorophenol.

S. 2838.--A bill to suspend until July 1, 1987, the duty on narrow fabric looms.

S. 2839.--A bill to amend the tariff classification of certain articles of wearing apparel (as amended).

S. 2865.--A bill to authorize the President to proclaim modifications in tariffs on certain articles used in civil aircraft.

S. 2867.--A bill to authorize proceedings relating to a refund of the duty paid on the entry of two mass spectrometers which may have been entitled to be admitted duty-free (as amended).

An unnumbered amendment to change the effective dates in H.R. 3398 to advance the original effective periods, and to make retroactive any tariff suspensions that have now expired.

An unnumbered amendment to H.R. 3398 to clarify a provision providing for the import of antique guns.

The Committee further approved five other miscellaneous tariff provisions. These are:

1. An amendment to suspend temporarily the duties on acetylsulfaguanidine.

2. An amendment to extend until 1985 the current duty suspension on graphite.

3. An amendment authorizing the import of a telescope intended for use at the University of Arizona.

4. An amendment reclassifying certain whey products.

5. An amendment relating to the eligibility of certain products manufactured in bonded warehouses in Puerto Rico for the benefits authorized by the Caribbean Basin Initiative.

Finally, Senator Dole announced that at the markup the Committee approved two requests for studies by the International Trade Commission. The first will be a study of the conditions of competition in the domestic filbert industry. The second is a request for a quarterly report from the Commission on the nonrubber footwear industry. The Committee also has approved a request to the ITC for an investigation of world agricultural trade flows.

P.R. #84 -15

DODIE TRUMAN LIVINGSTON
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Washington, D.C. 20016

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(202) 363-0565 (home)

PROFESSIONAL ORGANIZATIONS AND MEMBERSHIPS

Co-President, Horace Mann School PTA, Washington, D.C. (1982-83). Responsible for developing informational/educational programs for parents, overseeing fundraising and other special events, and acting as liaison from PTA to school officials and volunteer organizations.

Treasurer, Horace Mann Summer Day Camp (1983, 1984). Responsible for camp banking, accounting, and payroll functions.

Member, Vice President/Program Chairman, Mother's Club, Immanuel Presbyterian Nursery School, Los Angeles (1977-80). Developed and coordinated programs/activities to meet needs and interests of parents. Also served as substitute teacher on volunteer basis.

Member, Church of Jesus Christ of Latter-day Saints (1971 to present). Served in a number of leadership positions in church organizations, including youth speech director; cultural refinement leader, visiting teacher, visiting teacher supervisor in the women's organization; first counselor, second counselor, secretary, and assistant nursery leader in the youth organization; member of the choir, and editor of two different ward newsletters.

Member, Phi Mu Fraternity (1957 to present). Held numerous leadership positions as a collegian and alumna, including president, regional director, and various national committee chairmanships. Responsible for providing guidance/direction to collegiate officers and members and for serving as a liaison to alumnae and to students affairs offices on university/college campuses. As a western regional director, developed a master plan for mobilizing collegians, alumnae, and parents to revitalization weak chapters. Plan was subsequently used in many areas of the nation.

White House Representative, Air and Space USA Advisory Board (1984).

Member and Secretary, Board of Directors, Fremont Place Homeowners Association, Los Angeles, California (1980).

Member and Publicity Chairman, Della Robbia Guild, Children's Hospital of Los Angeles (1979-80).

Writer, feature articles on professional/professional volunteer women, The Aglaia of Phi Mu, circulation of over 85,000 (1978 to present).

Member, 46th Assembly District Community Council, Los Angeles. Responsible for helping Assemblyman to evaluate local needs and impact of pending legislation (1977-78).

Member, San Francisco-Oakland Newspaper Guild (1960's).

PROFESSIONAL EXPERIENCE

January 21, 1981, to Present

SPECIAL ASSISTANT TO THE PRESIDENT
THE WHITE HOUSE
Washington, D.C.

Responsible for administering the Office of Special Presidential Messages, a key dimension of the President's outreach to the business community, labor, religious and ethnic organizations, women and minorities, the handicapped, veterans, agriculture, the military, and youth.

- oo Administer the researching, writing, and editing of all written statements for the signature of the President for significant national and international events as well as Presidential proclamations.
- oo Confer regularly with all Federal departments, other members of the White House senior staff, Congressional offices, and leaders in the private sector in the preparation of Presidential messages.
- oo Assure that messages present the best possible representation of the President since they frequently receive widespread media coverage, reach thousands of people each week, and often are the only direct communication people have with the Administration.

November 1979 to January 1981

DIRECTOR, CORRESPONDENCE DEPARTMENT
REAGAN-BUSH COMMITTEE

Supervised a staff and volunteer force of approximately 200 in presenting the candidate effectively to thousands of people throughout the United States and abroad -- both through written communications and phone banks.

- oo Served as chief writer, editor, and consultant in the Correspondence Department during the spring 1980 primary campaign. Responsible for developing the correspondence program and for training other writers. Also responsible for developing the strategy, style, and substance of this vital link in campaign communications.

- °° Supervised and personally handled the President-elect's personal correspondence in the Western headquarters during the Transition.
- °° Personalized the program to reflect Ronald Reagan's style and beliefs. Program subsequently became the model for the White House Offices of Special Presidential Messages and Correspondence.

February 1978 to November 1979

WRITER AND RESEARCHER
DEAVER & HANNAFORD PUBLIC RELATIONS
Los Angeles, California

Responsibilities included researching and writing statements and correspondence for D&H client Ronald Reagan.

Winter and Spring 1978

WRITER AND EDITOR
PETE WILSON GUBERNATORIAL CAMPAIGN

Responsible for researching, writing, and editing a periodic newsletter to apprise campaign staff and volunteers of issues, developments, and activities.

Spring 1976

WRITER
REAGAN PRESIDENTIAL NOMINATION CAMPAIGN

Responsible for assisting with researching and answering the candidate's correspondence.

January 1972 to January 1975

COMMUNICATIONS SPECIALIST
STATE OF CALIFORNIA, Sacramento

- °° Responsible for clarifying issues, providing information on state government, and evaluating suggestions from citizens as member of then-Governor Reagan's staff.
- °° In May 1972 promoted to Director Verne Orr's staff at State Department of Finance to review, research, and prepare written statements to individuals and other government bodies on tax, budget, and finance issues over the signature of the Director.
- °° Also responsible for reviewing and clarifying language in the annual budget and State Administrative Manual and for bill analysis.

September 1960 to April 1968

STAFF WRITER - INVESTIGATIVE REPORTER
THE OAKLAND TRIBUNE, Oakland, California.

- oo Responsible for researching and writing both news and feature articles for daily readership of over one-half million people.
- oo Conferred on a regular basis with officials from all levels and branches of government, community leaders, sports figures, and people with special circumstances.
- oo In 1964 selected for the California Teachers Association's John Swett Award for distinguished reporting in a series of articles on education finance issues.
- oo Specialized in reporting and writing on education issues at all levels, pre-school through college, and covered routine school matters as well as school unification elections, formation of new community college districts, and establishment of new colleges.
- oo In 1968 offered the position of Education Editor but declined in order to join new Reagan Administration in Sacramento.

EDUCATION

Oakland High School, Oakland, California, 1951-56.
San Jose State University, San Jose, California, 1956-60.

REFERENCES

The Honorable Faith Ryan Whittlesey
Assistant to the President
The White House
Washington, D.C. 20500

The Honorable Richard G. Darman
Assistant to the President
The White House
Washington, D.C. 20500

The Honorable Craig Fuller
Assistant to the President
The White House
Washington, D.C. 20500

Mrs. Julia Flier
Director
Immanuel Presbyterian
Nursery School
Los Angeles, California

COMMITTEE ON FINANCE

EXECUTIVE SESSION

TUESDAY, JULY 31, 1984

Room SD-215

10:00 a.m.

AGENDA

1. Committee amendment to H.R. 3398:

   a. Miscellaneous Tariff Bills
   (ATTACHMENT A)

   b. Extension of Generalized System of Preference (S. 1718)
   (ATTACHMENT B)

   c. Negotiation authority for U.S.-Israel Free Trade Area (S. 2746)
   (ATTACHMENT C)

2. Retirement Equity Act of 1984, H.R. 4280 (ATTACHMENT D)

3. ITC Report on Footwear (ATTACHMENT E)

4. S. 1351, (trade with nonmarket economies) and
   S. 2139, (Comprehensive Trade Law Reform) (Senator Heinz request)

NONCONTROVERSIAL TARIFF BILLS, AS MODIFIED

	Bill (Sponsor)	Subject	Purpose	Modification
1.	S. 2426 (Heinz)	magnesium chloride and nitrate	duty suspension	eliminate retroactivity
2.	S. 2427 (Heinz)	potassium mixtures	duty suspension	eliminate retroactivity
3.	S. 2428 (Exon)	lampposts	duty classification	maintain current duty
4.	S. 2440 (Randolph)	benzoid chemicals	duty suspension	eliminate one chemical
5.	S. 2479 (Bentsen)	naphthas	reclassification	maintain current duty
6.	S. 2542 (Heinz)	lace-braiding machines	duty suspension	limit to decorative machines
7.	S. 2642 (Goldwater)	yttrium	duty suspension	correct erroneously drafted bill
8.	S. 2839 (Moynihan)	sets of wearing apparel	reclassification	correct technical language of bill
9.	S. 2867 (Baucus)	two spectrometers	duty refund	authorize reopening of duty protest

REVISED

NONCONTROVERSIAL TARIFF BILLS

	Bill (Sponsor)	Subject	Purpose
1.	S. 1954 (Johnston)	geophysical equipment	make duty-free
2.	S. 2022 (Moynihan)	Diphenyl guanidine & di-ortho-tolyl guanidine	duty suspension
3.	S. 2054 (Symms)	rifampin	duty suspension
4.	S. 2055 (Symms)	desipramine hydrochloride	duty suspension
5.	S. 2056 (Symms)	mepenzolate bromide	duty suspension
6.	S. 2092 (Bentsen)	zinc	continue duty suspension
7.	S. 2172 (Wallop)	elomiphene citrate	duty suspension
8.	S. 2197 (Wallop)	Terfenadine	duty suspension
9.	S. 2198 (Wallop)	bicyclomine hydrochloride	duty suspension
10.	S. 2332 (Bentsen)	4-O-beta-D-Galactopyrano-syl-D-fructose	duty suspension
11.	S. 2333 (Bentsen)	iron-dextran complex	duty suspension
12.	S. 2334 (Bentsen)	nicotine resin complex	duty suspension
13.	S. 2493 (Moynihan)	tartaric acid	continue duty suspension
14.	S. 2596 (Matsunaga)	Buddhist scrolls	duty-free
15.	S. 2613 (Heinz)	circular knitting machines	duty suspension
16.	S. 2739 (Dodd)	uncompounded allyl resins	continue duty suspension
17.	S. 2787 (Heinz)	O-Benzyl-p-chlorophenol	duty suspension
18.	S. 2838 (Chafee)	narrow fabric looms	duty suspension
19.	S. 2865 (Dole)	aircraft parts	duty-free
20.	---- (Dole)	to change effective dates of bills on H.R. 3398	
21.	---- (Dole)	to clarify provision of H.R. 3398 providing for import of antique guns	

REVISED

CONTROVERSIAL TARIFF BILLS

	Bill (Sponsor)	Subject	Purpose	Reason for Controversy
1.	S. 2010 (Tsongas)	snapblade knives	duty suspension	Administration objects
2.	S. 2156 (Warner)	carob flour	repeal duty suspension	Importers object
3.	S. 2288 (Levin)	chipper knife steel	reduce further partial current duty suspension	Specialty Steel & Iron & Steel Institute object
4.	S. 2293 (Levin)	Kalamazoo school bells	duty-free entry	Administration objects because would be unilateral concession despite existence of competing domestic company
5.	S. 2429 (Packwood)	filberts	duty increase	Association of Food Industries & importing companies object
6.	S. 2439 (Randolph)	certain surface active agents	duty suspension	Administration objects because there is a U.S. producer
7.	S. 2441 (Randolph)	nitrogenous compounds	duty suspension	Domestic producer objects
8.	S. 2712 (Johnston)	neckties	duty increase	Retailers & Administration object because it would break tariff bindings
9.	S. 2827 (Moynihan)	silicones	reclassification	Administration opposes because it would increase tariffs contrary to bindings

ATTACHMENT A

MISCELLANEOUS TARIFF BILLS

Background materials are provided on the following miscellaneous tariff bills that have been referred to the committee:

S. 1954 Page 1
S. 2010 Page 3
S. 2022 Page 4
S. 2054 Page 5
S. 2055 Page 6
S. 2056 Page 7
S. 2092 Page 8
S. 2156 Page 9
S. 2172 Page 11
S. 2194 Page 12
S. 2197 Page 14
S. 2198 Page 15
S. 2288 Page 16
S. 2293 Page 17
S. 2317 Page 18
S. 2332 Page 19
S. 2333 Page 20
S. 2334 Page 21
S. 2426 Page 24
S. 2427 Page 25
S. 2428 Page 26
S. 2429 Page 27
S. 2439 Page 29
S. 2440 Page 30
S. 2441 Page 31
S. 2479 Page 32
S. 2493 Page 34
S. 2542 Page 36
S. 2596 Page 37
S. 2613 Page 38
S. 2642 Page 39
S. 2712 Page 41
S. 2739 Page 43
S. 2787 Page 44
S. 2827 Page 45
S. 2838 Page 47
S. 2839 Page 48
S. 2865 Page 50
S. 2867 Page 52

S. 1954

S. 1954 would apply duty-free treatment with respect to articles exported for purposes of rendering certain geophysical or contracting services abroad and returned.

Current law.--The foreign-manufactured articles covered by this legislation are not separately provided for in the TSUS. They are currently provided for in, and account for varying percentages of the value of imports which enter under, numerous TSUS item numbers, chiefly in schedule 6 of the TSUS. The rates of duty applicable to such imported equipment vary, but most of the equipment does not enter free of duty. The proposed item 802.50 would allow the subject articles to enter free of duty from all sources, if exported for the specified temporary uses abroad and if other criteria are met.

The bill.--H.R. 2471, the comparable House bill, has been ordered reported by the House Ways and Means Subcommittee on Trade. S. 1954 would establish a new provision in subpart A of part 1 of schedule 8 of the TSUS to provide duty-free treatment for articles exported for purposes of rendering certain geophysical or contracting services abroad and returned. The foreign-manufactured equipment used in connection with the exploration, extraction, or development of natural resources abroad and subsequently returned to the United States is currently classifiable in various provisions (chiefly in schedule 6) of the TSUS. This legislation would create a new tariff item in schedule 8 (proposed item 802.50) with an MFN rate of duty of free and a non-MFN rate of duty of free. Most of the provision in which these articles are now classified do not provide for duty-free entry regardless of source, so the applicable rates would be eliminated as to such articles if the legislation is enacted.

The intent of the legislation is to allow duty-free entry of foreign-manufactured articles which are being returned to the United States after having been exported for temporary use abroad solely in the rendering of the specified geophysical or contracting services, provided that the equipment is reimported into the United States by the same party who exported the equipment.

Administration position.--No objection.

Background.--Most U.S. firms which own and operate the subject foreign-manufactured equipment are currently liable for payment of duties each time such equipment is exported for use in rendering certain geophysical or contracting services abroad and later returned. If the duty for each article were payable only upon its initial importation, the U.S. firms would benefit from the subsequent duty savings and thus potentially be more competitive with foreign-based firms.

Domestically produced equipment which is exported and returned without having been advanced in value or improved in condition is currently provided for in TSUS item 800.00. No separate data are available concerning the value of U.S.-produced equipment which is comparable to or competitive with the wide variety of articles classifiable in the proposed tariff item;

there may in some instances be no domestic products which may be substituted for foreign manufactures.

S. 2010

The bill would establish a new item in the TSUS for certain knives having movable blades (snap blade knives) and components thereof.

Current law.--Assembled snap blade knives covered by this bill are entered under TSUS item 649.83, knives with folding or other than fixed blades or attachments (other than knives with ornamented steel handles) valued over $6.00 per dozen. The MFN rate of duty for these knives is 5¢ each plus 8.4 percent ad valorem; the LDDC rate is 3¢ each plus 5.4 percent ad valorem; and the non-MFN rate is 35¢ each plus 55 percent ad valorem. The ad valorem equivalent (AVE) of this MFN rate of duty based on 1982 imports is approximately 12 percent. Parts of such knives imported separately are classified in TSUS item 649.85, covering "blades, handles, and other parts", with an MFN rate of duty of 1.6¢ each plus 8.4 percent ad valorem; an LDDC rate of 1¢ each plus 5.4percent ad valorem; and a non-MFN rate of 11¢ each plus 55 percent ad valorem. The MFN rates for both of these TSUS items are being staged under the MTN agreement of the Tokyo round of trade negotiations.

Imports under both item 649.83 and item 649.85 are eligible for preferential treatment under the Generalized System of Preferences. In addition, imports of such articles from beneficiary countries are eligible for duty-free entry under the Caribbean Basin Program.

The bill.--H.R. 2851, a comparable bill, has been passed over by the House Ways and Means Trade Subcommittee. The new tariff item established by this legislation would have lower rates of duty than are currently imposed, would provide for decreasing rates of duty for snap blade knives under either the MFN or the LDDC column of the TSUS during 1984-87. It would also require that the articles covered by the new item be designated as eligible for benefits under the Generalized System of Preferences, so that imports from beneficiary developing countries would continue to receive duty-free treatment. Finally, the legislation would amend the superior heading to TSUS items 649.71 through 649.85 by inserting "other than knives provided for in item 649.67"; this language would except the knives covered by the new item from the scope of the superior heading as amended.

The apparent purpose of the legislation is to lower the customs duties on snap blade knives, since imports account for virtually all of U.S. consumption.

Administration position.--Unknown.

Background.--While one U.S. firm is known to assemble snap blade knives with foreign components, there are, apparently, no domestic manufacturers of complete snap blade knives. Accordingly, the current duty levied is not protecting American manufacturers but is hindering American distributors.

S. 2022

S. 2022 would suspend temporarily the duty on diphenyl guanidine and di-ortho-tolyl guanidine.

Current law.--Imports of diphenyl guanidine and di-ortho-tolyl guanidine presently enter with a MFN duty rate of 17.3 percent ad valorem. This rate is scheduled to decrease in stages to 15 percent ad valorem by January 1, 1987, as a result of concessions made in the Tokyo Round of trade negotiations. Diphenyl guanidine and di-ortho-tolyl guanidine are not eligible for duty-free treatment under the U.S. GSP program.

The bill.--H.R. 3445, a comparable House bill, was ordered reported by the House Ways and Means Subcommittee on Trade. S. 2022 would suspend the MFN duty until June 30, 1987, on imports of diphenyl guanidine and di-ortho-tolyl guanidine that enter under TSUS item 405.52. The non-MFN rate of duty is unaffected by this bill.

Administration position.--No objection.

Background.--Enactment of S. 2022 should have no adverse impact on U.S. producers as no U.S. producer makes these chemicals, and substitutes do not function as well nor are as environmentally sound. Duty suspension arguably would enhance the competitive position of U.S. users of the chemicals which serve as accelerators in the vulcanization of rubber.

S. 2054

S. 2054 would amend the Appendix to the TSUS by adding a new item to suspend for a three-year period the MFN rate of duty on the chemical 3- (4-methylpiperazinyliminomethyl) rifamycin SV.

Current law.--The generic name for this drug is rifampin. Rifampin is classified under TSUS item 437.32 as an antibiotic. The current MFN rate of duty is 4.4% ad valorem. The non-MFN rate of duty is 25 percent ad valorem. Imports from designated beneficiary developing countries under TSUS item 437.32 are eligible for duty-free entry under the GSP. The LDDC rate of duty is 3.7 percent ad valorem. The MFN rate for this TSUS item is being staged down under the MTN agreement of the Tokyo round and is scheduled to reach 3.7 percent ad valorem by 1987.

The bill.--A comparable bill, H.R. 3742, has been ordered reported by the House Ways and Means Subcommittee on Trade. Although the bill suspends the MFN rate of duty, the non-MFN rate of duty on this drug would remain unchanged.

Administration position.--No objection.

Background.--Rifampin is a broad-spectrum antibiotic effective against many bacteria, that is used in combination with at least one other antituberculosis agent in the treatment of tuberculosis. Rifampin is not produced in the United States, nor has it been produced domestically within the last five years. Imports are approximately 22,000 pounds per year, valued at roughly $10 million.

S. 2055

S. 2055 would amend the Appendix to the TSUS to suspend for a 3-year period the MFN rate of duty on a chemical whose generic name in the United States is desipramine hydrochloride.

Current law.--Desipramine hydrochloride is classified under TSUS item 412.35 as an antidepressant drug provided for in the Chemical Appendix to the TSUS. The MFN rate of duty is 30.5 percent ad valorem. The non-MFN rate of duty is 7¢ per pound plus 149.5 percent ad valorem. Imports from designated beneficiary developing countries under TSUS item 412.35 are not eligible for duty-free entry under the GSP. The LDDC rate of duty is 16.6 percent ad valorem.

The bill.--A comparable bill, H.R. 3741, has been ordered reported by the House Ways and Means Subcommittee on Trade. Although the bill suspends for a 3-year period the MFN rate of duty on the chemical drug whose generic name is desipramine hydrochloride, the non-MFN rate would remain unchanged. Because the drug is not manufactured in the United States, a suspension of the duty on this drug should enable pharmaceutical enterprises in the United States to obtain needed active ingredients at a lower cost without adversely affecting a domestic industry, thus enhancing the competitiveness of the domestic manufacturers.

Administration position.--No objection.

Background.--There is, apparently, no domestic production of desipramine hydrochloride. Imports are approximately 10,000 pounds per year valued at $1.0 million. The chemical is an intermediate used by an American chemical company, operating under an exclusive licensing agreement with the European patent-holder, to manufacture and market an antidepressant product from this intermediate. There is no current U.S. production of any competing product.

S. 2056

S. 2056 would suspend for a 3-year period the MFN rate of duty on a chemical whose U.S. generic name is mepenzolate bromide.

Current law.--Mepenzolate bromide is classified under TSUS item 412.02 as an autonomic drug provided for in the Chemical Appendix to the TSUS. The current MFN rate of duty is 14.1 percent ad valorem. The non-MFN rate of duty is 7¢ per pound plus 71.5 percent ad valorem. Imports from designated beneficiary developing countries under TSUS item 412.02 are not eligible for duty-free entry under the GSP. The LDDC rate of duty is 8.2% ad val.

The bill.--A comparable House bill, H.R. 3740, has been ordered reported by the House Ways and Means Subcommittee on Trade. Although the bill would suspend for a 3-year period the MFN rate of duty on mepenzolate bromide, the non-MFN rate of duty would remain unchanged. This proposed suspension would enable domestic pharmaceutical enterprises to obtain a needed active ingredient at a lower cost without adversely affecting a domestic industry and thus enhance the competitiveness of domestic manufacturers.

Administration position.--No objection.

Background.--Mepenzolate bromide occurs as a white crystalline powder that is sparingly soluble in water. It is used in the management of diseases of the colon associated with inflammation, hypermobility, and spasm. Currently, there is no U.S. production of this drug. An exclusive licensing agreement precludes development of domestic production during the period of the proposed duty suspension.

S. 2092

S. 2092 would extend to June 30, 1989, the temporary suspension in the MFN rate of duty for certain forms of zinc.

Current law.--The existing temporary suspension in the MFN rate of duty applies to zinc-bearing ores; zinc dross and zinc skimmings; zinc-bearing materials; and zinc waste and scrap.

The duty on these items was originally suspended in 1975 for a 3-year period since U.S. mines did not have sufficient capacity to satisfy demand; it also was recognized that other major zinc-producing countries permit the importation of ores and concentrates free of duty. This temporary duty suspension expired on June 30, 1978. Public Law 96-467, effective October 17, 1980, retroactively restored the temporary duty suspension, which continued until June 30, 1984.

The bill.--H.R. 4443, a comparable House bill, has been ordered reported by the House Ways and Means Subcommittee on Trade. S. 2092 would continue the temporary suspension of the MFN duties on zinc-bearing ores, zinc dross and skimmings, zinc-bearing materials and zinc waste and scrap from July 1, 1984, to the close of June 30, 1989. This temporary duty-free status has been effective since July 1, 1975. If the duty suspension were to lapse, the final duties would be those in effect when the staging of concessions made in the Tokyo round of trade negotiations is completed. All items are eligible for duty-free treatment under the GSP, except zinc waste and scrap, item 626.10. The bill would assure domestic zinc smelters and refiners of continued access to raw materials on a basis competitive with that available to foreign producers.

Administration position.--No objection.

Background.--Imports of these zinc materials are important to the United States because U.S. zinc mines, even when operating at full capacity, cannot produce sufficient ores and concentrates to meet the raw material needs of U.S. zinc smelters and refiners. The downward trend in U.S. production is attributable to low ore grades, low by-product values, high production costs, and exhaustion of ore reserves. The U.S. Bureau of Mines estimates that in 1983 domestic mine production was 315,000 tons and U.S. apparent consumption was 1 million tons. Thus, domestic supplies of zinc raw materials are inadequate to meet the requirements of the zinc smelting industry. Prior to the 1975 enactment of the duty suspension, the United States was the only major zinc metal producing country which imposed a tariff on these raw material imports. This tariff placed U.S. zinc smelters and refiners at a competitive disadvantage in the acquisition of these materials. Domestic producers of zinc alloys have opposed enactment of this bill unless the duty on unwrought slab zinc is also suspended. In the past, the duty suspension for zinc has not extended to unwrought slab.

S. 2156

S. 2156 would repeal the existing suspension of the duty on carob flour.

Current law.--Carob flour is classified for duty purposes under TSUS item 152.05, the provision for "fruit flours other than banana and plantain flours." The MFN rate of duty of 15 percent ad valorem was suspended effective January 27, 1983, upon enactment of P.L. 97-446, section 123, until December 31, 1984. Imports under TSUS item 152.05 are eligible articles for purposes of the GSP; thus, imports from all beneficiary developing countries or areas designated by the President, as set forth in general headnote 3(c) of the TSUS, may be entered duty-free. Similarly, imports from designated Caribbean Basin countries are eligible for duty-free entry. No preferential rate for imports from least developed countries (LDDC's) has been granted. The bill would have no effect on the non-MFN rate of duty of 20 percent ad valorem applicable under TSUS item 152.05 and not modified under the duty suspension of item 903.69.

Fruit flours, other than carob flour, and other products of the carob tree, such as locust bean and locust bean gum which enter under different TSUS items, would not be affected by the proposed legislation since the rates of duty applicable to such other flours are not now temporarily modified by item 903.69.

The bill.--H.R. 4321, a comparable bill, was passed over by the House Ways and Means Trade Subcommittee. Item 903.69 of the TSUS now provides for the duty suspension on carob flour. S. 2156 would repeal this suspension. Carob flour is classified in TSUS item 152.05, a provision for fruit flours other than banana and plantain flours, which has a MFN rate of duty of 15 percent ad valorem. On January 27, 1983, carob flour imported from MFN countries became temporarily free of duty until December 31, 1984. The bill would reinstate the 15 percent ad valorem MFN rate of duty for U.S. imports of carob flour effective upon the day of enactment.

Administration position.--No objection.

Background.--Carob flour is produced from the carob tree which is an evergreen native mainly to the Eastern Mediterranean region. Consumers and food manufacturers use carob flour as a substitute for chocolate. Carob products are in increasing demand in the United States because carob flour--unlike chocolate--contains no caffeine or theobromine.

Because the carob tree is not commercially grown in the United States, there is no domestic production of the crude carob kibbel or the carob seed (the locust bean). There are two domestic processors of carob kibbels into carob flour which account for approximately 38 percent of the average domestic consumption of carob flour. Crude carob kibbels enter free of duty under TSUS item 193.25.

U.S. imports of carob flour averaged approximately 4.4 million pounds during 1978-82. Imports of carob flour in 1978 supplied an estimated 57 percent of domestic consumption; the share of consumption supplied by imports then rose irregularly to 75 percent in 1982. Importers of carob flour are opposed to this bill because the bill would reimpose a 15 percent duty on carob flour imports while permitting carob kibbels to be imported duty-free. This would, they argue, afford domestic processors of carob kibbels an unfair advantage over importers of the carob flour.

S. 2172

S. 2172 would suspend for a three-year period the duty on clomiphene citrate.

Current law.--Clomiphene citrate is classified under TSUS item 412.50 as a hormone, synthetic substitute, or antagonist not provided for in the Chemical Appendix to the TSUS. The MFN rate of duty is 8.7 percent ad valorem and has been in effect since July 1, 1980. The current MFN rate reflects the full U.S. Multilateral Trade Negotiations concession rate implemented without staging for articles classifiable under TSUS item 412.50. The pre-MTN rate was 1.7¢/lb plus 12.5 percent ad valorem until June 30, 1980. The non-MFN rate of duty is 7¢/lb plus 78.5 percent ad valorem.

Imports from designated beneficiary developing countries under TSUS item 412.50 are not eligible for duty-free entry under the GSP. The LDDC rate of duty is the same as the MFN rate of duty.

The bill.--H.R. 3313, a comparable House bill, was ordered reported by the House Ways and Means Subcommittee on Trade. S. 2172 would amend the Appendix to the TSUS to suspend for a three-year period the MFN rate of duty on the chemical 2-{4-(2-chloro-1,2-diphenylethenyl)-phenoxy}-N,N-diethylethanamine dihydrogen citrate. The non-MFN rate would not be affected. The U.S. generic name for this drug is clomiphene citrate.

Administration position.--No objection.

Background.--Clomiphene citrate has both estrogenic and anti-estrogenic properties. The drug is used to induce ovulation in anovulary women. In addition, clomiphene citrate is used in small doses as a gonad stimulating agency in therapy for male infertility. Enactment of this bill should hve no adverse effect on domestic producers of like or competitive products. There is no domestic production of this fertility drug. The domestic market is served entirely by imports. The drug has a very limited but highly specific use.

S. 2194

S. 2194 would amend general headnote 3(a) of the TSUS to align more closely the valuation criterion used in determining eligibility for free entry from the insular possessions with the content requirement contained in the GSP and the CBI statutes.

Current Law.--General headnote 3(a) is intended to advance the economic development of the insular possessions by encouraging the location of assembly, processing and manufacturing operations in the possessions. The possessions of the United States primarily benefited by this headnote are the Virgin Islands, American Samoa, and Guam. In addition, general headnote 3(a) applies to imports from some of the Northern Mariana Islands. Development in the possessions is encouraged by allowing the free entry of products which are the growth or product of a possession, or manufactured or produced in a possession from materials which are the growth, product, or manufacture of the possession. The article must come into the United States directly from the possession and it cannot contain foreign materials to the value of more than 70 percent of the total value of the article (or more than 50 percent of total value with respect to articles described in section 213(b) of the Caribbean Basin Economic Recovery Act). In determining whether the article contains more than 70 percent (or 50 percent) foreign materials, a comparison is made between the landed cost (actual purchase price plus transportation to the possession) of the foreign materials used in the article and the final appraised value of the article brought into the United States. Thus, anything added in the possession over and above the landed cost of the foreign materials will be considered part of the contribution of the insular possession, so long as it forms part of the total appraised value of the article. This would include any amount of the final appraised value which represents "profit" to the shipper in the insular possession.

The GSP and CBI systems are also designed to encourage development in certain countries. However, a different method from that used for insular possessions is used under the GSP and the CBI to determine whether an article containing some foreign materials may qualify for duty-free entry. If the article is not wholly the growth or product of the beneficiary country, the cost or value of the materials produced in the beneficiary country plus the direct cost of processing operations performed in the country must not be less than 35 percent of the appraised value of the article. Costs not directly attributable to the specific merchandise, such as profit or general expenses, are excluded from the direct cost of processing. In order to be included in the cost of materials for purposes of satisfying the 35 percent contribution requirement contained in the GSP, constituent materials of the article must be either the growth, product or manufacture of the beneficiary country, or they must be substantially transformed in the beneficiary country into a new and different article of commerce, which is then used in the production of the eligible article. The Customs Service has also required under the GSP that where the final product is not wholly the growth, product or manufacture of a beneficiary developing

country, it must itself undergo a substantial transformation during the course of its production. Under the CBI statute, the Secretary of the Treasury is ordered to prescribe regulations providing that in order to be eligible for duty-free treatment, an article must be wholly the growth, product, or manufacture of a beneficiary country, or it must be a new or different article of commerce, grown, produced, or manufactured in the beneficiary country. No mention is made in the CBI statute of a requirement that the constituent materials of the article which are of non-CBI origin undergo a "prior" substantial transformation in the CBI country in order to be considered in determining whether the 35 percent requirement has been satisfied. However, the CBI statute does leave open the possibility for other regulations to carry out its purposes and Customs may adopt such a regulation.

The bill.--H.R. 4560, a comparable House bill, has not been considered by the House Ways and Means Trade Subcommittee. S. 2194 would amend general headnote 3(a) of the TSUS to change the valuation criterion used in determining eligibility for free entry as a product of an insular possession in order to make it similar to the content requirement contained in the GSP and CBI statutes. The legislation is designed to tighten the valuation requirements used in connection with products of the insular possessions in order to prevent foreign suppliers form avoiding tariffs by shipping products through United States insular possessions and thereby qualifying them for duty-free entry. This bill was intended primarily to deal with woolen imports of Czechoslovakian origin which are being imported duty-free from the Virgin Islands.

Administration position.--Unknown.

Background.--See current law section.

S. 2197

S. 2197 would amend the Appendix to the TSUS to suspend, until June 30, 1986, the MFN rate of duty on the chemical terfenadine.

Current law.--Terfenadine has been imported into the United States for clinical trials under TSUS item 411.58 as an antihistamine not provided for in the Chemical Appendix to the TSUS. The MFN rate of duty is 9.2 percent ad valorem and has been in effect since July 1, 1980. The current MFN rate reflects the full U.S. MTN concession rate implemented without staging for articles classified under TSUS item 411.58. The pre-MTN rate was 1.7¢/lb plus 12.5 ad valorem until June 30, 1980. The non-MFN rate of duty is 7¢/lb plus 82 percent ad valorem.

Imports from designated beneficiary developing countries under TSUS item 411.58 are not eligible for duty-free entry under the GSP. The LDDC rate of duty is the same as the MFN rate of duty.

The bill.--H.R. 3312, a comparable bill, has been ordered reported by the House Ways and Means Trade Subcommittee. Although S. 2197 would suspend the MFN rate of duty on chemical terfenadine until June 30, 1986, the non-MFN rate of duty applicable to this product would not be affected.

Administration position.--No objection.

Background.--Terfenadine is not produced in the United States. It is an intermediate used by one U.S. company to produce a new antihistimine product. The company obtains the intermediate from its wholly owned, foreign subsidiary and produces the end product under an exclusive licensing agreement with the European patentholder. The licensing agreement will not expire before the end of the duty suspension.

S. 2198

S. 2198 would amend the Appendix to the TSUS to suspend until June 30, 1986, the MFN rate of duty on chemical dicyclomine hydrochloride.

Current law.--Dicyclomine hydrochloride is classified under TSUS item 412.02 as an autonomic drug provided for in the Chemical Appendix to the TSUS. The current MFN rate of duty is 12.6 percent ad valorem. The non-MFN rate of duty is 7¢/lb. plus 71.5 percent ad valorem. Imports from designated beneficiary developing countries under TSUS item 412.02 are not eligible for duty-free entry under the GSP. The LDDC rate of duty is 8.2 percent ad valorem.

The bill.--H.R. 3311, a comparable House bill, has been ordered reported by the House Ways and Means Subcommittee on Trade. Although S. 2198 would suspend until June 30, 1986, the MFN rate of duty on chemical dicyclomine hydrochloride, the non-MFN rate of duty would remain unchanged.

Administration position.--No objection.

Background.--No company in the United States produces this chemical. It is imported from a subsidiary of a U.S. company. The subsidiary has an exclusive license to produce the chemical. The exclusive license agreement and the patent will not expire before the end of the duty-free treatment period. Dicyclomine hydrochloride is an autonomic drug that acts as an anticholinergic agent. It is used in the symptomatic treatment of disorders of the gastrointestinal tract, such as spastic colitis, ulcerative dolitis, etc.

S. 2288

S. 2288 would extend duty-free treatment for imports of chipper knife steel.

Current law.--Chipper knife ally tool steel, not cold formed, is provided for in TSUS item 606.93, subpart B, part 2, schedule 6 of the TSUS at a MFN rate of duty of 8.3 percent ad valorem plus additional duties on certain alloys, and a non-MFN rate of duty of 28 percent ad valorem plus additional duties on certain alloys. Imports from least developed developing countries (LDDC's) are dutiable at 6 percent ad valorem plus additional duties. However, as indicated in item 911.29 in the Appendix to the TSUS, the MFN duty rate for chipper knife steel has been temporarily reduced to 4.0 percent ad valorem effective until December 31, 1984.

Under the terms of Presidential Proclamation 4707 of December 11, 1979 (44 F.R. 72348, 72490), the MFN 1 rate under item 606.93 is being reduced in annual stages to the final rate of 6 percent ad valorem plus additional duties effective January 1, 1987.

The bill.--H.R. 4765, a comparable House bill, has been ordered reported by the House Ways and Means Trade Subcommittee. S. 2288 would amend item 606.93 in subpart B of part 2 of schedule 6 of the TSUS to provide permanent duty-free treatment to imports, from countries entitled to MFN treatment, of chipper knife steel which is not cold formed, effective April 1, 1985. The non-MFN rate of duty would remain unchanged.

Administration position.--No objection.

Background.--The tariff increase that would take place on April 1, 1985, in the absence of this legislation, would lead to a tariff anomaly. The tariff on chipper knife steel, the raw material, will be higher than the tariff of 4 percent ad valorem on chipper knives, the finished product. That will be in effect on April 1, 1985. Elimination of the duty on chipper knife steel after April 1, 1985, is not expected to have an adverse effect on domestic manufacturers of chipper knife steel. At the present time there is no significant domestic production of this grade of specialty steel; therefore, it was exempt from specialty steel import quotas. Chipper knife producers are largely dependent on imports to meet their raw material requirements. Elimination of the duty on chipper knife steel would contribute toward the efforts of the domestic chipper knife industry to reduce costs and increase its competitive position against foreign producers of these knives.

Tool steels are used primarily to make tools capable of cutting, forming or otherwise shaping other materials in the manufacture of virtually all industrial products. They are made in small lots under very high quality control conditions.

S. 2293

S. 2293 would provide for the duty-free entry of a ring of eight bells manufactured in England and imported for the use of Kalamazoo College in Kalamazoo, Michigan.

Current law.--A ring of eight bells is classifiable under item 725.34 of the TSUS. This item provides for sets of tuned bells known as chimes, peals, or carillons, containing not over 22 bells. The MFN rate of duty is currently 4.2 percent ad valorem. The LDDC rate is 3.7 percent ad valorem and the non-MFN rate is 40 percent. Imports under item 725.34 from designated beneficiary developing countries are eligible for duty-free entry under the GSP. Imports from designated Caribbean Basin countries are eligible for duty-free entry in accordance with the CBI. Item 725.34 is subject to staged tariff rate reductions which will reach 3.7 percent ad valorem in 1987 under the MFN rate.

The bill.--There is no comparable House bill. S. 2293 would provide the duty-free entry of a ring of eight bells manufactured in England and imported for the use of Kalamazoo College in Kalamazoo, Michigan. Section (b) of the legislation provides for a refund of any duty paid if the bells had already been entered and liquidation had become final by the time the bill becomes effective.

Administration position.--The Administration opposes this bill as a unilateral reduction in duties which does not enhance the overall competitiveness of U.S. industries in domestic and foreign markets by providing new opportunities for U.S. exporters. The Administration points out that rather than enhancing the competitive position of U.S. industry, the proposed legislation would remit duty payments solely to the benefit of one private party.

Background.--There currently is only one producer of comparable bells left in the United States. A refund of the duty arguably creates an unfair competitive situation for the one domestic manufacturer whose market is largely comprised of non-profit organizations.

S. 2317

S. 2317 would suspend for three years the duty on crude 8+5 hydroxyquinolines.

Current law.--As a result of the Trade Agreements Act of 1979, mixtures of 5-hydroxyquinoline and 8-hydroxyquinoline are presently classified in TSUS item 407.16. Item 407.16 is a residual classification for mixtures in whole or in part of any of the products provided for in subpart B of part 1 of schedule 4 of the TSUS. Item 407.16 has a MFN rate of duty of 1.7¢/lb plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material. The non-MFN rate of duty is 7¢/lb plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. The MFN rate of duty is not scheduled for annual staged reductions within the framework of the Tokyo Round. Imports of this mixture from beneficiary developing countries other than Venezuela may be eligible for duty-free entry under the GSP. Venezuela was made ineligible for GSP treatment under item 407.16 effective March 31, 1983. Imports from designated Caribbean countries may be eligible for duty-free entry under the CBI.

The bill.--H.R. 4790, a comparable House bill, was passed over by the House Ways and Means Subcommittee on Trade. S. 2317 would temporarily suspend the MFN rate of duty for mixtures of 5-hydroxyquinoline and 8-hydroxyquioline classified in item 407.16 of the TSUS. The bill would amend subpart B of part 1 of the Appendix to the TSUS to add a new item, 907.09, providing for free entry of this chemical from MFN countries for three years after the date of enactment. The non-MFN rate of duty would remain unchanged.

Administration position.--The Administration opposes this bill as a unilateral tariff reduction which affects the posture of U.S. producers without providing new export opportunities for U.S. producers.

Background.--According to the International Trade Commission, mixtures of 5-hydroxyquinoline and 8-hydroxyquinoline are not produced in commercial quantities in the United States. The only domestic importer has not been successful in its efforts to find a domestic source. According to the importer, domestic firms have not found it economically feasible to produce the mixture at an acceptable price and the quantities required by only one customer. The bill, however, is opposed by a domestic manufacturer of crude 8+5 hydroxyquinoline which argues that it will be adversely affected by the elimination of import duties on foreign crude 8+5 hydroxyquinolines.

S. 2332

S. 2332 would suspend for a three-year period the duty on lactulose.

Current law.--Lactulose is classified in subpart C of schedule 4, part 3 under TSUS item 439.50 which provides for other drugs, including synthetic drugs. The current rate duty for MFN and LDDC countries is 3.7 percent ad valorem. The non-MFN rate of duty is 25 percent. Articles imported from designated beneficiary countries and classified under TSUS 439.50 are eligible for duty-free entry under the GSP. Imports from designated beneficiary Caribbean Basin countries are eligible for duty-free entry under the CBI.

The bill.--H.R. 4223, a comparable House bill, has been ordered reported by the House Ways and Means Subcomittee on Trade. S. 2332 would amend the Appendix to the TSUS to suspend for a three-year period the MFN rate of duty on lactulose. The non-MFN rate would remain unchanged. The chemical name for the drug is 4-O-beta-D-Galactopyranosyl-D-fructose.

Administration position.--No objection.

Background.--Enactment of S. 2332 should not have an adverse effect on domestic industries since it is not produced in the United States. Lactulose is used in the manufacture of two prescription drugs, one is a laxative used to correct chronic constipation and the other is a drug used to treat PSE, a disease resulting from cirrhosis of the liver. A three-year suspension of the duty on the chemical should not have an adverse effect on domestic manufacturers of other drugs since both of these drugs are unique in application. The sole importer obtains this drug from the Netherlands and is the exclusive licensee of that company's U.S. patents on this product.

S. 2333

This bill would suspend for a three-year period the duty on iron-dextran complex.

Current law.--Iron dextran complex is classified in subpart C of schedule 4, part 3, under TSUS item 440.00 which provides for drugs not provided for in subparts A or B which are imported in ampoules, capsules, jubes, lozenges, pills, tablets, troches, or similar forms, including powders put up in medicinal doses. If it were imported in bulk rather than dosage form, it would be classified in subpart C under TSUS item 439.50. Item 440.00, TSUS, is subject to staged rate reductions in accordance with the Tokyo Round of Multilateral Trade Negotiations.

The current MFN rate of duty for item 440.00 is the rate provided for the product in subpart C, but not less than 4.2 percent ad valorem. The non-MFN rate of duty is the rate provided for the product in subpart C, but not less than 25 percent ad valorem. The LDDC rate of duty is the rate provided for the product in subpart C, but not less than 3.7 percent ad valorem. Since the rates currently in effect for item 439.50 are either the same or lower than these rates, these rates apply to the product.

Articles imported from designated beneficiary developing countries and classified under TSUS item 440.00 are eligible for duty-free entry under the GSP. Imports from designated beneficiary Caribbean Basin countries are eligible for duty-free entry under the CBI.

The bill.--H.R. 4225, a comparable House bill, has been ordered reported by the House Ways and Means Subcommittee on Trade. S. 2333, would amend the Appendix to the TSUS to suspend for a three-year period the MFN rate of duty on an iron dextran complex. The non-MFN rate would remain unchanged. The product is sold under the trademarks Imferon and Proferdex.

Administration position.--No objection.

Background.--Enactment of S. 2333 will not adversely affect a domestic industry since there is no domestic producer of this product. An exclusive licensing agreement with the patentholder precludes development of domestic production during the period of the proposed duty suspension. The product would not adversely impact on other iron complex products because this is a highly unique iron complex administered by injection by a physician.

S. 2334

S. 2334 would suspend for a three-year period the duty on nicotine resin complex.

Current law.--Nicotine resin complex is classified under TSUS item 437.13 as an alkaloid compound based on nicotine. The MFN rate of duty is 4.2 percent ad valorem. The non-MFN rate of duty is 25 percent ad valorem. The LDDC rate is 3.7 percent ad valorem.

Articles imported from designated beneficiariiy developing countries and classified under TSUS item 437.13 are eligible for duty-free entry under the GSP. Imports from designated Caribbean countries are eligible for duty-free treatment under the CBI.

The bill.--H.R. 4224, a comparable House bill, has been ordered reported by the House Ways and Means Subcommittee on Trade. S. 2334 would amend the Appendix to the TSUS to suspend for a three-year period the MFN rate of duty on nicotine resin complex. The trade name of the product is Nicorette.

Administration position.--No objection.

Background.--Nicorette is a prescription chewing gum that has been available for purchase in the United States since March 1984, following FDA approval. Nicorette has been sold for more than five years in Europe and for nearly that long in Canada. When chewed, it releases a small amount of nicotine which is much less than that produced by smoking. It is intended to help smokers who want to wean themselves from the habit. Enactment of S. 2334 will not adversely affect a domestic industry since there is no domestic producer of this product. There is unlikely to be domestic production during the period of suspension because of an exclusive distribution and licensing agreement with the patentholder. The product is unlikely to have an adverse impact on other antismoking aids because this product will be available only with a physician's prescription.

S. 2426

S. 2426 provides for a temporary suspension for the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate.

Current law.--Mixtures of isothiazolinones are classified in TSUS item 432.25 as other mixtures not specially provided for, at an MFN rate of duty of 4.2 percent ad valorem, but not less than the highest rate applicable to any component material. The LDDC and non-MFN rates are, respectively, 3.7 percent and 25 percent ad valorem, but no less than the highest rate applicable to any component material. Articles imported from designated beneficiary countries and classified under TSUS item 432.25 are eligible for duty-free treatment under the GSP. Imports from designated beneficiary Caribbean Basin countries are eligible for duty-free entry under the CBI.

The component material contained in this mixture which has the highest rate of duty if imported as an individual compound is either one of the isothiazolinone compounds. Isothiazolinones are nitrogenous compounds classified under item 425.52, at a MFN rate and LDDC rate of duty of 7.9 percent ad valorem, and a non-MFN rate of 30.5 percent ad valorem. The concession granted with respect to item 425.52 during the Tokyo Round of the Multilateral Trade Negotiations provided for a one-time reduction on July 1, 1980, from 8.4 percent to 7.9 percent ad valorem.

The bill.--H.R. 5338, a comparable House bill, was ordered reported by the House Ways and Means Trade Subcommittee. S. 2426 would amend part 1B of the Appendix to the TSUS to suspend the MFN rate of duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate, provided for in item 432.25, TSUS. The non-MFN rate of duty would remain unchanged. The duty would be suspended with respect to articles entered, or withdrawn from warehouse for consumption, beginning on or after the date of enactment of the legislation and continuing until June 30, 1987. Upon request filed with Customs within ninety days of the date of enactment, the duty would also be suspended with respect to articles entered, or withdrawn from warehouse for consumption, before the enactment of the legislation, if the entry or withdrawal was unliquidated, or the liquidation was not final, on the date of enactment.

Administration position.--No objection.

Background.--Enactment of S. 2426 should not have an adverse impact on domestic industry since no company in the United States produces the product. It is imported from a subsidiary of a U.S. company. The product is a chemical mixture used as a biostat for the inhibition of bacteria growth and industrial production applications and a variety of detergent formulations.

S. 2427

S. 2427 would provide for temporary suspension of the duty on mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants.

Current law.--Mixtures of fenridazon-potassium and its formulation adjuvants are classified as pesticides in TSUS item 408.38, a provision created by Presidential Proclamation 4768 (45 F.R. 45135). Item 408.38 has an MFN duty rate of 0.8¢/lb plus 9.7 percent ad valorem and a non-MFN rate of 7¢/lb plus 31 percent ad valorem. No preferential rate is provided for imports from least developed developing countries. However, articles imported from designated beneficiary developing countries and classified under item 408.38 are eligible for duty-free entry under the GSP and imports from designated Caribbean Basin countries are eligible for duty-free treatment under the CBI. The MFN duty rate is not scheduled to be reduced through staging.

The bill.--H.R. 5339, a comparable House bill, has been ordered reported by the House Ways and Means Trade Subcommittee. S. 2427 would temporarily suspend the MFN rate of duty for mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants, currently classified in item 408.38 of the TSUS. The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add a new item, number 907.13, to provide free entry for the above mixtures from countries entitled to MFN treatment, commencing on the date of enactment and ending on June 30, 1987. Upon request filed with Customs within ninety days of enactment of this legislation, the duty would also be suspended with respect to articles entered, or withdrawn from warehouse for consumption, before the enactment of the legislation, if the entry or withdrawal was unliquidated, or the liquidation was not final, on the date of enactment. The non-MFN rate of duty would remain unchanged.

Administration position.--No objection.

Background.--Fenridazon-potassium is manufactured only in the United States, solely by Rohm and Haas Company for exclusive use by an affiliate, Rohm and Haas Seeds, Inc. Production facilities are located in Philadelphia, PA and Bristol, PA. Rohm and Haas began manufacturing this chemical in 1981 and has patents in the United States and other major western countries. It has no plans to sell this product to any company in the United States or in any other country. According to a company spokesman, demand is currently greater than present production capacity. However, the firm has decided to transfer production to facilities in the United Kingdom rather than build a multi-million dollar plant in the United States dedicated to production of this product.

S. 2428

S. 2428 would create a new tariff item for tapered steel pipes and tubes of certain dimensions which are suitable for use as supports for illuminating articles and for other applications. The bill would reverse a recent court decision classifying the articles as parts of illuminating articles instead of steel pipes and tubes.

Current law.--The Court of Appeals of the Federal Circuit, in reversing the Court of International Trade (CIT), recently held that the articles in question are classifiable under TSUS item 653.39 as parts of illuminating articles, even though unfinished when imported, so long as the pipes and tubes are chiefly used as parts of illuminating articles. The CIT had held that the articles were classifiable as pipes and tubes, of other than alloy iron on steel, under item 610.32.

TSUS item 653.39 has a MFN duty rate of 11.9 percent ad valorem, an LDDC rate of 7.6 percent, and a non-MFN duty rate of 45 percent. The MFN rate is being staged down to 7.6 percent by 1987. Articles imported from designated beneficiary developing countries are eligible for duty-free treatment under the GSP. Imports from designated Caribbean countries are also eligible for free entry under the CBI. Articles imported under TSUS item 610.32 are subject to an MFN rate of 1.9 percent ad valorem.

The bill.--S. 2428 would establish a new tariff item to provide specifically for tapered steel pipes and tubes suitable for illuminating articles and supports, having a diameter of between 5.9 and 7.5 inches and rates of taper from end to end between 0.10 inches and 0.7 inches per foot. The MFN tariff rate would be 19 percent ad valorem, while the non-MFN rate would be 45 percent.

Administration position.--Unknown.

Background.--The tapered steel pipes and tubes of the dimensions specified in this bill are used principally as supports for street and highway lighting, commercial area lighting, sports facility lighting, traffic lighting, and, particularly those pipes and tubes with a base diameter of 30 inches or more, supports for the transmission and distribution of electricity.

There are at least 9 U.S. producers of tapered steel pipes and tubes. U.S. shipments ranged from $150 million to $180 million during 1979-83. Imports are estimated to have accounted for less than 10 percent of U.S. consumption in 1983 (about $18 million). U.S. exports are negligible.

S. 2429

S. 2429 would increase the duties on imported filberts (hazelnuts) to either of two new duty rates, depending upon their grading classification.

Current law.--Shelled, blanched, or otherwise prepared or preserved filberts are classified for duty purposes under TSUS item 145.46. The applicable rates of duty are 8¢ per pound (MFN) and 10¢ per pound (non-MFN). Filberts are not eligible for duty-free entry under the GSP, but are under the CBI.

Imported filberts must meet standards applicable to domestic articles under USDA marketing orders. There are such orders that specify minimum quality standards for both in-shell and shelled filberts. The standards apply to mold, rancidity, insect contamination, and decay. In addition, the State of Oregon maintains three, more restrictive, standards that apply to filberts produced or sold in Oregon.

The bill.--S. 2429 would create two new TSUS items applicable to filberts, distinguished by whether imported nuts satisfy standards set by the State of Oregon as "Oregon No. 1 Grade." Imported filberts failing to satisfy this standard would be subject to an MFN rate of 66¢/pd., and a non-MFN rate of 68¢/pd. All other nuts would be subject to a 16¢/pd. MFN rate, and an 18¢/pd. non-MFN rate. (Both rates exceed current law.)

Administration position.--The Administration opposes the bill because it would violate a GATT tariff binding.

Background.--Filberts, also called hazelnuts, are edible nuts grown commercially in the Mediterranean region and in the Pacific Northwestern part of the United States, mostly in Oregon. They are marketed both in the shell and shelled; the latter products are known as "filbert kernels." Nearly all in-shell filberts sold in the United States are for household consumption during the months of October through December, either alone or in mixtures with other nuts. The level of consumption of in-shell filberts has been relatively constant in recent years, while that of filbert kernels is variable from year to year.

That portion of the domestic filbert crop not entering the in-shell market is either exported or shelled to produce filbert kernels. Most filbert kernels are salted and roasted for use in nut mixes or in confections, although a sizable quantity is also used in the baking industry. Nut mixtures containing filbert kernels and other types of nuts are also sold. All but a small fraction of the imported filberts comprise raw filbert kernels, not otherwise prepared or preserved, which compete directly with domestic raw filbert kernels. Small quantities of roasted and salted filbert kernels are also imported.

During 1979-83, U.S production of filberts increased irregularly from 26 million pounds (in-shell basis) in 1979 to a record 38 million pounds in 1982, before declining sharply to 15 million pounds in 1983. The filbert production cycle, like that

of other tree crops such as olives, is characterized by alternating "on" years and "off" years; a year of low production follows one of high output as the trees recuperate after the high production season. An increase in acreage planted in filbert trees is largely responsible for the rise in production prior to 1983. In that year, adverse weather and a serious outbreak of brownstain disease resulted in a very low yield of filbert nuts per tree. Filbert prices received by farmers during 1979-83 set a record of $1152/ton in 1980, and then declined steadily to $583/ton in 1983.

During 1979-83, annual U.S imports of filberts fluctuated between 18 million and 8 million pounds (in-shell basis), averaging 14 million pounds, valued at $7 million. Almost all of these imports were shelled, blanched, or otherwise prepared or preserved filberts, rather than unshelled filberts. In 1983, for example, imports of shelled, blanched, or otherwise prepared or preserved filberts accounted for 98 percent of the total 6 million dollars' worth of all types of filbert imports. Turkey and Italy supplied 93 percent of the imports during 1979-83.

Filbert consumption in the United States averaged 26 million pounds (in-shell basis) annually during 1979-83, with imports supplying 53 percent of this figure. During these 5 years, consumption fluctuated widely from year to year--ranging from 43 million pounds in 1982 to 17 million pounds in 1983--although these data do not reflect changes in inventories. While sales of in-shell filberts tend to be rather static, averaging about 11 million pounds annually (according to industry sources), sales of filbert kernels can vary considerably. Filbert kernels compete with a wide variety of other edible nuts such as peanuts, cashews, macadamia nuts, and pecans for use in confectionery, bakery goods, and nut mixes. Per capita and total U.S consumption of the major edible nuts have increased in recent years as consumers have indicated greater interest in natural foods and as the U.S. population rose.

U.S. exports fluctuated between 10 million and 20 million pounds annually during 1979-83, averaging 15 million pounds, valued at $6 million, for the 5 years. Most exports are in-shell filberts.

S. 2439

S. 2439 would suspend duties until June 30, 1986 on certain surface-active chemical agents known as alkali metal xanthates.

Current law.--These alkali metal xanthates currently are classsified under TSUS item 465.95 and are subject to a MFN rate of duty of 4.2 percent ad valorem, an LDDC rate of 3.7 percent ad valorem, and a non-MFN rate of 25 percent ad valorem. By 1987, the MFN rate will have been staged down to 3.7 percent ad valorem. Imports may enter duty free under the GSP and the CBI.

The bill.--S. 2439 would suspend the duty on the covered articles until the close of June 30, 1986.

Administration position.--Objects because there is a U.S. producer of the product.

Background.--The specific surface-active agents--sodium isobutyl xanthate, sodium ethyl xanthate, sodium isopropyl xanthate, and potassium amyl xanthate--may together be referred to as alkali metal xanthates. These compounds are relatively stable solids which are pale yellow when pure and have a disagreeable odor. They are soluble both in aqueous solutions and in certain organic solvents such as alcohols or ketones.

The most common use of xanthates is as collectors in the flotation of metallic sulfide ores. Xanthates may also be used in the manufacture of rayon and cellophane and the vulcanization of rubber, as well as in herbicides, insecticides, fungicides, and high-pressure lubricant additives. However, uses other than ore flotation are not commonly employed.

One U.S. company, Kerley Industries, produces the xanthates, while another, American Cyanamid, imports them from its Canadian subsidiary for use here. Domestic consumption is estimated at 10 million pounds annually. Domestic production currently is 3.5 million pounds per year.

S. 2440

S. 2440 would suspend, until June 30, 1986, the duties on five chemical intermediates.

Current law.--This bill covers the following chemicals, which are classified under the indicated TSUS item numbers: (1) para-ethylphenol (item 403.20); (2) Trichlorosalicylic acid (item 404.46); (3) m-amino-pherol (item 404.92); (4) 6-amino-1-naphthol-3-sulforic acid (item 405.00); and (5) 4-acetaminobenzenesulfonyl chloride (item 405.31). The second and fifth of these have MFN duty rates of 1.7¢ plus 17.9 percent ad valorem and 1.7¢ plus 18.1 percent ad valorem, respectively. Their non-MFN rates are 7¢ plus 57 percent and 7¢ plus 58 percent ad valorem, respectively. The other articles have the following MFN ad valoreum rates: (1) item 403.20--17.2 percent; (2) item 404.92--8.4 percent; and (3) 405.00--9.2 percent. These three rates are being staged down through 1987. Only item 405.31 is GSP eligible; all are eligible for duty-free treatment under the CBI.

The bill.--The bill would provide for duty-free entry of these articles until June 30, 1986.

Administration position.--Unknown.

Background.--All of the chemicals are produced synthetically from petroleum products (e.g., benzene, phenol, naphthol, and so forth). The primary use of these chemicals is as intermediates in the production of more complex chemicals. The chemical 4-acetaminobenzenesulfonyl chloride (N-acetylsulfanilyl chloride) is used in the production of sulfa drugs; 6-amino-1-naphthol-3-sulfonic acid is used in the production of dyes. The remaining three chemicals, para-ethylphenol, trichlorosalicylic acid, and m-aminophenol, are used to produce a number of products such as dyes, pharmaceuticals, antitoxidants, pigments, and luminescent agents. There are not significant differences in the quality of domestic and foreign products.

6-amino-1-naphthol-3-sulfonic acid is produced domestically for captive use. Para-ethzlphenol is produced by Sherwin-Williams for commercial sale; the company opposes this part of the bill.

S. 2441

S. 2441 would suspend duties on two chemicals until June 30, 1986.

Current law.--Methyl carbonate and 2-aminodiazine are classified under TSUS item 425.52 (other nitrogenous compounds) with a MFN rate of 7.9 percent and a non-MFN rate of 30.5 percent ad valorem. Both products are eligible for duty-free entry under the GSP and CBI.

The bill.--S. 2441 would provide for duty-free entry of these articles until June 30, 1986.

Administration position.--No objection.

Background.--Methyl carbonate is a fine, white solid. It is classified chemically as an amine with a methyl ester functional group. It is completely soluble in water or alcohol. Production and importation of this chemical are required to be in compliance with the regulations of the Environmental Protection Agency issued under the Toxic Substances Control Act. The raw materials for this product are urea and methanol. Methyl carbonate is used in organic synthesis and as a specialty chemical in the aerospace industry.

2-aminodiazine is also known as 2-aminopyrimidine, a fine, white powder. It is classified chemically as a pyrimidine, a group of basic compounds found in living matter. It is completely soluble in water. The use of 2-aminodiazine is required to be in compliance with regulations of the Food and Drug Administration issued under the Food, Drugs, and Cosmetics Act. The raw materials for this product are urea and 3-aminopropanol. 2-aminodiazine is used as an anti-infective agent in the animal health industry.

There apparently is no production at present of 2-aminodiazine. There is at least one producer of methyl carbonate, which objects to the bill. Because the chemicals are in basket TSUS categories, it is difficult to estimate current imports.

S. 2479

S. 2479 would amend the TSUS to equalize the tariff treatment of naphthas described as petroleum products and those described as benzenoid chemicals.

Current law.--Currently, naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel) are classified under item 375.35 at a MFN duty rate of 0.25 cent per gallon (ad valorem equivalent (AVE) rate of 3%) and a non-MFN rate of 0.5 cent per gallon. Naphthas containing more than 5 percent dutiable benzenoid products, however, are currently classified as other mixtures of organic chemicals containing benzenoid chemicals in item 407.16 at a MFN rate of 1.7 cents per pound plus 13.6 percent ad valorem (AVE rate of 27%), but no less than the highest rate applicable to any component material, and a non-MFN rate of 7 cents per pound plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material.

Imports from beneficiary developing countries other than Venezuela are eligible for duty-free entry under the GSP and CBI.

The bill.--This legislation would amend subpart B of part 1 of schedule 4 of the TSUS to add a new item, 407.17, to provide for naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel) which contain by weight over 5 percent of products described in subpart B of part 1 of schedule 4, at MFN rate of duty of 0.25 cent per gallon and a non-MFN rate of duty of 0.5 cent per gallon.

Thus, naphthas currently entering under item 407.16 would receive the same, more favorable tariff treatment as those entering under item 475.35.

Administration position.--Opposed, unless modified to preclude coverage of benzenoid chemicals in naphtha mixtures that are not intended as petroleum fuels' blending stock.

Background.--The naphtha described in this bill is a mixture of aliphatic (acyclic) and aromatic (benzenoid) compounds produced by catalytic reforming of crude petroleum. As a result of this reforming process, the final naphtha mixture usually contains between 30 and 40 percent benzenoid compounds of which 5 to 10 percent are dutiable.

This highly flammable product is used entirely in the blending of finished gasoline. It is not used for chemical conversions and is not an economical source of aromatic compounds.

At the present time, the product is produced in the United States by the major domestic petroleum firms. Because virtually all of it is used in the blending of finished gasoline, the level of production may vary greatly depending upon demand and inventory. Most of the producers are also importers of the product and would also benefit from the new duty rate. Data

regarding domestic production of the product is not readily available, as the domestic producers captively consume the product in the blending of finished gasoline. The imported product may also be used in this process, depending upon demand for gasoline.

In 1982, U.S imports amounted to 190 million pounds, from Venezuela and Argentina.

S. 2493

S. 2493 would extend until June 30, 1988, a temporary duty suspension for certain tartaric chemicals that expired June 30, 1984.

Current law.--Tartaric acid is classified under TSUS item 425.94 with a MFN duty rate of 5.1 percent of ad valorem, an LDDC rate of 4.3 percent ad valorem, and a non-MFN duty rate of 17 percent ad valorem. Tartar emetic is classified under TSUS item 426.72, with a MFN duty rate of 1.9 percent ad valorem, an LDDC rate of 1.8 percent ad valorem, and a non-MFN duty rate of 4 percent ad valorem. Cream of tartar is classified under TSUS item 426.76 with a MFN duty rate of 5.5 percent ad valorem, an LDDC rate of 4.6 percent ad valorem, and a MFN duty rate of 11 percent ad valorem. Rochelle salt is classified under TSUS item 426.82 with a MFN duty rate of 4.7 percent ad valorem, an LDDC rate of 4.1 percent ad valorem, and a non-MFN duty rate of 11.5 percent ad valorem. The MFN rates are being staged down through 1987.

Imports under all four of the above tariff provisions, if from designated beneficiary countries, are eligible for duty-free entry under the GSP and CBI.

The bill.--S. 2493 would amend items 907.65 (tartaric acid), 907.66 (potassium salts), 907.68 (cream of tartar), and 907.69 (sodium tartrate (Rochelle salts)) of the Appendix to the Tariff Schedules of the United States (TSUS) to extend the temporary suspension of MFN duties of those four items until June 30, 1988. There would be no change in the non-MFN rates of duty.

Administration position.--No objection.

Background.--Tartaric acid is a colorless, transparent, crystalline solid or a white crystalline powder and is classified chemically as a disubstituted, discarboxylic acid. It is produced from argols or wine lees by treatment with milk of lime (calcium hydroxide), followed by precipitation of calcium sulfate, and crystallization of the acid. Tartaric acid can also be produced synthetically by the hydroxylation of maleic anhydride.

Tartaric acid is used as an intermediate in the production of chemicals such as acetaldehyde, and various tartaric acid salts and esters. It is also used as a sequestrant in tanning effervescent beverages, baking powder, flavors, ceramics, galvano-plastics, medicinal preparations, photographic printing and developing, textile processing, silvering glass mirrors, coloring metals, and foods.

Tartar emetic (also refered to as potassium antimony tartarate) is an odorless, poisonous, transparent, crystalline solid which effloresces when exposed to air. It is produced from potassium bitartrate by reaction with antimony metal or antimony trioxide, and is used as a textile and leather mordant, a medicine, a perfumery component, and an insecticide.

Cream of tartar (containing over 90 percent potassium bitartrate by weight) is a white, crystalline powder with a pleasant acid taste. It is classified chemically as an organic acid salt. It is produced by hot water extraction from wine lees followed by crystallization. Cream of tartar is used in baking powder, the production of other tartrates, medicine, galvanizing meals, and foods.

Rochelle salt (also referred to as potassium-sodium tartrate) is a colorless, transparent, crystalline solid with a cooling saline taste that effloresces slightly in warm air. Rochelle salt is produced from a solution of cream of tartar by saturation with sodium carbonate, followed by concentration and crystallization. Rochelle salt is used in the manufacture of mirrors, the manufacture of Seidlitz powders, in baking powder, and for the control of radio frequencies in piezo-electric crystals.

Tartaric acid accounts for the major portion of imports of these tartaric chemicals. Imports of this product rose from 3.4 million pounds, valued at $3.4 million, in 1979 to 3.9 million pounds, valued at $4.7 million, in 1981, then declined to 3.6 million pounds, valued at $2.4 million, in 1983.

U.S. imports of cream of tartar fluctuated during 1979-83 from a low of 2.0 million pounds, valued at $1.5 million, in 1980 to a peak of 2.4 million pounds, valued at $1.8 million, in 1981.

The import quantity for all of these tartaric chemicals decreased from 6.9 million pounds, valued at $6.7 million, in 1979 to 6.7 million pounds, valued at $4.0 million, in 1983.

The major sources of imports of tartaric acid in 1983 were Spain, Italy, and Argentina, which together accounted for almost 98 percent, by quantity, of such imports. Tartar emetic was supplied solely by Italy. Cream of tartar came from Italy, Spain, France, West Germany, Canada, and the United Kingdom. The sources of imported Rochelle salt were Spain, Italy, West Germany, France, and the United Kingdom. The largest quantity of these chemicals came from Italy and Spain. No imports were supplied by non-MFN sources.

Rochelle salt and potassium bitartrate are the only tartaric chemicals produced in the United States.

Imports of tartaric acid approximate consumption and amounted to 3.4 million pounds in 1979. Imports of tartaric acid peaked at 3.9 million pounds in 1981, then declined slightly to a level of 3.6 million pounds in 1982 and 1983. Apparent consumption of tartaric acid salts was 3.5 million pounds in 1979. Apparent consumpton of tartaric acid salts fell in 1980 to approximately 2.8 million pounds, then increased to 3.5 million pounds in 1981. During 1982-1983, apparent consumption remained level at about 3.2 million pounds.

S. 2542

S. 2542 would suspend the MFN duties on lace-braiding machines and parts for such machines until July 1, 1987.

Current law.--Lace-braiding machines enter under TSUS item 670.25 at an MFN rate of 5.6 percent ad valorem and a non-MFN rate of 40 percent ad valorem. The LDDC rate is 4.7 percent. The articles are eligible for duty-free entry under the GSP and CBI. Parts enter at the same rate as the machines, under item 670.74. The MFN rates are being staged down to 4.7 percent ad valorem in 1987.

The bill.--The bill would suspend the MFN rate of duty for lace-braiding machines and parts for such machines until July 1, 1987.

Administration position.--No objection, if narrowed to include only decorative lace-braiding machines.

Background.--Textile braiding machines are of three general types: the comparatively simple Maypole type, which is used to produce such articles as sash cords, fire-hose covering, shoe laces, ornamental braid, fiberglass, sutures, optical fibers, and pacemaker leads; the high-speed type, which is used chiefly for making materials for insulating electrical wires and cables; and the Barmen lace-braider, which produces a fabric that is similar to handmade laces. These machines produce fabric by interlacing, diagonally, a series of threads or strands in a maypole fashion.

There are at least three domestic producers of lace-braiding machines. Because such machines constitute only a part of all textile machinery, it is not possible to provide separate data on production, imports, and exports of them.

S. 2596

S. 2596 would extend duty-free treatment to certain Buddhist tablets or scrolls.

Current law.--Gohonzon are classified under TSUS item 207.00, wood not specificlly provided for. The MFN tariff rate is 6.2 percent ad valorem, which will decline to 5.1 percent by 1987.

The bill.--S. 2596 would provide for the duty-free entry of Gohonzon.

Administration position.--No objection.

Background.--Gohonzon are either tablets or scrolls. The tablet form is principally used by institutions (e.g., temples) and is made of wood approximately 2 inches thick, 2 feet wide, and 4 feet long. The wooden tablets are carved by the high priest. There are only a few of this type of Gohonzon imported into the United States due to their limited use. The scroll form is used by individuals and is made of a combination of paper and wood. It comes in a variety of sizes depending on its use (some Gohonzon can be carried on the person, though traditionally the scrolls measure 8 inches in width and 16 inches in length), and is imprinted by lithographic techniques. The top of the scroll paper is attached to wood; the bottom is weighted via a wooden dowel to keep the paper flat when hanging. The bulk of U.S. imports are of the scroll type. These objects are considered by Buddhist adherents to be highly respected objects of worship and are the focal point of the religion. Frequently, the Gohonzon is enshrined by the believer in a home altar. A true and most respectful worshipper chants a series of prayers while facing the Gohonzon.

There are no domestic producers of Gohonzon because the high priest in Japan must either inscribe or oversee the inscription of the item. Each temple in the United States imports its Gohonzon. Once an adherent has demonstrated a prescribed level of commitment, a priest presents the individual with a Gohonzon. Thus, the Buddhist priesthood controls the manufacture and distribution of this article.

The principal user of Gohonzon is the Japanese Buddhist sect Nishiren Shoshu, a 750-year-old denomination first introduced into the United States in the 1950s by Japanese wives of U.S. military personnel. At present, there are 6 temples, 37 community centers, and 2 training centers, with an estimated 300,000 adherents.

Japan is the sole source of Gohonzon. There were approximately 32,000 Gohonzon imported into the United States in the period 1979-83. An estimated 2,000 articles were imported during 1979 and 1980, around 3,000 articles during 1981 and 1982, and an estimated 22,000 in 1983.

S. 2613

S. 2613 would temporarily suspend MFN duties on certain circular knitting machines.

Current law.--These machines are classified under TSUS item 670.17, and are subject to a MFN rate of 4.9 percent ad valorem, which is being phased down to 4.2 percent by 1987. The non-MFN rate is 40 percent. The LDDC rate is 4.2 percent ad valorem. The machines are eligible for duty-free entry under the CBI and GSP.

The bill.--S. 2613 would suspend the MFN duty rate on circular knitting machines designed for sweater or garment length knitting until December 31, 1989.

Administration position.--Unknown.

Background.--Knitting is the process of forming fabric by creating interlocking loops of yarn; it may be accomplished by hand or with machines. These machines employ yarn feeds, needle housings in which replaceable hooked needles are installed, cams, drives, and fabric take-up mechanisms. Industrial machines are usually powered by electric motors; other machines may be driven manually. When a machine is operating, the hooked needles move within their individual housings in a manner determined by the cam settings. Each needle in its turn moves through an existing loop, hooks onto a yarn end, and pulls it through the old loop, which is then cast off. In circular knitting machines, the needle housings (or slots) are in a cylinder, positioned over a set of cams which engage the needle butts. As the cylinder rotates over the cams (or in some machines, as the cams rotate in relation to the stationary cylinder), the needles rise and fall as their butts pass over the cam.

There are two basic types of circular knitting machines for sweater and garment length knitting--namely, cylinder and dial machines and double cylinder machines. Cylinder and dial machines possess two circular opposed needle housings called the cylinder and the dial. In the dial, needles are arranged horizontally and radially, while the needles contained in the cylinder are arranged vertically. Cylinder and dial machines used to produce sweaters and garment length knitting are also known as sweater strip machines, garment length machines, body strip machines, and body length machines.

Double cylinder machines possess two cylinders, one on top of the other, containing a distinctive type of needle known as a double-headed latch needle designed to operate off each cylinder in turn in the knitting zone. Double cylinder machines are also known as circular links and links machines, circular purl machines, and superimposed cylinder machines.

There apparently is no domestic production of cylinder and dial or double cylinder circular knitting machines. Imports have increased from 32, valued at $492,000 in 1980, to 87, valued at $3,747,000 in 1983. The imports originate in Spain, Italy, West Germany, and the United Kingdom.

S. 2642

S. 2642 is intended to suspend until July 1, 1989, the MFN rate on yttrium-bearing ores and materials and yttrium compounds.

Current law.--The current MFN duty rate on these articles is 5.9 percent ad valorem, under TSUS item 603.70. The LDDC rate is 5 percent, while the non-MFN rate is 30 percent.

The bill.--The operative section of S. 2642, as printed, is missing, but the clear purpose of the bill is to suspend until July 1, 1989, the duty on yttrium-bearing ores, materials, and compounds containing by weight more than 19 percent but less than 85 percent yttrium oxide equivalent.

Administration position.--No objection.

Background.--The rare earths are a family of closely related elements, both in terms of being found together in nature and their chemical and physical properties. They consist of yttrium and the lanthanides, which are the elements lanthanum through lutetium in the periodic table. Despite the name "rare earths", they are actually very abundant. Cerium, the most abundant of the rare earths, is more abundant in the earth's crust than copper. Lutetium, the least abundant, is still ten times more abundant than silver and one hundred times more abundant than gold. However, there are very few places in the world where the rare earths are found in economically recoverable quantities.

The two principal rare earth minerals are bastnasite and monazite. A U.S. company, Molycorp, produces bastnasite from its deposit at Mountain Pass, California. The ore consists of approximately 7 percent bastnasite which in turn consists of approximately 70 percent rare earth oxides. Cerium, lanthanum, neodymium, and praseodymium are the most abundant of the rare earths in bastnasite. Monazite has a higher percentage of the heavier rare earths than bastnasite. The Mountain Pass deposit is the only primary production of rare earths in the world. Rare earths are produced from other deposits in other countries as by-products of titanium, iron, tin or uranium production.

There are over one hundred and fifty commercial applications for the rare earths. Many large applications such as glass polishing, sulphur-control in steel-making, and petroleum cracking catalysts need low-cost rare earth concentrate products such as cerium concentrate, rare earth chloride, and lanthanum concentrate. Other applications require rare earth products with purity over 99.99 percent. These applications include europium oxide and gadolinium oxide in television and x-ray phosphors and lanthanum oxcide and neodymium oxide in glass and television faceplates. Other applications such as other catalysts and samarium-cobalt magnets require products with an intermediate purity and cost.

High-purity yttrium oxide is the host matrix used with europium to emit the visible red light in color television and in energy saving fluroescent lights. Yttrium aluminum garnets

(YAGs) and yttrium iron garnets (YIGs) are vital in classified military applications including microwave transmission and phase-array radar guidance systems. Other applications include yags for simulated diamonds, neodymium doped yttrium crystals for lasers, and yttrium oxide-stabilized zirconia for refractory insulating materials. Yttrium is also used in nickel-based, cobalt-based and iron-chromium-aluminum superalloys.

Yttrium oxides represent only 0.1 percent of the total rare earth oxcides found in bastnasite. The commercial requirements for yttrium far exceed Molycorp's ability to supply the U.S. industry from its bastnasite deposit. Molycorp supplies over one-half the world's total supply of rare earths from Mountain Pass, exporting to Europe, Japan and other countries. However, to supply sufficient high-purity (99.99 percent) yttrium oxcide, Molycorp must import yttrium concentrates. High-purity rare earth oxides are produced using imported yttrium concentrate and other rare earth concentrates from Mountain Pass.

Most yttrium concentrates originate in Malaysia. The xenotine mineral by-product of tin-mining is slightly upgraded to an yttrium concentrate. Yttrium concentrate is also produced in the People's Republic of China by concentrating a basic ore, and one domestic firm in Florida recovers yttrium concentrate from a mine there. These yttrium concentrates are sold to producers of high-purity yttrium products. There are two such producers in the United States.

S. 2712

S. 2712 would increase the duties on neckties.

Current law.--Neckties are classified under the TSUS according to whether or not they are ornamented and according to their material. The TSUS item numbers are 373.05, .10, .15, .20, .22, .25, .27, and .30. The MFN rates range from 18 percent ad valorem for ornamented ties, to 6¢ plus 12 percent for unornamented knit ties of man-made fibers. The rates are being staged down through 1987. The average ad valorem equivalent duty paid on imported neckties during 1983 was 12.9 percent.

The bill.--S. 2712 would replace the current MFN rates of duty with the 1981 duty rates, effectively raising the customs duties on imports of men's and boys neckties. The higher duty rates were in effect before the first stage of tariff reductions on textiles and apparel agreed to during the Tokyo round of the Multilateral Trade Negotiations (MTN) was implemented in 1982. In addition, the new duty rates on such neckties would be exempt from any staged rate reductions proclaimed by the President prior to the enactment of the legislation, thereby superseding the duty reductions agreed to in the MTN (to take effect annually through 1987). These amendments would be effective as of the fifteenth day after their enactment.

Administration position.--Unknown.

Background.--The legislation would affect imported men's and boys' neckties of textile materials such as silk, wool, vegetable fibers (including cotton), and man-made fibers. Silk and man-made fibers are by far the most important fibers used to manufacture neckties. An industry survey by the Neckwear Association of America indicates that for 1983, 38 percent by value of domestic production was made of 100 percent silk, 30 percent of polyester blends (primarily polyester-silk blends), 15 percent of 100 percent polyester, 9 percent of cotton, 4 percent of wool, and 4 percent of other fibers.

With respect to the value of imported neckties during 1983, approximately 61 percent were in chief value of silk (including a significant quantity of polyester-silk blends), 20 percent were of wool, 12 percent were of man-made fibers, 5 percent were of vegetable fibers (including cotton), and 2 percent were not classified by fiber (some may have been of leather or of other materials). Overall, trade sources indicate that silk and polyester-silk ties are annually becoming more popular at the retail level.

Domestic neckties are considerably more expensive than the imported articles. In 1983, the estimated average value of domestic neckties was $58.77 per dozen, versus $30.44 per dozen for imports after duties, insurance and freight costs have been included.

In 1982, 164 firms produced men's and boys' neckwear, down from a reported 198 firms in 1977, according to the Bureau of the

Census, representing a decline of 17 percent. Most of the manufacturing was done in New York, California, Louisiana, and North Carolina, with New York alone accounting for almost 36 percent of the total value of neckwear shipments in 1982. In 1983, 6,500,000 dozen ties were produced valued at $382 million. U.S. consumption in 1983 was 7,300,000 dozen, valued at $406.7 million.

In 1983, 948,000 dozen ties were imported, valued at $27.2 million. The U.S. exported 155,000 dozen in 1983, valued at $2.5 million.

S. 2739

S. 2739 would extend a current duty suspension for uncompounded allyl resins until September 30, 1986.

Current law.--Uncompounded allyl resins are classified under TSUS item 408.96 and are subject to MFN and LDDC ad valorem duty rates of 7.4 percent and 5.8 percent, respectively. These rates currently are suspended, under a provision that expires September 30, 1984. The MFN rate will be staged down to 5.8 percent by January 1, 1987. The articles are eligible for duty-free entry under the GSP and CBI.

The bill.--S. 2739 would extend the current duty suspension until September 30, 1986.

Administration position.--No objection.

Background.--Uncompounded allyl resins are also called prepolymers. One, diallyl phthalate (DAP), is used as an ingredient in making engineering plastics for a variety of electronics and electrical applications. There is at least one domestic producer of these compounds. In 1983, imports of allyl prepolymer resins and allyl molding compounds amounted to 1,889,000 pounds, valued at $2,818.00.

S. 2787

S. 2787 would suspend for 3 years the duty on o-Benzyl-p-Chlorophenol.

Current law.--This chemical, a biocide, is classified under TSUS item 408.16 with a MFN duty rate of 12.2 percent ad valorem, an LDDC rate of 11.1 percent, and a non-MFN rate of 7¢/lb. + 40 percent ad valorem.

The bill.--S. 2787 would create a temporary item 907.13 to provide for the suspension of MFN duties for three years beginning on the date of enactment.

Administration position.--Unknown.

Background.--O-Benzyl-p-Chlorophenol is a biocide commonly used as the active ingredient in cleaning solutions and disinfectants. It is the only known biocide that effectively kills mycobacterium tuberculosis, the bacteria causing TB. There apparently are no U.S. producers of the chemical.

S. 2827

S. 2827 would conform the duty rates applicable to silicones in all forms to that now applied to silicone resins.

Current law.--The ad valorem MFN rates applicable to silicones range from 1.1 percent for silicone rubbers to 13.5 percent for benzenoid organo-silicon compounds. The rate for silicone resins is 1.1¢/lb. plus 8.6 percent.

The bill.--S. 2827 imposes a single rate of duty--namely, the rate now applicable to silicone resins--to silicones in all forms. Specifically, it would first amend headnote 2 of subpart A, part 4 of schedule 4 of the TSUS which defines "synthetic plastics materials", to include in that group silicones in all forms (including fluids, resins, elastomers, sealants, adhesives, and copolymers) whether or not such materials are in solid form in the finished aticles. The existing language from the headnote would in large part be incorporated in the revised and subdivided headnote; paragraphs 2(a)(i) and 2(b) would essentially restate that language with some minor language changes, and subparagraph 2(a)(ii) would contain the provision concerning silicones.

The legislation would also insert three new tariff items, one covering silicone resins and materials (445.55) and two covering synthetic rubber (446.16 and 446.18). The existing item covering synthetic rubber (item 446.15 in subpart B of part 4) would be deleted; but the MFN rate of duty from that item would apply to synthetic rubber other than silicone under new item 446.18. The MFN rate of duty under both new items 445.55 and 446.16 would be the same as the MFN rate under existing item 445.56, covering other synthetic plastics materials (the current tariff classification for some of the subject products. The legislation further provides that the MFN rate of duty for item 446.18 would be subject to all staged reductions that were proclaimed by the President for item 446.15 before the date of the enactment of the act. These amendments would be effective on their date of enactment.

Administration position.--Opposed, because enactment of the bill would result in duty increases for certain silicone fluids and rubbers and break GATT tariff bindings on those items.

Background.--Silicones are a family of semi-organic polymers, containing repeating silicone and oxygen atoms, which have a structure similar to quartz rather than the carbon-to-carbon linkage characteristic of organic polymers. Silicones are derived from siloxanes which are obtained from silane monomers through hydrolysis. The type of organic group attached to the silicon atoms and the extent of cross-linkage between polymer molecules determine whether the silicone will be a fluid, an elastomer (rubber), or a resin. Silicone fluids are clear liquids of varying viscosities used as antifoaming agents, release or parting agents, hydraulic or heat-transfer fluids, and permanent water-repelling agents for leather, fabrics, and masonry. Silicone elastomers are essentially high molecular weight fluid that must be cross-linked, either at room

temperature or with heat, to provide elastomeric properties. These elastomers offer superior resistance to weathering (i.e., to water and oxidation); they perform satisfactorily for extended periods at temperatures ranging from -150 degrees fahrenheit to 600 degrees fahrenheit, retaining their flexibility at the lower end of this range and their stability at the high end. The elastomers have recently been used in cosmetic or prosthetic implants.

Silicone resins are available in varying viscosities and as solvent solutions as well as in solid form. These resins are used in both flexible and rigid applications. Flexible resins have been used as electrical insulation for coating and impregnating varnishes and as protective paint films. The most important uses for rigid silicone resins are in electrical varnishes, glass tape, and coatings (for articles such as circuit boards). Silicone adhesives may be used in substantially the same applications as other types of adhesives; however, because of their resistance to weather and chemicals, they are generally used where this characteristic is desired.

In general, silicones possess good electrical properties and, as mentioned above, offer superior resistance to high temperatures and weathering. Silicones also possess a high degree of chemical inertness, are nontoxic, and are easy to process.

Fluids are the most important application for silicones, accounting for nearly 54 percent of domestic consumption in 1982; elastomers represented about 41 percent of the silicon market that year. Plastics typically account for about 5 percent of domestic consumption of silicones.

U.S. production of silicone fluids, elastomers, and resins ranged from 295.3 million pounds valued at $672.8 million in 1978, to 252.5 million pounds valued at $560.9 million in 1982. Imports of resins alone amounted to 1.6 million pounds valued at $3.1 million in 1983, principally from Japan and West Germany. Imports of elastomers in 1983 amounted to 5.5 million pounds valued at $6.7 million; imports of organ-silicone compounds were 3.1 million pounds valued at $6.2 million. Imports account for about 3 percent of consumption by quantity. The leading importers have included the leading domestic producrs.

U.S. exports of silicone products in 1983 amounted to an estimated 61.1 million pounds, valued at $124.1 million.

S. 2838

S. 2838 would suspend until July 1, 1987, the duty on narrow fabric looms.

Current law.--Narrow fabric looms currently enter under TSUS item 670.14 at a MFN rate of 5.6 percent ad valorem. This rate is being reduced in stages to 4.7 percent by 1987. Loom parts enter under item 670.74 at the same rate as the machines. The items are eligible for duty-free treatment under the GSP and CBI.

The bill.--The bill would suspend the duties on the looms and parts until July 1, 1987.

Administration position.--Opposes the duty suspension for parts of narrow fabric looms because there are 12-15 U.S. producers of such parts, and because the parts may be substitutable for parts used in wide fabric looms.

Background.--Only one U.S. firm manufactures a limited number of narrow fabric needle looms. Several produce parts for regular-size fabric looms that can also be used on narrow fabric looms.

1983 imports of narrow fabric looms were 440 units valued at $3.9 million.

S. 2839

S. 2839 would change the tariff classification of most wearing apparel imported as parts of sets.

Current law.--Eo nomine provisions (provisions which describe an article by a specific name) were first established for large numbers of apparel articles on January 1, 1982, to implement tariff concessions granted by the United States during the Tokyo round of the Multilateral Trade Negotiations (MTN). Before 1982, most apparel was described in terms of its composition (e.g., "of cotton") and fabric construction (i.e., "knit" or "not knit"), so that apparel articles of the same fiber and construction were dutiable under the same tariff provision at the same rate. However, during the Tokyo round of negotiations, consideration was given to the import sensitivity of apparel on a product-by-product basis, resulting in small-or no-duty reductions as to more sensitive articles and more significant tariff cuts as to less sensitive ones. Consequently, eo nomine provisions were created to cover the sensitive articles, while the remainder of the articles were classified under residual or "basket" tariff provisions which have lower rates of duty.

Importers soon began entering apparel sets containing one or more articles provided for eo nomine and one or more covered by basket tariff items. Such sets, in which not all components are provided for eo nomine, are classified as entireties usually in basket tariff items at the lower duty rates. The U.S. Customs Service classifies apparel sets as entireties if: (1) the components are sold as a unit and not separately; (2) the components are coordinated as to color to the extent that it is obvious they were designed and intended to be worn together; (3) the components, when joined together, form a new article which possesses a character or use different from its parts, or one of the components in the set is so predominant that the other components are merely incidental.

Apparel sets classified as entireties during January-November 1983 were assessed an average rate of duty of 27 percent ad valorem. If this legislation had then been in effect, the average duty rate on these sets would have been 31 percent ad valorem. This tariff differential will widen considerably during 1984-90, as the staged tariff reductions on apparel negotiated in the Tokyo round are implemented and the duty rates of eo nomine provisions are reduced less than those of the basket items.

The bill.--S. 2839, if enacted, would amend part 6, schedule 3 of the Tariff Schedules of the United States (TSUS) by changing the tariff classification of most wearing apparel imported as parts of sets. Apparel sets, which are now, in general, classified as entireties, would instead be classified according to their separate components. This would result in higher duties on garments imported as parts of sets, because most of the individual components (such as blouses or jackets) would be classified in tariff provisions having significantly higher rates of duty than those now applicable to articles classified as entireties.

Administration position.--Unknown.

Background.--The articles most significantly affected by the bill are shirts, sweaters, trousers, coats, and dresses made of textile fibers. Approximately 94 percent of the value of all apparel articles imported as parts of sets in 1983 was accounted for by women's, girls' and infants' garments; shirts and blouses accounted for about 59 percent of the total value of imported sets. Sets are often packaged, put on hangers, shipped, or otherwise marketed together to promote unit purchases at retail.

There are approximately 20,000 establishments producing wearing apparel in the United States. These establishments are located mainly in the Northeast--particularly in New York, New Jersey, and Pennsylvania--and in California. Employment in 1982 totaled 1.16 million people, down 13 percent from 1978. The six major firms in 1982 recorded sales of $7.5 billion, approximately 15 percent of the total apparel market. Shipments of the articles principally affected by this legislation during 1979-83 increased 29 percent to $25 billion (4 percent by quantity, to 249 million dozen). Imports increased in the same period 75 percent by value, to $7 billion, and 43 percent by quantity, to 141 million dozen.

Articles imported specifically as parts of sets accounted for less than 1 percent of the total imports in each garment category, although the total value of these parts rose to $35 million in 1983--up to 37 percent from the previous year. The number of such parts increased 29 percent in 1983 to 862 thousand dozen.

S. 2865

S. 2865 would authorize the President to proclaim tariff reductions for certain articles covered by the GATT Agreement on Trade in Civil Aircraft.

Current law.--The United States is a party to the GATT Agreement on Trade in Civil Aricraft, one of the nontariff barrier agreements concluded in the Tokyo Round. Among other things, that agreement, approved by the Congress in the 1979 Trade Agreements Act, provided for the elimination of duties on civil aircraft and engines, and flight simulators. The MFN duty rates on articles encompassed by S. 2865 range from 3.4 percent ad valorem to 16.5 percent.

The bill.--S. 2865 would authorize the President to proclaim modifications in the TSUS to provide duty-free entry, beginning January 1, 1985, to imports of various articles from countries entitled to MFN status. These modifications, which are the subject of an agreement reached among parties to the code, would represent the extension of duty-free treatment by the United States which would be equivalent to that provided by other signatories to the Agreement on Trade in Civil Aircraft and the proposed expansion of the Annex thereto.

Specifically, the President would be empowered to modify the MFN rates of duty and the article descriptions of enumerated tariff items, to provide duty-free entry for articles certified for use in civil aircraft in accordance with headnote 3, part 6C of schedule 6 of TSUS. Thus, the following articles and tariff items (or parts of the latter) would be included if properly certified:

Automatic door closers of base metal (TSUS item 646.95 (part) (pt.)); parts of nonelectric engines and motors, not specifically provided for (TSUS item 660.85 (pt.)); parts of pumps for liquids (TSUS item 660.97 (pt)); parts of fans and blowers (TSUS item 661.06 (pt.)); parts of air or gas compressors (TSUS item 661.10 (pt.)); parts of air pumps and vacuum pumps (TSUS item 661.15 (pt.)); parts of air-conditioning machines and heat exchange units and parts of refrigerators and refrigeration equipment, including air humidifiers and dehumidifiers and parts thereof (TSUS items 661.20 (pt.) and 661.35 (pt.)); certain gear boxes and other speed changers (TSUS item 680.59 (pt.)); as implemented through item 680.61); certain mechanical power transmission equipment and parts thereof (TSUS items 680.62 (pt.), 680.92 (pt.), 680.95 (pt.), 681.01 (pt.), 681.15 (pt.), 681.18 (pt.), 681.21 (pt.), and 681.24 (pt.)); transformers rated at less than lkVA (TSUS item 682.05 (pt.)); storage batteries and parts thereof (TSUS items 683.05 (pt.), 683.07 (pt.), and 683.15 (pt.)); lenses, prisms, mirrors, and other optical elements (TSUS items 708.01 (pt.), 708.03 (pt.), 708.05 (pt.), 708.07 (pt.), 708.09 (pt.), 708.21 (pt.), 708.23 (pt.), 708.25 (pt.), 708.27 (pt.), and 708.29 (pt.)); and parts of aircraft instruments (TSUS items 711.77 (pt.), 711.78 (pt.), 711.98 (pt.) and 712.49 (pt.)).

Administration position.--Support.

Background.--Estimated total U.S. shipments of the articles proposed for inclusion under the expanded Annex to the Agreement on Trade in Civil Aircraft rose each year during 1978-81, from $676.0 million to $943.3 million. This represents an estimated increase of 38.2 percent during the period. The value of shipments (estimated) declined to $891.0 million in 1982, due primarily to decreased production of civil aircraft. Later data are unavailable.

U.S. imports of the subject articles increased annually during the five-year period. Estimated imports rose from $36.7 million in 1978 to $76.6 million in 1982, a gain of 108.7 percent. Because of production requirements, a substantial period of time may pass between the placement of orders and the shipment of the finished articles. This is the principal reason why imports did not decline in 1982, despite the sharp decline in production of civil aircraft. The major sources of imports of these articles are believed to be the United Kingdom, Canada, and France. According to industry sources, some of the trade in certain imported products--specifically lenses, prisms, optical instruments, and parts of aircraft instruments--is conducted between related parties, usually U.S.-owned firms. Due to the wide variety of products to be eligible for duty-free treatment, the names and locations of principal importers cannot be identified.

Exports (estimated) of the articles proposed for inclusion under the Agreement on Trade in Civil Aircraft rose from $97.8 million in 1978 to $111.6 million in 1979. The estimated value of U.S. exports also increased in each of the following 2 years, reaching $136.0 million in 1980 and $162.7 million in 1981. In 1982, exports fell to an estimated $155.3 million. The decline was due primarily to a drop in demand for large transport planes. Because of the diversity of products involved and the lack of available data, the names and locations of principal exporters and the major foreign markets for these exports cannot be specified.

Estimated apparent U.S. consumption of the subject products increased from $614.9 million in 1978 to $846.6 million in 1981, before declining to $812.3 million in 1982. During the 5-year period, consumption rose by an estimated 32.1 percent. The ratio of imports to apparent consumption (estimated) increased from 6.0 percent in 1978 to 9.4 percent in 1982.

S. 2867

S. 2867 would provide for the refund of import duties paid by the Montana State University on two mass spectrometers.

Current law.--The Educational, Scientific, and Cultural Materials Importation Act provides that nonprofit institutions may import scientific equipment duty free so long as U.S.-manufactured equipment is not available.

An importer may protest Customs' assessment of duties and seek refunds if a protest is filed within 90 days. Refunds cannot be made without a timely protest.

The bill.--The bill would require the Secretary of the Treasury to refund duties paid on two mass spectrometers imported in 1982 for the use of Montana State University.

Administration position.--Unknown.

Background.--Montana State University alleges that it believed a proper protest was timely filed with regard to duties paid on the subject articles. However, it subsequently learned this was not the case, and is barred from pursuing administrative relief.

B

Calendar No. 928

98TH CONGRESS
2d Session

SENATE

REPORT
98-485

RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES

MAY 24 (legislative day, MAY 21), 1984.—Ordered to be printed

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

REPORT

[To accompany S. 1718]

The Committee on Finance, to which was referred the bill (S. 1718) to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

I. SUMMARY

The committee bill would reauthorize, with changes, title V of the Trade Act of 1974, the authority pursuant to which the President operates the Generalized System of Preferences (GSP). The GSP affords duty-free tariff treatment to products from developing countries, subject to certain conditions and limitations. The President's authority to provide such treatment expires January 3, 1985.

S. 1718 would authorize the President to continue the current program until January 3, 1995, subject to any changes required by the following substantive amendments to title V that were approved by the committee in S. 1718:

1. An amendment that would require the President to consider a beneficiary country's treatment of U.S. intellectual property rights (including patents, copyrights, and trademarks) with regard to various determinations of country and product eligibility. The bill requires the President to report to the Congress on his actions in respect to these requirements and those described in the following paragraph.

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2. An amendment that would require the President to consider a beneficiary country's treatment of U.S. investments in his determinations under the various provisions conditioning and limiting the program's benefits.

3. An amendment excluding certain products from potential eligibility for duty-free treatment, including handbags, work gloves, flat goods, luggage, and leather wearing apparel.

4. An amendment requiring the President to conduct a general review of all GSP-eligible products within 2 years. Based on that review and the country and product eligibility factors that condition GSP benefits, the President would be authorized to halve the normal competitive need limits.

5. An amendment authorizing the President to waive competitive need limits in the national economic interest. Prior to exercising this authority, he must seek the advice of the International Trade Commission regarding possible adverse effects on U.S. industries.

II. General Explanation

A. The Generalized System of Preferences

One of the purposes of the Trade Act of 1974 was "to provide fair and reasonable access to products of less developed countries in the United States market." To this end, title V of the act authorized the President to operate a Generalized System of Preferences under which duty-free access to the U.S. market would be granted to developing countries under certain conditions and limitations. When the GSP of the United States was established, similar trade preference programs had already been established by other developed countries. Pursuant to a framework established by the General Agreement on Tariffs and Trade (GATT), such unilateral preference programs must be generalized, nondiscriminatory, and nonreciprocal.

Under the Act, both countries and products are certified for eligibility. Pursuant to section 502, the President may not designate as a beneficiary any developing country that, in summary, is—

1. a Communist country;
2. a member of a commodity cartel that unreasonably withholds a commodity from international trade (such as OPEC);
3. affording preferential treatment to the products of another country which significantly and adversely affects U.S. commerce;
4. failing to abide by international law with respect to expropriation disputes;
5. failing to cooperate with U.S. efforts to interdict unlawful narcotics trafficking;
6. failing to act in good faith with regard to arbitral awards to U.S. persons; or
7. giving sanctuary to international terrorists.

The ban posed by the last four criteria may be waived in the national interest. In addition to these seven requirements, other factors must also be considered by the President. These include a country's level of economic development and the extent it affords fair access to its markets and basic commodity resources.

Under section 503, the President also must designate the articles eligible for duty-free treatment from the beneficiary countries. The following articles are specifically excepted from duty-free treatment: (1) textiles subject to textile agreements; (2) watches; (3) import-sensitive electronics, steel, and glass products; (4) certain footwear; and (5) other import-sensitive articles as determined by the President in the context of this GSP. Duty-free treatment also cannot apply to any article that is the subject of import relief or national security import measures. Section 503(b) further establishes a rule of origin for eligible articles that, in general, requires an article to enter the United States directly from a beneficiary country, and contain at least 35 percent value from that country, consisting of the cost or value of materials produced there plus direct costs of manufacturing there.

Section 504 imposes limitations on duty-free treatment. A beneficiary country is deprived of that status with respect to particular articles under either of two conditions: (1) if the value of its exports to the United States of any article in any year exceeds an amount which bears the same ratio to $25 million as the U.S. gross national product for the year earlier bears to the 1974 U.S. GNP (the 1983 limit thus determined was $57.7 million); and (2) if the value of the exports equals or exceeds 50 percent of the value of the total imports of that article. These "competitive need" limitations may not apply if—

1. there has been an historical preferential trade relationship between the United States and such country, there is a treaty or trade agreement in force covering economic relations between such country and the United States, and such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce;
2. in the case of the 50-percent limitation, no like or directly competitive article was produced in the United States on January 3, 1975; or
3. if the ratio of the value of imports to $1 million is less than the above-described GNP ratio.

Finally, a country may be redesignated for duty-free treatment for an article if imports fall below the competitive need limits in a year following that in which eligibility was lost.

Following encouragement by the committee in its report on the Trade Agreements Act of 1979, the President has also "graduated" countries with regard to certain products pursuant to his authority in section 504(a) of the act. That section authorizes withdrawal, suspension, or limitation of duty-free treatment based on consideration of the factors generally governing eligibility for beneficiary status. The committee's intent in providing competitive need limits and authorizing discretionary graduation was to encourage the beneficiary countries to assume increasingly the obligations of the international trading system as their economic progress allows; and to bring about a more effective distribution of GSP benefits among beneficiary countries.

B. TRADE UNDER THE GSP

In 1983 $10.8 billion of imported products entered the United States duty-free as GSP-eligible articles. This amount accounts for approximately four percent of total U.S. imports, and 0.5 percent of apparent U.S. consumption, as shown in the following chart:

TABLE 1.—1983 U.S. IMPORTS

[FOB in billions]

Source	Amount	Percent of all imports
Beneficiary countries:		
GSP-free	$10.8	4
Other	78.8	31
Nonbeneficiary countries	167.0	65
Total	256.6	100

Source: USTR.

The $10.8 billion of GSP imports that entered duty-free in 1983 constitutes only 15 percent of the total imports of the GSP-eligible articles. Of the universe of potential eligible GSP imports, more articles were denied duty-free entry than received it, and together the potentially eligible imports both receiving and not receiving duty-free entry constituted less than half of the imports of those articles originating in non-eligible countries.

TABLE 2.—1983 IMPORTS OF GSP-ELIGIBLE ARTICLES

Source	Amount (billions)	Percent of all imports
Beneficiary countries:		
GSP-free	$10.8	15
Dutiable	11.8	17
Other countries	48.8	68
Total	71.4	100

Source: USTR.

The committee notes with approval one particular trend indicating that the program is operating as intended. In 1981 the USTR began on a discretionary basis to "graduate" countries with regard to GSP eligibility for particular products, even though competitive need limitations had not been breached. The exercise of this discretionary authority, which was encouraged by this committee in its report on the Trade Agreements Act of 1979, rests on three factors: (1) the country's general level of development; (2) its competitiveness with regard to the particular product; and (3) overall U.S. economic interests, including the import sensitivity of the product sector. The following table illustrates the effect of these discretionary actions:

TABLE 3.—PRODUCT GRADUATION UNDER THE GSP

[In millions]

Year	Discretionary graduation	Competitive need exclusions	Total exclusions	GSP-free imports	Ratio of exclusions to GSP imports
1980	$443	5,600	6,043	7,328	0.82
1981	651	6,782	7,433	8,395	0.89
1982	900	7,108	8,008	8,426	0.95
1983	1,211	10,661	11,872	10,765	1.11

Note.—Data shown for graduation and competitive need exclusions pertain to actions implemented in March of the following year.
Source: USTR.

In May 1983 the International Trade Commission (ITC) reported the results of two analyses it made of U.S. imports under the GSP. (See An Evaluation of U.S. Imports Under the Generalized System of Preferences, U.S. ITC Pub. 1379, May 1983; Changes in Import Trends Resulting From Excluding Selected Imports From Certain Countries From the Generalized System of Preference, U.S. ITC Pub. 1384, May 1983). Chairman Eckes also testified on the ITC's findings in a hearing before the Subcommittee on International Trade, at which time he updated the ITC's conclusions. Among the principal conclusions of the ITC are:

1. U.S. GSP imports rose from $5.2 billion in 1978 to $8.5 billion in 1982, increasing at an annual rate of approximately 13 percent.
2. GSP imports accounted for 4.9 percent of total nonpetroleum imports in 1982, rising modestly from 4.1 percent in 1978. Because some sectors are more closed to GSP imports than others, the share of GSP imports relative to total imports varies among the nonpetroleum sectors of the U.S. economy. For example, GSP imports averaged 13.8 percent of total miscellaneous manufactures imports from 1978–82, but other sectors averaged a three to five percent ratio in the same time.
3. GSP imports have not resulted in significant increases in the overall import share of the U.S. market. Further, GSP imports accounted for approximately 0.5 percent or less of apparent U.S. consumption during 1978–82.
4. The countries benefiting most from invocation of the competitive need limitations on particular products are advanced developing countries and developed countries—not lesser developed countries.
5. Several factors limit the degree of market penetration by GSP imports, including the following: (a) the limited product coverage of GSP-eligible items, which averaged 36 percent of total imports in 1982; (b) the selective nature of the GSP program, which tends to exclude import "sensitive" commodities; (c) the generally moderate rates of duty on GSP-eligible items, which overall averaged slightly over 8 percent ad valorem in 1981; (d) the competative-need provisions, the annual review of the program, and graduation, which act as checks in areas of rapidly rising GSP imports; (e) the temporary nature of the program, which unless renewed will terminate on January 4, 1985; and (f) the manufacturing limitations in many of the GSP-beneficiary countries, including limitations in technology, manufacturing capacity, basic infrastructure required to support manufacturing, and other inputs such as skilled labor and capital.

Finally, the ITC noted that in many areas where GSP imports have increased, it would appear to be at the expense of imports from developed countries; this substitution of imports for other imports tends to limit the impact of GSP imports on overall market penetration by imports.

The following table compiled by the Commission, reveals on a sector-to-sector basis the impact of the GSP program from 1978–1982.

TABLE 4.—U.S. SHIPMENTS, IMPORTS FOR CONSUMPTION, EXPORTS OF DOMESTIC MERCHANDISE, AND APPARENT CONSUMPTION, 1978–82 [1]

[Dollar amounts in millions]

Sector	Producers' shipments	Imports		Exports	Apparent consumption	Ratio of—		
		Total	GSP			GSP to total imports	Total imports to consumption	GSP imports to consumption
Agricultural, animal, and vegetable products:								
1978	250,899	17,112	614	29,491	238,520	3.6	7.2	0.3
1979	275,567	19,399	803	34,835	260,131	4.1	7.5	.3
1980	301,707	20,023	1,323	40,733	280,997	6.6	7.1	.5
1981	319,382	20,261	1,355	43,679	295,964	6.7	6.8	.5
1982	324,393	19,038	902	37,142	306,289	4.7	6.2	.3
Forest products:								
1978	151,199	8,501	269	5,774	153,926	3.2	5.5	.2
1979	169,759	9,699	337	7,806	171,651	3.5	5.7	.2
1980	178,485	9,252	339	9,609	178,128	3.7	5.2	.2
1981	200,433	9,647	349	9,218	200,863	3.6	4.8	.2
1982	197,275	9,021	316	8,482	197,814	3.5	4.6	.2
Textiles, apparel, and footwear:								
1978	99,532	10,696	321	5,185	105,044	3.0	10.2	.3
1979	105,550	11,015	262	7,190	109,375	2.4	10.1	.2
1980	111,122	12,039	370	8,845	114,316	3.1	10.5	.3
1981	117,008	13,984	412	8,348	122,644	2.9	11.4	.3
1982	113,997	14,704	361	6,639	122,062	2.5	12.1	.3
Chemical and related products: [2]								
1978	180,225	10,201	464	16,829	173,597	4.6	5.9	.3
1979	226,221	11,766	536	23,553	214,434	4.6	5.5	.3
1980	244,416	12,490	612	29,004	227,902	4.9	5.5	.3
1981	268,134	13,506	782	30,749	250,891	5.8	5.4	.3
1982	281,388	13,341	820	29,174	265,555	6.2	5.0	.3
Minerals and metals:								
1978	203,833	24,323	929	11,495	216,661	3.8	11.2	.4
1979	234,919	27,156	1,219	19,530	242,545	4.5	11.2	.5
1980	227,635	31,751	1,357	25,090	234,296	4.3	13.6	.6
1981	233,035	34,386	1,511	19,953	247,468	4.4	13.9	.6
1982	199,020	29,247	1,527	14,760	213,507	5.2	13.7	.7
Machinery and equipment:								
1978	359,704	48,146	1,339	59,504	348,346	2.8	13.8	.4
1979	391,910	53,630	1,649	70,260	375,280	3.1	14.3	.4
1980	402,570	60,078	1,748	84,307	378,341	2.9	15.9	.5
1981	432,570	68,542	2,262	95,536	405,576	3.3	16.9	.6
1982	424,581	72,360	2,601	87,291	409,650	3.6	17.7	.6
Miscellaneous manufactures:								
1978	65,162	9,277	1,271	9,446	64,993	13.7	14.3	2.0
1979	72,190	10,508	1,515	11,460	71,238	14.4	14.8	2.1
1980	79,200	11,583	1,602	13,720	77,063	13.8	15.0	2.1
1981	83,590	13,298	1,758	14,894	81,994	13.2	16.2	2.1
1982	85,200	14,133	1,947	15,290	84,043	13.8	16.8	2.3

Footnotes at end of table.

TABLE 4.—U.S. SHIPMENTS, IMPORTS FOR CONSUMPTION, EXPORTS OF DOMESTIC MERCHANDISE, AND APPARENT CONSUMPTION, 1978–82 [1]—Continued

[Dollar amounts in millions]

Sector	Producers' shipments	Imports		Exports	Apparent consumption	Ratio of—		
		Total	GSP			GSP to total imports	Total imports to consumption	GSP imports to consumption
Total, all sectors:								
1978	1,310,554	128,257	5,207	137,724	1,301,087	4.1	9.9	.4
1979	1,476,116	143,172	6,322	174,635	1,444,654	4.4	9.9	.4
1980	1,545,135	157,216	7,351	211,307	1,491,043	4.7	10.5	.5
1981	1,654,152	173,625	8,429	222,377	1,605,400	4.9	10.8	.5
1982	1,625,854	171,844	8,473	198,778	1,598,920	4.9	10.7	.5

[1] The trade data provided in this table are based on trade in schedules 1 through 7 of the Tariff Schedules of the United States (imports) and schedule B (exports); trade under schedule 8 and other special provisions is not included. Import values used in the report are based on Custom value; export values are based on f.a.s. value, U.S. port of export.

[2] Excludes data on petroleum, natural gas, and related products.

Finally, the committee notes that 19 industrialized countries have already extended their GSP programs, and Canada is expected to do so this year. The experience of the United States accords with that of the other developed countries offering similar trade preferences. In 1983, the Organization of Economic Cooperation and Development published "The Generalised System of Preferences: Review of the First Decade," a comprehensive report on OECD members' GSP programs. As a whole, OECD members' imports from developing countries grew at a faster rate between 1976 and 1980 than imports from all sources, and GSP-eligible imports grew at an even faster rate. The following data demonstrate these trends, and that the U.S. experience is unexceptional compared to that of other developed countries.

TABLE 5.—AVERAGE ANNUAL PERCENTAGE GROWTH OF LDC IMPORTS, 1976–80

	Total imports world	Covered by GSP	Imports from beneficiaries	
			Accorded GSP treatment	Residual dutiable imports (non-GSP, excluding oil)
Australia	17.1	56.5	58.8	12.8
Austria	20.4	10.3	29.1	27.2
Canada	11.9	16.7	18.5	14.3
Finland	20.9	41.4	42.8	17.0
Japan (FY [1])	22.7	27.9	30.7	11.4
New Zealand (FR [1])	21.4	14.3	NA	24.3
Norway	9.5	29.9	27.4	12.2
Sweden	15.8	27.5	25.1	−2.8
Switzerland	25.8	29.2	26.3	18.8
United States	18.3	21.9	23.8	14.8
European Economic Community	21.2	25.1	24.6	8.2
OCED preference-giving countries (trade-weighted average)	19.6	25.1	[2]26.8	12.2

[1] FY—for period 1976 to 1980–81.

[2] Excluding New Zealand.

Note.—Growth rates are based on values expressed in U.S. dollars.

Source: OECD, "The Generalised System of Preferences," p. 58 (1983).

III. The Committee Bill

In sum, S. 1718, as amended, would extend the current GSP until January 3, 1995, but with certain changes. These include additional authority for the President to reduce the competitive need units applied to competitive products; an exemption of the least-developed countries from competitive need limits; and authority to waive the competitive need limits. The bill mandates a study, to be completed within 2 years, of GSP-eligible articles based on beneficiary countries' competitiveness generally and with regard to particular articles. Based on that review, the President may impose lower competitive need limits, setting new ceilings on duty-free imports at one-half the normal level. The result will be that products will be graduated much more rapidly. Competitive need limits, however, may be waived by the President on a product-specific basis if he determines it is in the national interest to do so, based *inter alia* on assurances that the country will provide equitable and reasonable access to its markets, protect U.S. intellectual property, and reduce trade-distorting investment practices. These mechanisms are intended to promote the lowering of developing country trade barriers.

A. Amendments to Basic Authority

Sections 2 of S. 1718 would renew the President's authority to operate the GSP through January 3, 1995. The current authority expires on January 3, 1985.

The Congress provided an initial 10-year authorization for the GSP in order for the program to have sufficient time in which to demonstrate its effects, but still allow timely review of its operation, whether it has fulfilled the purposes for which it is intended, and whether it serves a continuing need. In this regard, the committee over the past decade has exercised its oversight responsibilities carefully, including the receipt of extensive testimony at hearings on November 25, 1980; August 4, 1983; and January 27, 1984. The latter two hearings specifically addressed S. 1718.

The committee is satisfied that the GSP is operating as the Congress intended; that it poses for U.S. industries and workers no significant threat of injurious import competition; and that the program remains a viable development tool and is important to the economic and foreign policy interests of the United States. The committee therefore concluded that, as somewhat modified by the amendments contained in S. 1718, the GSP should be renewed for another 10 years.

In creating the GSP, Congress provided for mechanisms to preclude designations of import-sensitive items that threatened injurious competition, and also to encourage removal of tariff preferences for product sectors in which a beneficiary country becomes fully competitive and no longer requires the preference incentive. The committee has noted in previous reports the importance of achieving a greater distribution of GSP benefits and of encouraging the assumption by the more advanced developing countries of the obligations and responsibilities of the international trading system.

The import data described heretofore show that GSP imports are an insignificant component of total U.S. imports and domestic con-

sumption, and that these ratios have remained constant. Indeed, the ITC found that only 12 of 650 commodity groups have incurred any significant import penetration from GSP imports. Further, the extensive annual GSP product review conducted by the USTR has ensured that concerns of both domestic industries and importers are fully heard and that serious attention is given to sectors in which product removal or discretionary graduation is in order. The following table indicates how this process has performed in recent years:

TABLE 6.—PRODUCT REVIEW UNDER GSP

[Number of petitions requesting]

	Product additions			Product removals			Country graduation		
	Received	Reviewed	Granted	Received	Reviewed	Granted	Received	Reviewed	Granted
1976	63	61	37	48	42	5			
1977	38	36	10	44	41	2			
1978	173	91	23	27	27	3			
1979	220	112	54	33	30	4			
1980	118	77	39	4	4	0			
1981	294	60	31	9	3	0	5	4	2
1982	333	89	49	7	4	1	21	16	7
1983	352	53	31	10	7	4	17	11	9
1984	223	35	22	16	14	7	15	14	10
Total	1,814	614	296	198	172	26	58	45	28

Source: U.S. Trade Representative.

The trend has been increasingly toward restricting the value of GSP-eligible products that actually receive duty-free entry. In 1983, more eligible products were denied duty-free treatment than received it. The committee is satisfied that with the changes provided in the bill, the provisions of existing law governing the product eligibility process will continue to be properly administered and will be adequate to the task for which they are designed.

Although GSP imports are not large, the program remains an important development tool. Approximately 40 percent of U.S. exports go to the 140 developing countries that are GSP beneficiaries. U.S. exports to these countries increased at an average annual rate of 12.5 percent since 1976, compared to 9.6 percent growth in exports to developed countries. The debt crisis in the developing world and the precipitous drop in U.S. exports to these countries in the past three years have heightened the importance of encouraging development through trade. The GSP schemes of the developed countries offer opportunities for the beneficiary countries to increase their exports, enabling them to import more while diversifying their economies. Further, to the extent that the GSP in fact results in greater exports, the volume of such imports into the United States generally comes at the expense of developed countries' exports; thus, total import penetration in particular product sectors generally is not affected.

For these reasons, the committee approved an extension of the authority for the GSP with some changes. Section 3 of S. 1718 proposes one change in this basic authority. Section 501 of the Act currently requires the President, in proclaiming GSP duty-free treat-

34-834 O - 84 - 2

ment, to have due regard for three factors, including the action's effect on furthering the development of the beneficiary countries; comparable efforts by other developed countries; and the action's anticipated impact on like or directly competitive products. Section 3 of the bill would add a fourth factor: "The extent of the beneficiary developing country's competitiveness with respect to eligible articles."

The factors enumerated in section 501 are intended as guides to the President's overall conduct of the program. The amendment made by section 3 will serve to emphasize the Congress' concern that the current policy of discretionary graduation will be maintained. Further, the committee expects these factors to play a considerable role in the President's general review of eligible articles required by section 6 of the bill, in which new limitations are established for preferential tariff treatment. The four factors will also be important to the President's consideration of a waiver of the competitive need limitations authorized in section 6. In making both determinations, the committee intends that the President apply this new fourth factor as an estimate of general economic progress in the beneficiary country, and not as a strict measure of comparability to a competitive U.S. industry.

B. COUNTRY ELIGIBILITY

Section 502 of the 1974 Trade Act, as described above, defines the circumstances in which a country may be designated as eligible for GSP benefits. Subsection (b) enumerates factors that, with certain limited exceptions, bar countries from eligibility. Subsection (c) further sets forth several factors of which the President must take account in making his eligibility determination. Section 4 of S. 1718 amends these two subsections of existing law to bring into the President's decisionmaking process the matter of a potential beneficiary country's treatment of U.S. intellectual property rights and trade as it is affected by investment practices.

During the course of its review of S. 1718, the committee received extensive testimony on the growing and highly damaging practice of counterfeiting. U.S. producers increasingly face unfair competition in U.S. and world markets from foreign-made products that violate their intellectual property rights, including patents, copyrights, and trademarks. The counterfeited products not only cause lost sales, but ruin product reputations and marketing networks as well. The International Trade Commission recently estimated that in 1982, U.S. firms lost $6–8 billion in domestic and export sales due to foreign product counterfeiting and similar trade practices; for five sectors, the estimated employment loss was 131,000 jobs. U.S. firms participating in the Commission's investigation cited countries in East Asia as the most prevalent source of the products. Most of these countries are GSP beneficiaries.

The committee approved several amendments to S. 1718 that will direct the President to consider a beneficiary country's practices with respect to intellectual property rights when he is determining a country's status under the program. Section 502(b)(4) currently requires the President to deny beneficiary status to a country that has, under subparagraphs (a), (b), or (c), "expropriated * * * property" of a U.S. national without adhering to international law regarding procedural fairness and compensation. Because these criteria could be interpreted to be directed only at takings of tangible property, section 4(a) of the bill amends subsection (b)(4) to make clear that the subsection also applies to intangible property, including patents, trademarks, or copyrights. Thus, action by a foreign beneficiary government or government instrumentality that effectively seizes or expropriates intellectual property rights of a U.S. national will require the President to terminate further GSP benefits to such country.

Section 4(b) of the bill, as incorporated into S. 1718 by the committee, would add two additional factors to those set forth currently in section 502(c) which must be considered by the President in the designation process and in all other determinations regarding country or product eligibility. The first would require the President to consider the extent to which a country is providing under its law adequate and effective means for foreign nationals not only to secure, but also effectively to exercise and to enforce, exclusive rights in intellectual property.

To determine whether a nation provides "adequate and effective means," the President should consider the extent of statutory protection for intellectual property (including the scope and duration of such protection), the remedies available to aggrieved parties, the willingness and ability of the government to enforce intellectual property rights on behalf of foreign nationals, the ability of foreign nationals effectively to enforce their intellectual property rights on their own behalf, and whether the country's system of law imposes formalities or similar requirements that, in practice, are an obstacle to meaningful protection. The term "foreign nationals" is intended to refer to U.S. nationals and nationals of other countries with whom U.S. nationals have a contractual or similar relationship with respect to the sale or licensing of intellectual property; for example, a non-U.S. licensee of the rights owned by a U.S. national.

The committee recognizes that the new subparagraph (5) does not provide a single, objective test for determining whether the law of a foreign country provides adequate and effective protection for intellectual property, because this is not a standard susceptible to such a simplistic test. It is anticipated, however, that the President will consult with appropriate parties, including the U.S. Copyright Office and the Patent and Trademark Office, to fashion a set of criteria to be applied consistently and objectively.

The second amendment to current law made by section 4(b) would further require the President to consider the extent to which a beneficiary country has taken action to modify inward investment policies and practices that distort U.S. trade. In particular, the committee is concerned that U.S. export opportunities, which often are generated by U.S. investments abroad, are increasingly thwarted by requirements of host countries that U.S. firms limit their imports from the United States or that, as a condition of approval on an investment, firms agree to performance requirements; for example, producing a certain level of exports. Such measures are replacing more traditional forms of import restrictions throughout the world as serious trade barriers. The committee con-

siders it to be entirely appropriate to raise these trade barriers as issues with regard to a country's entitlement to GSP benefits.

C. INELIGIBLE ARTICLES

Section 503(c) of the 1974 Trade Act enumerates several articles which the President cannot designate as eligible for duty-free treatment. The committee bill would include additional items in this category. The articles are handbags, flat goods, work gloves, luggage, and leather wearing apparel, which were not eligible for duty-free treatment under GSP on April 1, 1984. These items already are excluded administratively under the program, but the committee determined that to prevent their possible designation, a statutory exception was warranted similar to that accorded certain other products.

The items encompassed by this amendment are classified in the Tariff Schedules of the United States under items 705.35; 705.85; 705.86; 706.05-.16; 706.21-.32; 706.34; 706.36; 706.38; 706.41; 706.43; 706.55; 706.62; and 791.76.

D. LIMITATIONS ON PREFERENTIAL TREATMENT

Section 504 of the 1974 Act authorizes the President to withdraw, to suspend, or to limit the duty-free treatment accorded by the GSP, and establishes "competitive need limits" that set a ceiling on benefits that countries may receive for particular products. Duty-free treatment for an article is removed if a country's exports of the article to the United States in one year exceed in value either (1) an amount producing a ratio of that amount to $25,000,000 that is greater than the ratio of the U.S. gross national product (GNP) for the preceding calendar year to the U.S. GNP for 1974, or (2) 50 percent of total U.S. imports of the article. The ceiling set under the first test for 1983 was approximately $57.7 million. In addition to these mandatory limits on benefits, the President has authority to graduate articles on a discretionary basis.

Section 6 of S. 1718 would retain these basic limitations of current law, and would provide additional authority to reduce the benefit limits further. Moreover, the amendments proposed in section 6 would authorize the President to waive the limits in recognition of beneficiary country action on trade matters of concern to the United States. This new authority is designed to further the original aims of the Congress to achieve a broad distribution of GSP benefits, and at the same time to encourage developing countries to provide greater market access to U.S. exporters and greater protection of U.S. intellectual property, for example.

Under the bill, section 504(a) first would be amended to require the President, within 3 years of the date of enactment, to submit a detailed written report to Congress on the extent to which eligible countries are in compliance with the factors in section 501 and 502(c). In addition, the President's report shall include a full discussion of any action he has taken under this section to withdraw, to suspend, or to limit GSP benefits to any country that has failed to comply with such factors.

In delegating this discretionary authority to the President, it is the intent of the committee that the President will vigorously exer-

cise the authority to withdraw, to suspend, or to limit GSP eligibility of noncomplying countries. The U.S. Trade Representative's Office shall consult with interested U.S. industry representatives, particularly those who are actively engaged in, or seek to engage in trade and investment in the beneficiary developing countries. Where valid and reasonable complaints are raised by U.S. firms concerning a beneficiary country's market access policy or protection of intellectual property rights, for example, it is expected that such interests will be given prominent attention by the President in deciding whether to modify duty-free treatment for that country. Finally, the President must periodically advise Congress on the measures he has taken to respond to legitimate industry complaints regarding noncompliance with the factors in sections 501 and 502(c).

Section 6(b) of the bill amends the competitive need limits authority of existing law. Section 504(c) would be amended to require a general review by the President of all GSP-eligible articles based on the country and product eligibility requirements of section 501 and 502(c). This review, which is distinct from the product reviews that will continue as under existing law, must be completed within two years. The general review will seek to identify articles in which a beneficiary country has demonstrated, compared to other beneficiary countries, that it has achieved sufficient competitiveness in a particular product line so that it is appropriate to trigger faster graduation from benefits. The committee understands that the following factors, already established in law and administrative procedure, will govern the President's determinations in the general product review:

(1) the developmental level of individual beneficiaries;

(2) the beneficiary country's competitiveness in a particular product;

(3) the overall interests of the United States;

(4) the effect such action will have on furthering the economic development of developing countries;

(5) whether or not the other major developed countries are extending generalized preferential tariff treatment to such product or products;

(6) the anticipated impact of such action on United States producers of like or competitive products; and

(7) the extent to which the beneficiary country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country.

In addition to these established factors, the bill requires that two more criteria apply to the President's determinations. These are: (1) effective recognition of U.S. intellectual property rights (new section 502(c)(5)); and (2) the extent to which a country has taken action to reduce trade-distorting investment practices (new section 502(c)(6)).

On the basis of the review, the President will, in effect, halve the normal competitive need limits for articles meeting the test of "sufficient degree of competitiveness." Thus, these products will be graduated when imports exceed in value an amount that (1) bears the same ratio to $25 million as the U.S. GNP for the preceding

year bears to the U.S. GNP for 1984, or (2) is 25 percent of total imports for the year.

In practice, these more stringent competitive need limits will most affect products from the advanced developing counties that are the major program beneficiaries. These countries offer the greatest opportunities for U.S. export growth, but in many cases have been slow to adopt in this regard the obligations and responsibilities of the international trading system. The committee thus intends that the general review emphasize opportunities for market access in its competitiveness determinations.

To promote further the goal of securing recognition of important U.S. trade interests, the committee bill allows the President to waive the application of competitive need limits in the following circumstances: (1) the ITC has provided advice on whether any U.S. producers are likely to be adversely affected by the proposed waiver; (2) the President determines, based on the ITC advice and the eligibility criteria of sections 501 and 502(c) of the act, that the waiver is in the U.S. national economic interest; and (3) this determination is published in the Federal Register.

This waiver authority is intended to encourage advanced developing countries to adopt policies commensurate with increasing development—a goal of GSP programs. The bill requires considerable weight to be given to whether such a country is affording equitable and reasonable access for U.S. exporters to its markets and basic commodity resources, and the extent to which it affords adequate and effective recognition of intellectual property rights. It is expected that the waiver will be exercised only in circumstances clearly satisfying these tests and advancing the intent supporting this authority. It is also anticipated that the waiver will not be used in any instance where it appears likely that a U.S. industry would be adversely affected. The waiver will remain effective until the President determines that changed circumstances no longer warrant its invocation.

Although the committee approved the waiver provision of S. 1718 as introduced, it amended the bill to require, as a condition of exercising the waiver, that the President first receive advice from the ITC on whether exercise of the waiver authority is likely to affect adversely U.S. producers. The committee concluded that there should be an independent review of the President's use of this authority. The ITC is not required to conduct a hearing on such matters, although whether to do so is within the Commission's discretion if it determines a hearing is warranted by the complexity or nature of the trade and industry involved. The President is barred from waiving competitive need limits in the absence of advice from the ITC. Further, the committee expects the President to provide the ITC with the information necessary for the agency to make an informed judgment on the waiver's effects, including the extent of the proposed waiver.

The standard of "adversely affected" is intended to require the Commission to report any likely detrimental impact on U.S. industries without regard to whether a firm or an industry would be considered injured under standards elsewhere promulgated in U.S. trade laws. The committee further intends that the Commission's

report include the degree to which use of the proposed waiver would contribute to the likelihood of such effects. This information will ensure that no waiver of competitive need limits will be made without full cognizance of its potential effects.

Section 504(c)(4) of the act, as amended by section 6 of S. 1718, would maintain a provision of current law that authorizes a waiver of competitive need limits on an article-by-article basis in strictly limited circumstances that, in effect, were intended to be applicable solely to the Philippines. These circumstances are when the President determines with respect to a country that (1) there has been an historical preferential trade relationship with the country; (2) there is a treaty or trade agreement in force covering economic relations between the country and the United States; and (3) the country does not discriminate against, or impose unjustifiable or unreasonable barriers to U.S. commerce. At the time of enactment of the 1974 Act, the United States and the Philippines were negotiating a treaty on economic relations that was expected to provide for reciprocal conditions for trade and investment.

The United States and the Philippines have never entered into such an agreement, and the waiver has never been exercised. In renewing this provision of section 504(c), the committee seeks to encourage the Philippines' authorities to engage in renewed trade discussions leading to greater reciprocal trade and increased export opportunities for U.S. producers. The waiver, however, should not be exercised absent clear commitments regarding better treatment for U.S. exporters and investors.

The committee bill also maintains a provision of current law (section 504(c)(2)) that authorizes the President to restore preferential treatment once it has been withdrawn because import levels breached the ceilings set by the competitive need limits. Redesignation for eligibility would occur whenever imports for a subsequent calendar year decreased to a level below the competitive need ceilings. The committee bill would authorize the redesignation under the stated criterion for articles losing preferential treatment as a result either of the annual product review under normal competitive need limits, or the new general review required by this bill that may result in lower competitive need limits.

The committee bill further would amend present section 504(c) to include a new subsection (c)(6), authorizing the exemption of least-developed beneficiary countries from the application of the benefit limitations established in subsection (c). Under this provision the President must, before July 4, 1985, and periodically thereafter, determine which countries are entitled to be excluded from the application of subsection (c). His determination will be based on the considerations and criteria for country eligibility set forth in sections 501 and 502(c); in particular, the President must consider the level of economic development of the country. At least 60 days before a determination under this provision is finalized, the President must notify the Congress of his decision.

As a practical matter, few least-developed countries are capable of achieving a level of export competitiveness that would subject them to loss of preferential treatment under the program's competitive need limits. An important goal of S. 1718 is to encourage a greater dispersion of the GSP program's benefits among the 140

countries potentially eligible to take part in it. The committee intends that the exemption authorized by this section be used to further this goal for countries satisfying its criteria. The committee expects that this waiver authority will be exercised with respect to countries included on the list of nations recognized by the United Nations as least developed. That list currently includes the following countries:

TABLE 7.—*Countries recognized by the U.N. as least developed*

*Afghanistan	*Ethiopia	Rwanda
Bangladesh	Gambia	Sao Tome and Principe
Benin	Guinea	Sierra Leone
Bhutan	Guinea-Bissau	Somalia
Botswana	Haiti	Sudan
Burundi	*Laos	Tanzania
Cape Verde	Lesotho	Togo
Central African Republic	Malawi	Uganda
Chad	Maldives	Upper Volta
Comoras	Mali	Western Somon
Djibouti	Nepal	*Yemen (PDR)
Equatorial Guinea	Niger	Yemen (Sana)

*Not a beneficiary country under the U.S. GSP.

Finally, S. 1718 would continue two other provisions of existing law relating to limitations on preferential treatment. The first, section 504(d) currently exempts from the competitive need limitation established in section 504(c)(1)(B)—graduation upon imports of an article exceeding 50 percent of total imports of it—if a like or directly competitive article was not produced on January 3, 1975. The committee bill would up-date this provision to January 3, 1985.

Further, section 504(d) authorizes the President to exempt from the application of the same competitive need limit any article of which the value of imports did not exceed a certain dollar amount in the preceding calendar year. The amount is a value not in excess of an amount which bears the same ratio to $1,000,000 as the U.S. GNP for that next year bears to the U.S. GNP for 1979. The committee bill retains this provision because it reduces the administrative burdens of the Customs Service and provides greater certainty for U.S. exporters and importers for articles involved in a de mininus amount of trade.

III. VOTE OF 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 favorably reported without objection.

IV. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the cost and budgetary impact of the bill:

S. 1718 would continue present legislative authority to accord duty-free entry to eligible products from eligible countries. Because (1) thousands of products originating in over 100 countries are potentially eligible for such preferential access; (2) there are numer-

ous conditions and limitations on eligibility of both products and countries; and (3) because the operation of the program in part is discretionary, the committee states that it is impracticable to provide an estimate of the costs of the program. As noted in the following report of the Congressional Budget Office, the bill would not affect budget outlays or tax expenditures.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 24, 1984.

Hon. ROBERT DOLE,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has examined S. 1718, the Generalized System of Preferences Renewal Act of 1984. The bill would renew present legislative authority to accord duty-free entry to eligible products from eligible countries. Under current law, the authority would expire January 3, 1985. The bill would extend the authority until January 3, 1995.

Estimating the revenue loss from this bill is impossible due to the number of products and countries eligible for duty-free entry and the discretionary nature of the program. The bill would not affect budget outlays or tax expenditures.

With best wishes.

Sincerely,

ERIC HANUSHEK
(For Rudolph G. Penner).

V. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee states that the provisions of the committee bill will impose no new regulatory burdens on any individuals or businesses, will not impact on the personal privacy of individuals, and will result in no new paperwork requirements. The bill authorizes continued operation of a trade preference program without substantially modifying the law governing its current operation.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of XXVI of the Standing Rules of the Senate, the 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):

TRADE ACT OF 1974

TABLE OF CONTENTS

* * * * * * *

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Sec. 501. Authority to extend preferences.
Sec. 502. Beneficiary developing country.
Sec. 503. Eligible articles.

Sec. 504. Limitations on preferential treatment.
[Sec. 505. Time limit on title; comprehensive review.]
Sec. 505. Termination of duty-free treatment.

* * * * * * *

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this subchapter. In taking any such action, the President shall have due regard for—

(1) the effect such action will have on furthering the economic development of developing countries;

(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized references with respect to imports of products of such countries; [and]

(3) the anticipated impact of such action on United States producers of like or directly competitive products[.] *; and*

(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

SEC. 502. BENEFICIARY DEVELOPING COUNTRY

* * * * * * *

(b) No designation shall be made under this section with respect to any of the following:

Australia	Japan
Austria	Monaco
Canada	New Zealand
Czechoslovakia	Norway
European Economic Community member states	Poland
	Republic of South Africa
Finland	Sweden
Germany (East)	Switzerland
Hungary	Union of Soviet Socialist Republicas
Iceland	

In addition, the President shall not designate any country a beneficiary developing country under this section—

(1) if such country is a Communist country, unless (A) the products of such country receive nondiscriminatory treatment, (B) such country is a contracting party to the General Agreement on Tariffs and Trade and a member of the International Monetary Fund, and (C) such country is not dominated or controlled by international communism;

(2) if such country is a member of the Organization of Petroleum Exporting Countries, or a party to any other arrangement of foreign countries, and such country participates in any action pursuant to such arrangement the effect of which is to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level and to cause serious disruption of the world economy;

(3) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976, or that action will be taken before January 1, 1976, to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(4) if such country—

(A) has nationalized, expropriated, or otherwise seized ownership or control of property, *including patents, trademarks, or copyrights*, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, *including patents, trademarks, or copyrights,* so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, *including patents, trademarks, or copyrights,*

unless—

(D) the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly finishes a copy of such determination to the Senate and House of Representatives;

(5) if such country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 812

of title 21) produced, processed, or transported in such country from entering the United States unlawfully;

(6) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute; and

(7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

Paragraphs (4), (5), (6), and (7) shall not prevent the designation of any country as a beneficiary developing country under this section if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary developing country under this section, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country; [and]

(4) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country[.];

(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights; and

(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements).

* * * * * * *

SEC. 503. ELIGIBLE ARTICLES.

* * * * * * *

(c)(1) The President may not designate any article as an eligible article under subsection (a) of this section if such article is within one of the following categories of import-sensitive articles—

(A) textile and apparel articles which are subject to textile agreements,

(B) watches,

(C) import-sensitive electronic articles,

(D) import-sensitive steel articles,

(E) footwear articles specified in items 700.05 through 700.27, 700.29 through 700.53, 700.55.23 through 700.55.75, and 700.60 through 700.80 of the Tariff Schedules of the United States,

(F) import-sensitive semimanufactured and manufactured glass products, [and]

(G) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not eligible articles for purposes of this title on April 1, 1984, and

[(G)] *(H)* any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) No article shall be an eligible article for purposes of this subchapter for any period during which such article is the subject of any action proclaimed pursuant to section 2253 of this title or section 1862 or 1981 of this title.

SEC. 504. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) *(1)* The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under section 2461 of this title with respect to any article or with respect to any country; except that no rate of duty may be established in respect of any article pursuant to this section other than the rate which would apply but for this subchapter. In taking any action under this subsection, the President shall consider the factors set forth in sections 2461 and 2462(c) of this title.

(2)(A) The President shall as necessary advise the Congress and, by no later than January 4, 1988, the President shall submit to the Congress a report on the application of sections 501 and 502(c), with particular emphasis on—

(i) the extent to which beneficiary developing countries have—

(I) assured the United States that such countries will provide equitable and reasonable access to the markets and basic commodity resources of such countries.

(II) provided adequate and effective means for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, and

(III) taken action to reduce trade-distorting investment practices and policies (including export performance requirements), and

(ii) the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country based on his assessment of the factors cited in this subsection, which has failed to take adequately the actions described in clause (i).

(b) The President shall, after complying with the requirements of section 2462(a)(2) of this title, withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under section 2462(b) of this title. Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order revoking his designation of such country under section 2462 of this title.

[(c)(1) Whenever the President determines that any country—

[(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year, as determined by the Department of Commerce, bears to the gross national product of the United States for calendar year 1974, or

[(B) except as provided in subsection (d) of this section, has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year,

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article, except that, if before such 90th day, the President determines and publishes in the Federal Register that, with respect to such country—

[(i) there has been an historical preferential trade relationship between the United States and such country,

[(ii) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

[(iii) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

then he may designate, or continue the designation of, such country as a beneficiary developing country with respect to such article.

[(2) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated, subject to the provisions of section 2462 of this title, a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in paragraph (1) of this subsection during the preceding calendar year.

[(3) For purposes of this subsection, the term "country" does not include an association of countries which is treated as one country under section 2462(a)(3) of this title, but does include a country which is a member of any such association.

[(d) Subsection (c)(1)(B) of this section does not apply with respect to any eligible article if a like or directly competitive article is not produced on January 3, 1975, in the United States. The President may disregard subsection (c)(1)(B) of this section with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year, as determined by the Department of Commerce, bears to the gross national product of the United States for calendar year 1979.]

(c)(1) Whenever the President determines that any country—

(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the

same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974, or

(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year.

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

(2)(A) Not later than January 4, 1987, and peridically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in sections 501 or 502(c).

(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

(i) "1984" for "1974" in subparagraph (A), and

(ii) "25 percent" for "50 percent" in subparagraph (B).

(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver.

(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

(iii) publishes the determination described in clause (ii) in the Federal Register.

(B) In making any determination under subparagraph (A), the President shall give great weight to—

(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before the 90th day after the close of the calendar year for which a determination

described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

(A) there has been an historical preferential trade relationship between the United States and such country,

(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

(B) The President shall—

(i) amake a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

(ii) notify the Congress at least 60 days before any such determination becomes final.

(7) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United states for calendar year 1979.

(e) No action pursuant to section 2461 of this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 1319 of this title on coffee imported into Puerto Rico.

SEC. 505. TIME LIMIT ON TITLE; COMPREHENSIVE REVIEW.

(a) No duty-free treatment under this subchapter shall remain in effect after the date which is 10 years after January 3, 1975.

(b) On or before the date which is 5 years after January 3, 1975, the President shall submit to the Congress a full and complete report of the operation of this subchapter.

SEC. 505. TERMINATION OF DUTY-FREE TREATMENT.

No duty-free treatment provided under this title shall remain in effect after January 3, 1995.

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Calendar No. 976

98TH CONGRESS
2d Session

SENATE

REPORT
98-510

AUTHORITY FOR TRADE AGREEMENTS WITH ISRAEL AND CANADA

JUNE 12 (legislative day, JUNE 11), 1984.—Ordered to be printed

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

REPORT

[To accompany S. 2746]

The Committee on Finance reports an original bill (S. 2746) to amend the Trade Act of 1974 to authorize the negotiation of trade agreements with Israel and Canada, and for other purposes, and recommends that the bill do pass.

I. SUMMARY

The committee bill would amend section 102 of the Trade Act of 1974, which currently authorizes the negotiation of reciprocal trade agreements addressing nontariff barriers, to authorize the negotiation of trade agreements with Israel and Canada to harmonize, to reduce, or to eliminate tariff as well as nontariff barriers that unduly burden or restrict the foreign trade of the United States or adversely affect the U.S. economy. As provided in present law, any such trade agreement must be submitted for approval to the Congress, which will consider the agreement and any implementing legislation under expedited procedures set forth in section 151 of the act.

The bill further would prohibit any trade benefits to be extended to any other country by reason of the extension of any trade benefit to Israel or Canada. However, the bill would provide a mechanism by which the President could seek to negotiate other trade agreements encompassing tariff barriers within the procedures provided in the 1974 act. In sum, the bill would require, as a condition of gaining expedited Congressional consideration of such an agreement, that the President notify the Committee on Finance and the

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Committee on Ways and Means of the House of Representatives of such negotiations at least 60 days prior to the time he notifies, pursuant to current law, the Congress of his intent to enter into a trade agreement pursuant to section 102. In order for the expedited procedures to be available, the President must consult with those committees on the negotiation of the agreement, and, in addition, neither committee can have disapproved of the negotiation within 60 days of notification.

The committee bill contains two other provisions. The first would amend title VII of the Tariff Act of 1930, which embodies the countervailing duty and antidumping duty laws, to clarify that those laws apply to situations where a product has been or is likely to be sold for importation but has not yet been imported. The second provision would authorize the President to seek with the Government of Canada to establish a joint economic commission to review trade and other economic issues between the two countries.

II. General Explanation

Upon the initiative of the governments of Canada and Israel, the President has held discussions with Canadian representatives and conducted preliminary negotiations with representatives of Israel to determine the feasibility of concluding trade agreements to eliminate tariffs and other trade-distorting practices affecting products traded between the United States and each of the two countries. Israel seeks an agreement encompassing all product sectors; negotiations with Canada, if successfully concluded, are expected to result in an agreement limited to a few sectors only. In its preliminary discussions, the administration determined that such agreements potentially offered substantial new opportunities for U.S. exporters, which have been suffering a substantial loss of world markets recently. The principal purposes of the bill are to provide the President with the authority he requires to negotiate agreements with these countries in good faith, while conditioning the entry into force of any such agreement on final congressional approval.

By specially authorizing the negotiation of these two trade agreements and requiring the President to submit them to the Congress for approval, the committee bill departs from the traditional manner by which the President has been legislatively enabled to assume new international obligations on behalf of the United States with respect to tariff matters. Nevertheless, the committee believes that the economic interests of the United States clearly favor pursuing the proposed negotiations at this time under the unique procedures provided in the bill. Final judgment on the merits of the agreements must await Congressional review after their negotiation.

TRADE NEGOTIATING AUTHORITY

Since enactment of the Reciprocal Trade Agreements Act of 1934 (Pub. L. No. 73-316), the Congress periodically has empowered the President to negotiate and to proclaim reciprocal reductions in tariffs with U.S. trading partners, subject to specific conditions and limitations. The most recent grant of such basic authority occurred in the Trade Act of 1974, which served as the basis for negotiation

of tariff reductions in the "Tokyo Round" of multilateral trade negotiations from 1975 through 1979. The 1974 act also separately directed and authorized negotiations for agreements to harmonize, to reduce, and to eliminate nontariff trade barriers, subject to subsequent approval by the Congress. In 1979, the President proclaimed the tariff changes agreed to in the Tokyo Round, and in the Trade Agreements Act of that year, the Congress approved 17 nontariff barrier agreements. These tariff and nontariff measures were intended to maintain the longstanding U.S. policy, repeatedly expressed in trade legislation over the past 50 years, of preserving and promoting economic growth through a strengthening of the international trading system.

The President's basic tariff negotiating and proclamation authority, contained in section 101 of the 1974 act, expired on January 2, 1980. Section 124 of the act further provided the President, for another 2 years, with residual authority to negotiate tariff adjustments within narrow limits and for the purpose of correcting discrepancies and anomalies resulting from the basic multilateral agreement. As section 124 has not been renewed, the President currently is without any tariff proclamation authority. In approving this bill, the committee expresses no position on the merits of renewing more general tariff negotiating authority, as that matter has not been considered by it.

In the 1979 Trade Agreements Act, the Congress determined to renew for 8 years section 102 of the 1974 act, which authorizes negotiation of nontariff barrier agreements. In its report explaining this renewal, this committee stated it supported extension of the authority to allow for negotiated improvements in the nontariff barrier agreements approved by the act . . .

> as well as to negotiate and enter into new agreements to reduce other types of barriers to trade. The end of the (MTNs) and the implementation of agreements negotiated therein can only be a beginning if the United States is to continue its necessary leadership role in encouraging futher expansion of international trade through mutually beneficial reductions in tariff and nontariff barriers.
>
> The extension of this authority will also provide the President with an essential tool to reduce barriers to U.S. exports, a necessary element of export expansion, vital to U.S. economic well-being in the future. . . .

S. Rept. No. 96-249, 96th Cong., 1st Sess. 256-57 (1979). The authority provided in section 102 expires January 2, 1988. Presidential authority to negotiate under section 102 does not include authority to negotiate reductions or other changes in tariff rates.

Besides their differences in subject matter, the negotiating authorities provided in sections 101 and 102 of the 1974 act are distinguished by the manner in which trade agreements authorized by each section are implemented in domestic law. Following the historic pattern, section 101 authorized the President to negotiate and to proclaim tariff changes within certain value limits during the period in which it was effective. The duty rates became effective according to the terms of the proclamation; no further congressional action was required.

In contrast, nontariff barrier agreements negotiated pursuant to section 102 require implementing legislation before becoming binding as a matter of domestic law. The purpose for this approval was to preserve Congress' constitutional role; because most such agreements would require substantial changes in domestic law, the Congress sought to avoid the abrogation of its legislative responsibilities that would occur if it authorized the President to alter a wide variety of domestic laws as a matter of international agreement. Thus, pursuant to procedures set forth in sections 102 and 151-154, the President must consult extensively with the Congress before entering into a nontariff barrier agreement, and submit an implementing bill which contains provisions (1) approving the agreement, (2) approving a statement of adminstrative action regarding implementation of the proposed agreement, and (3) making any necessary amendments to existing law. The Congress will then consider the bill on an expedited basis, as an exercise of each House's rulemaking powers. (These procedures are described in more detail in the section-by-section analysis of this report.)

In this regard, the committee notes that by amending section 102 to authorize tariff agreements, the new authority will be subject to the extensive system of safeguards the section embraces to ensure the President will fully take into account the concerns of members of Congress and the public as negotiations progress. The final scope of the United States-Canada and United States-Israel agreements cannot now be known, as negotiations on product coverage have not commenced. The Congress anticipated this too in the 1974 act, which was designed to launch the Tokyo Round of negotiations. The act thus required extensive consultation with not only Congress, but also the private sector advisory committees established by the act. In practice, intensive and productive consultations took place in the 90-day period that followed notification of the President's intention to enter into the trade agreement, but before he did so. The period was employed successfully in 1979 by various congressional committees, which reviewed the proposed agreements and recommended appropriate changes. The negotiators generally were able to resolve these problems satisfactorily, and the Trade Agreements Act, when finally introduced, passed the Congress nearly unanimously. The committee is confident that these procedures will again safeguard the interests of parties concerned about the possible substance of agreements proposed under this new authority.

NEGOTIATING OBJECTIVES AND BILATERAL AGREEMENTS

The 1974 act also set forth several negotiating objectives to guide the President in the exercise of the negotiating authority granted to him by the Congress. The overall negotiating objective is to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices that distort U.S. trade or commerce. One, more specific, objective, expressed in section 105, is to enter into bilateral trade agreements that the President determines "will more effectively promote the economic growth of, and full employment in the United States." Such trade agreements are to "provide for mutually advantageous economic benefits."

Thus, although U.S. trade relations generally are conducted on a multilateral basis under the auspices of the General Agreement on Tariffs and Trade (GATT), the Congress has directed the President to seek bilateral agreements that may promote more effectively the economic interests of the United States. In its report on the 1974 act regarding this provision, the committee stated:

> The trade agreements program of the United States was never intended to be exclusively, or even primarily, a program of multilateral agreements. The major purpose is reciprocal reduction of trade barriers. The trade agreements program is designed to authorize such international agreements as best serve the economic interests of the United States and the authorities of this bill and other trade legislation should be used for that purpose.

S. Rept. No. 93-1298, 93d Cong., 2d Sess. 80 (1974).

Both the 1974 and 1979 acts specifically encouraged negotiations with Canada to establish a bilateral trade arrangement. Section 612 of the 1974 act urged the President, in order to promote continued economic stability between the United States and Canada, to initiate negotiations for a trade agreement establishing a free-trade area. Section 1104 of the 1979 act reinforced this objective by requiring the President to complete a study of the desirability of entering into trade agreements with North American countries. In its report, the committee repeated its belief that such agreements might promote economic stability and growth through a mutual expansion of market opportunities.

The committee remains of the opinion that in some circumstances, including those presently appertaining to United States-Canada and United States-Israel trade, it is appropriate to negotiate bilateral trade agreements to advance the economic interests of this country. The negotiating objective of the President, of course, is to bargain for the optimum balance of opportunities favoring U.S. interests. The authority provided in this bill will allow the President to proceed toward this goal. Final judgment on his success will be reserved for the Congress.

FREE-TRADE AREAS

While the GATT establishes basic rules applicable to trade among its contracting parties, it recognizes that economic considerations may dictate that bilateral or regional arrangements, including duty-preference schemes, often best serve the interests of individual countries. For example, in 1965 the United States and Canada entered into a bilateral agreement waiving duties on trade in new motor vehicles and original equipment parts. This agreement, approved in the Automotive Products Trade Act of 1965 (19 U.S.C. 2001 et seq.), received a waiver from GATT rules that otherwise would have required this country to extend such duty-free treatment on a most-favored-nation (MFN) basis to all GATT members. Similarly, the United States is seeking a waiver from GATT rules to sanction the Caribbean Basin Initiative, a regional duty-preference scheme authorized in 1983 by the Caribbean Basin Economic Recovery Act (Pub. L. No. 98-67).

Both the potential United States-Israel and United States-Canada agreements would accord duty-free treatment to trade encompassed by their terms. Because such agreements are reciprocal in nature, the agreements are distinguished from the trade-preference programs the United States operates for developing countries (the Generalized System of Preferences and the Caribbean Basin Initiative). In addition, the U.S. negotiators have proposed that the United States-Israel agreement address barriers to trade in services, trade-related investment issues, and other nontariff barriers to trade. The Administration also states that each agreement would contain provisions necessary to its effective operation, including rules of origin and authorization for "safeguard" relief measures potentially affording industries temporary relief from the duty-free treatment otherwise accorded by the agreement. The agreements would make clear that they will not affect the normal operation of the domestic trade laws; for example, procedures for domestic industries to seek relief from unfairly traded imports would operate without regard to such agreements.

Article XXIV of the GATT permits the creation of free-trade areas as derogations from the general rule of article I that all contracting parties are entitled to MFN treatment. Thus, the countries entering into agreements meeting the article's standards would not be obliged automatically to extend duty-free treatment to other GATT members for products covered by the agreements. To satisfy the standards of article XXIV, however, several conditions must be met. For example, an agreement must cover substantially all trade between the parties and it must be staged into effect within a reasonable period of time.

The committee believes that, as currently envisioned, the United States-Israel free-trade area would satisfy article XXIV standards and the two countries would be entitled to derogate from the MFN obligations of article I. The proposed United States-Canada agreement is much more limited in scope, and it would appear that the two countries must seek approval by the GATT members of a waiver to avoid the MFN rules.

UNITED STATES-ISRAEL TRADE

Even excluding military shipments, the United States historically has enjoyed a merchandise trade surplus with Israel. In 1983, U.S. exports to Israel (excluding military goods) were $1.7 billion, while imports were $1.3 billion (see table 1). Imports from Israel constituted about 0.5 percent of total U.S. imports.

Over 40 percent of U.S. exports to Israel are dutiable, at an average ad valorem level exceeding 10 percent. Principal U.S. exports include grains, soybeans, kraft paper, textile fibers, tungsten, engines and engine parts, computers and other office machinery, electronic and electrical equipment, and transportation equipment. Israel imported approximately $300 million in U.S. agricultural products in 1983.

Approximately 90 percent of Israel's exports to this country already enter duty-free because of the Generalized System of Preferences or because of zero-duty MFN rates. Major exports to the United States include cut diamonds, resistors, internal combustion

engines, electrical articles, and high fashion apparel, particularly swim wear.

TABLE 1.—U.S. TRADE WITH ISRAEL

[In thousands, FAS]

	1981	1982	1983
Exports:			
Agricultural	355,503	337,294	297,292
Nonagricultural	1,145,117	1,191,498	1,418,056
Total	1,500,620	1,528,792	1,715,348
Imports:			
Agricultural	35,296	48,861	50,525
Nonagricultural	1,199,681	1,113,260	1,199,703
Total	1,234,977	1,162,129	1,250,228
Balance	265,643	366,663	465,120

Source: Data compiled by Department of Commerce.

In 1975 Israel and the European Communities established a preferential trade arrangement. The majority of the resulting tariff reductions was phased in between 1975 and 1980, although duty-free treatment for certain sensitive sectors is being granted in stages through 1989. Because of this agreement, Israel and the United States entered into an Understanding in 1975 that resulted in lower tariffs for 133 items of export interest to this country, the trade of which might have been adversely affected by the Israel-E.C. agreement. These concessions to the United States were negotiated because section 502(b)(3) of the 1974 Trade Act, as a condition of eligibility for the Generalized System of Preferences, requires potential beneficiary countries to ameliorate the effects of preferences granted to a developed country that might have a significant adverse effect on U.S. commerce.

Despite the fact that a substantially larger proportion of U.S. exports to Israel are subject to tariff protection than Israeli exports to this country, the United States consistently incurs a favorable balance of trade with Israel. Because a free-trade area would further reduce Israel's tariff barriers, products that now account for nearly half of U.S. exports will enjoy significantly increased opportunities to compete in the growing Israeli marketplace if an appropriate agreement were negotiated, approved, and implemented. This incentive will become especially critical as the Israel-European Communities free-trade arrangement is fully phased in and E.C. exporters gain an increasing advantage over their U.S. competitors. Further, an agreement with Israel offers the chance to open that country's service sector to increased U.S. competition, and also to gain specific commitments to reduce or to eliminate Israeli practices that distort U.S. trade.

The United States is Israel's single largest trading partner. While 35 percent of Israeli imports enter the United States duty-free under the GSP, the benefits of that program are tied in part to factors extraneous to U.S.-Israel trade, such as the level of imports

from other countries. Thus, Israel seeks the free-trade agreement as a more comprehensive and stable alternative to its GSP benefits.

Because of the wide range of economic and political values shared by Israel and the United States, the need for Israel to develop its U.S. economic ties in the face of boycotts blocking access to other potential markets, and the competitive advantage held by U.S. exporters, the committee concluded that the President should pursue negotiations for a free-trade area with Israel. These negotiations fit within the policy framed by the Congress in the 1974 Act to seek bilateral trade agreements that "best serve the economic interests of the United States" and that will allow this country "to continue its necessary leadership role in encouraging further expansion of international trade through mutually beneficial reductions in tariff and nontariff barriers."

UNITED STATES-CANADA TRADE

For a decade the Congress has stated in legislation and in reports of its committees of jurisdiction the need to pursue seriously a bilateral trade agreement with Canada, building on the 1965 Auto Pact. In August of 1983 the Canadian Government proposed the creation of such a limited free-trade arrangement, as part of a comprehensive statement of its trade policy. The arrangement would be limited to a few product sectors of mutual interest. Joint United States-Canadian working groups have been reviewing the desirability and feasibility of such an arrangement.

Although no decisions on negotiations have been made, such sectors as farm machinery, certain communications services, furniture, steel, and government procurement are undergoing particular scrutiny at this time. U.S. Trade Representative William Brock testified that discussions with Canada would address broader issues in our bilateral economic relationship, including nontariff barriers in the services as well as products sector. He testified that the Trade Representative's office has received numerous suggestions from Members of Congress and representatives of U.S. industries regarding products that should be encompassed in a United States-Canada trade agreement.

Canada and the United States are each other's largest trading partner; approximately 70 percent of Canada's trade is with this country, and approximately 20 percent of U.S. trade is with Canada. There are substantial foreign investments held in each country by citizens of the other. In recent years the United States persistently has incurred small trade deficits with Canada, while enjoying a substantial surplus on the balance of current account. More recently, however, the trade deficit has increased significantly. The following table shows the recent trade data:

TABLE 2.—U.S. TRADE WITH CANADA

[In thousands, FAS]

	1981	1982	1983
Exports:			
Agricultural	1,988,523	1,804,860	1,830,293
Nonagricultural	36,144,996	30,610,397	34,714,603
Total	38,133,519	32,415,257	36,544,896
Imports:			
Agricultural	1,156,656	1,396,405	1,504,845
Nonagricultural	44,619,363	44,932,105	50,477,502
Total	45,776,019	46,328,510	51,982,347
Balance	−7,642,500	−13,913,253	−15,437,451

Source: Data compiled by Department of Commerce.

In the committee's view, the President should be able to respond affirmatively to initiatives such as that of the Government of Canada—particularly when it accords with long-established Congressional policy and the widening bilateral deficit calls for the government to seek ways to open Canada's markets to new opportunities for U.S. exporters and to remove barriers to U.S. trade. The committee recognizes that an agreement may ultimately prove undesirable or unfeasible; nevertheless, serious negotiations to determine whether this is so cannot proceed without the authority to negotiate provided in this bill. Such authority does not presume congressional approval of the final product of negotiations, but it does assure the President and the Canadian Government that the Congress will approve or disapprove of any agreement within a reasonable period of time.

III. SECTION-BY-SECTION ANALYSIS

SECTION 1: NEGOTIATING AUTHORITY

Present law

The President's basic authority to negotiate trade agreements is set forth in title I of the Trade Act of 1974 (19 U.S.C. 2111 *et seq.*). Section 101 authorized trade agreements modifying tariff rates until it expired January 2, 1980. Section 102 authorizes the President, until January 2, 1988, to enter into trade agreements harmonizing, reducing, or eliminating nontariff barriers to and distortions of U.S. trade. Such agreements must be approved by the Congress, but may be considered under expedited procedures. Section 1 of the committee bill amends section 102 of the 1974 Act.

Section 102(a) states the finding of Congress that nontariff barriers to trade reduce market opportunities for U.S. exports, diminish the intended benefits of reciprocal trade concessions, adversely affect the U.S. economy, prevent fair and equitable access to supplies, and prevent the development of open and nondiscriminatory trade. The subsection then states that the Congress urges the President "to take all appropriate and feasible steps within his power" to harmonize, to reduce, or to eliminate these barriers, including the negotiation of trade agreements for this purpose.

Subsection (b) authorizes the President, until January 2, 1988, to enter into trade agreements providing for the harmonization, reduction, or elimination of barriers to (or other distortions of) international trade that unduly burden and restrict U.S. trade or the U.S. economy, or that are likely to produce such results. A trade agreement may also provide for the prohibition of or limitation on the imposition of such barriers to or distortions of trade. Any trade agreement concluded under this authority, however, cannot enter into force for the United States unless the President adheres to certain requirements for presentation of it to the Congress for approval, and the Congress approves it.

Sections 102(c)–(f) and 151-154 prescribe the following procedures for congressional approval:

1. Before entering into an agreement, the President must consult with the appropriate committees of jurisdiction over subject matters affected by the agreement, especially regarding issues of implementation.
2. The President must notify the Congress of his intention to enter into the agreement 90 working days before doing so, and thereafter promptly publish his intention in the Federal Register.
3. After entering into the agreement, the President must submit the agreement to the Congress, together with a draft implementing bill and a statement of administrative actions proposed to implement the agreement. An implementing bill must contain provisions approving the agreement and the statement of administrative action, and amendments to current law or new authority required or appropriate to implement the agreement.
4. The implementing bill will be introduced in both Houses of Congress on the day it is submitted by the President. The bill will be referred to the committee or committees of jurisdiction. The committees have 45 days in which to report the bill; a committee will be discharged automatically from further consideration after that period.
5. Each House will vote on the bill within 15 days after the measure has been received from the committee or committees. A motion in the Senate to proceed to consideration of the implementing bill is privileged and is not debatable. Amendments are not in order, and debate is limited to not more than 20 hours.

Although statutory, the procedures in paragraphs 3, 4, and 5 were enacted as an exercise of the rulemaking powers of each House of Congress, and are decreed to be a part of each House's rules. The procedures may be changed in the same manner as any other rule.

The committee bill

The committee bill would amend section 102(b) to create four subparagraphs, the first of which contains the text of present subsection (b). This bill also would amend the definition in section 102(g) of the term "barrier" to include duties and other import restrictions within its ambit. This term is used in section 102(b) to define the subject matter of trade agreements the section authorizes.

The committee bill then would limit the use of the authority to enter into trade agreements providing for the elimination or reduction of any duties. A new subparagraph 102(b)(2) would state that such authority may only be exercised with respect to Israel or Canada. Further, a new subparagraph 102(b)(3) would bar, notwithstanding any other provision of law, the extension of any trade benefit accruing to Israel or Canada from a trade agreement entered into under section 102(b)(1) to any other country. Finally, a new subparagraph 102(b)(4) would authorize—notwithstanding subparagraph (2) but subject to certain conditions—the President to enter into trade agreements providing for the elimination or reduction of duties with countries other than Canada or Israel. For such an agreement, the procedures for expedited congressional consideration provided in sections 102 and 151–154 would not be applicable unless the following conditions were satisfied:

1. The country requested negotiations for such an agreement;
2. At least 60 working days prior to the date of notification of the Congress of his intention to enter into a trade agreement pursuant to the authority of section 102, the President provided written notice to the Committee on Finance and the Committee on Ways and Means of the House of Representatives, and consults with these committees regarding negotiation of the agreement; and
3. Before the close of that 60-day period neither committee has disapproved of the proposed negotiation.

The 60-day period is calculated from the date on which the President would notify the Congress of his intention to enter into a trade agreement that he will submit for expedited consideration by the Congress under the rules set forth in sections 151–154. Subsection 102(c) requires such notification not less than 90 days before the President enters into such an agreement. The committee bill thus would require an additional 60-days notice for proposed trade agreements with countries other than Israel or Canada that would lower tariff rates, and allow Congress to refuse to consider such an agreement under the rules for expedited procedure.

Reason for provision

In considering the Administration's request for limited tariff-negotiating authority, the committee reviewed several alternative mechanisms for this purpose. Although section 102 was originally conceived solely as authorization for nontariff barrier trade agreements, the committee determined that its basic purposes and procedures were well-designed as a basis for authorizing free-trade agreements. Indeed, section 102(a) already states the basic congressional policy of encouraging the President to seek trade agreements providing for a mutual reduction of trade barriers, a policy reinforced by the separate sections of the Act which establish the negotiation of bilateral trade agreements—and specifically a United States-Canada agreement—as principal trade negotiating objectives. Further, the proposed United States-Israel agreement will address nontariff as well as tariff matters; section 102 currently authorizes negotiations on the former issue, and broadening the sec-

tion to include tariff barriers is an appropriate enhancement of the basic authority.

Further, as was the case when Congress enacted the 1974 act, the ultimate subject matter of the proposed agreements is insufficiently known to allow an agreement to enter into force for the United States absent congressional review. The current state of discussions with the two countries, and the basic facts of trade with them, do provide a satisfactory basis on which to agree with the administration that negotiations should move forward. A congressional mandate is requisite to further progress, however, and the President must assure Canada and Israel that he will at least be able to gain congressional consideration of any agreement once it is concluded. Therefore, the committee felt that this renewed tariff-negotiating authority should follow the intent and procedures of section 102.

In approving authority to negotiate on tariffs as well as nontariff matters, the committee intends that tariff negotiations proceed at this time only with regard to the proposed free-trade arrangements with Israel and Canada, and that the special legislative procedures for approval and implementation of section 102 agreements apply only to tariff agreements with these two countries. Thus, the committee included language limiting the tariff authority created by this bill to agreements with those countries.

During the consideration of the administration's proposal for these agreements, the committee became aware that a free-trade area agreement with Israel or Canada might result in an international obligation of the United States to accord the same treatment to other countries as well. The United States is a party to a number of bilateral agreements containing unconditional or conditional most-favored-nation (MFN) provisions not subject to any exceptions for free-trade agreements. An unconditional MFN obligation would, in general, require the United States unilaterally to extend to MFN beneficiary countries treatment similar to that it might accord Israel or Canada under a free-trade area agreement. A conditional MFN obligation would require the United States to extend similar benefits, but only to countries providing reciprocal benefits to this country.

It is also possible that a free-trade area with Israel or Canada would fail to meet the qualifying criteria of Article XXIV of the GATT, which governs the creation of free-trade areas, or fail to receive a GATT waiver, by reason of these bilateral MFN obligations. If such obligations benefit GATT members as well as countries that are not members of GATT (and it appears some of them may), then some GATT members might be entitled to the benefits of the free-trade areas while other countries were not. This discrimination among GATT members may disqualify a free-trade area from GATT acceptance.

The committee intends that no benefits accrue to any country other than Israel or Canada by reason of an agreement authorized by this bill between the United States and Israel or the United States and Canada. Therefore, the bill provides that no benefits shall extend to any other country by reason of the extension of any trade benefit to Israel or Canada under the authority of section 102.

As an exercise of the authority of each House of Congress to control its own rules, however, the committee agreed further to permit the use of section 102 procedures if the President enters into negotiations with countries other than Israel and Canada, but only if those countries apply for such benefits; the President notifies the Congress that he intends to proceed with such a negotiation; and neither the House Committee on Ways and Means nor the Senate Committee on Finance disapproves of such negotiations within 60 days after receiving such notification. The 60 days are congressional "working" days; that is, days on which both Houses are in session. In the event either committee disapproves such a negotiation within the required period, then the President could not submit an implementing bill approving the agreement under the procedures of sections 102 and 151-154 of the Act.

While its does not anticipate that this additional authority will be employed in the short period of time section 102 will be effective (until January 2, 1988), the committee recognizes that U.S. international obligations require that the President at least have the flexibility to respond to requests from our treaty partners for similar discussions. The twin safeguards of committee disapproval of negotiations and final congressional affirmative approval of any agreements are intended as safeguards against abuse of the authority.

SECTION 2. IMPORTS SUBJECT TO COUNTERVAILING AND ANTIDUMPING DUTIES

Present law

Title VII of the Tariff Act of 1930 authorizes the imposition of countervailing and antidumping duties to remedy the injurious effects of subsidized and dumped imported articles. For a countervailing duty investigation, section 701(a) requires a countervailing duty to be imposed when the Department of Commerce determines that merchandise "imported into the United States" benefits from a countervailable subsidy, and the International Trade Commission finds that a U.S. industry is materially injured or threatened with material injury "by reason of imports of that merchandise." In antidumping investigations, section 731 requires the Commerce Department to determine whether "foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value," and the Commission to determine whether a U.S. industry is materially injured, or threatened with material injury "by reason of imports of that merchandise."

The committee bill

Section 2 of the committee bill amends section 701(a) and 705(b)(1) of the 1930 Tariff Act to clarify that countervailing duty determinations may be made with respect to merchandise that has not necessarily been imported already, but has been sold or is likely to be sold for importation. Further, the bill would amend sections 705(b)(1) and 735(b)(1) to make clear that leases of merchandise that are the equivalent of sales shall be treated as sales for purposes of the countervailing and antidumping duty laws.

Reason for provision

The antidumping duty law long has applied not only to actual importations, but also to transactions involving both sales and likely sales. Although the countervailing duty law refers only to "imports", the Department of Commerce has ruled that investigations may proceed on the basis of sales contracts involving future subsidized imports, even though merchandise which is the subject of the investigation has not actually been imported at the time the investigation was commenced. See *Railcars from Canada* (48 Fed. Reg. 6569 (Feb. 14, 1983)). This situation may arise particularly in transactions involving capital goods, in which delivery times may be spread over several years but there is a large immediate loss to U.S. firms competing with the imports.

The committee concurs in the Department's interpretation of current law, but concludes that a legislative change would serve to remove any remaining uncertainty about the applicability of the countervailing duty law to future imports generated from current sales transactions.

The second amendment made by section 2 clarifies that both the countervailing and antidumping duty laws apply to leases that are the equivalent of sales. Import transactions may be structured in a variety of ways that may not be denominated as sales but are in fact permanent exchanges for valuable consideration. The committee bill would ensure that these unfair trade practice laws are not avoided on the basis of form alone. It would be the responsibility of the Department of Commerce to determine whether any particular leasing arrangement is equivalent to a sale for purposes of the countervailing and antidumping duty laws.

SECTION 3. JOINT UNITED STATES-CANADA ECONOMIC COMMISSION

Present law

None.

The committee bill

The committee bill authorizes the President to seek a trade agreement with Canada establishing a joint commission to resolve trade and other economic issues between the two countries.

Reasons for provisions

Pursuant to legislation enacted in 1902 on the Convention Concerning the Boundary Waters Between the United States and Canada, the International Joint Commission (IJC) was created in 1911 to investigate and to report on issues regarding the conditions and uses of the boundary waters dividing the United States and Canada. (See 122 U.S.C. 267(b); 12 Bevans 319, 36 Stat. 2448). The IJC, composed of three representatives from each country, conducts fact-finding investigations, makes recommendations, and is authorized to arbitrate disputes (although it never has). The committee believes the IJC is a commendable example of international cooperation to resolve localized disputes.

As economic ties between the United States and Canada become increasingly broad-ranging and complex, trade and other disputes

in specific sectors will inevitably arise with greater frequency. This will often occur on essentially local matters involving industries principally situated in the boundary states and provinces. The committee believes that, following the successful example of the IJC, a similar commission with the ability to address trade and other economic issues might profitably contribute to preventing and resolving many disputes having local importance but which should not threaten the broad fabric of our two countries' economic relations.

The committee bill thus authorizes, but does not require, the President to seek an agreement with Canadian authorities to establish a joint commission to resolve trade and other economic issues. Further, nothing in this legislation should be construed as prior approval of any legislation that may be necessary to implement such an agreement. The committee recognizes the wide range of current arrangements that facilitate the conduct of United States-Canadian relations, and it does not intend that a new commission assume either policymaking responsibilities or tasks redundant to those performed by existing agencies and working groups. Rather, the commission would fulfill a new role as a neutral fact-finding and analytical body. Further, it could render recommendations or advisory opinions on matters referred to it by the two governments. The commission also could be structured to offer to perform arbitral functions on issues referred to it by the governments.

IV. Vote of 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 favorably reported without objection.

IV. Budgetary Impact of the Bill

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, section 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the cost and budgetary impact of the bill:

The committee bill would amend current law principally to provide greater authority for the negotiation of trade agreements with Israel and Canada. As it is not known at this time what will be the scope of those agreements, it is impracticable to provide an estimate of the potential costs of such agreements. The bill further would clarify the application of the countervailing duty and antidumping duty laws, and authorize, but not require, negotiations to establish a joint U.S.-Canada economic commission. These provisions are expected to have no budgetary impact. The committee has received the following letter from the Congressional Budget Office regarding the budgetary impact of this bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 8, 1984.

Hon. ROBERT DOLE,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has examined an act to amend the Trade Act of 1974, as ordered reported by the Committee on Finance. The bill would provide greater authority to negotiate trade agreements to reduce trade barriers between the United States and Canada and the United States and Israel. Specifically, the bill authorizes negotiations to harmonize, to reduce, or to eliminate tariffs as well as non-tariff trade barriers. The bill would also clarify existing countervailing duty and anti-dumping laws and authorize the President to seek establishment of a joint commission with Canada to resolve trade and other economic issues.

The scope and content of potential trade agreements with Israel and Canada cannot be known at this time. Therefore, it is impossible to estimate the potential costs and revenue effects of this bill.

With best wishes.

Sincerely,

RUDOLPH G. PENNER, *Director.*

V. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee states that the provisions of the committee bill will impose no new regulatory burdens on any individuals or businesses, will not impact on the personal privacy of individuals, and will result in no new paperwork requirements.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the 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):

TRADE ACT OF 1974

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TABLE OF CONTENTS

TITLE I—NEGOTIATING AND OTHER AUTHORITY

CHAPTER 1—RATES OF DUTY AND OTHER TRADE BARRIERS

Sec. 101. Basic authority for trade agreements.
Sec. 102. [Nontariff] barriers to and other distortions of trade.
Sec. 103. Overall negotiating objective.
Sec. 104. Sector negotiating objective.
Sec. 105. Bilateral trade agreements.
Sec. 106. Agreements with developing countries.
Sec. 107. International safeguard procedures.

Sec. 108. Access to supplies.
Sec. 109. Staging requirements and rounding authority.

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TITLE I—NEGOTIATING AND OTHER AUTHORITY

CHAPTER 1—RATES OF DUTY AND OTHER TRADE BARRIERS

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SEC. 102. [NONTARIFF] BARRIERS TO AND OTHER DISTORTIONS OF TRADE.

(a) The Congress finds that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of United States agricultural, industry, mining, and commerce, diminishing the intended mutual benefits of reciprocal trade concessions, adversely affecting the United States economy, preventing fair and equitable access to supplies, and preventing the development of open and nondiscriminatory trade among nations. The President is urged to take all appropriate and feasible steps within his power (including the full exercise of the rights of the United States under international agreements) to harmonize, reduce, or eliminate such barriers to (and other distortions of) international trade. The President is further urged to utilize the authority granted by subsection (b) to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the harmonization, reduction, or elimination of such barriers to (and other distortions of) international trade. Nothing in this subsection shall be construed as prior approval of any legislation which may be necessary to implement an agreement concerning barriers to (or other distortions of) international trade.

(b) *(1)* Whenever the President determines that any barriers to (or other distortions of) international trade of any foreign country or the United States unduly burden and restrict the foreign trade of the United States or adversely affect the United States economy, or that the imposition of such barriers is likely to result in such a burden, restriction, or effect, and that the purposes of this Act will be promoted thereby, the President, during the 5-year period beginning on the date of the enactment of this Act, may enter into trade agreements with foreign countries or instrumentalities providing for the harmonization, reduction, or elimination of such barriers (or other distortions) or providing for the prohibition of or limitations on the imposition of such barriers (or other distortions).

(2) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel or Canada.

(3) Notwithstanding any other provisions of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel or Canada under a trade agreement entered into under paragraph (1) with Israel or Canada.

(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel or Canada if—

(i) such country requested the negotiation of such an agreement, and

(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

(II) consults with such committees regarding the negotiation of such agreement.

(B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b)) if—

(i) such implementing bill contains a provision approving of any trade agreement which—

(I) is entered into under this section with any country other than Israel or Canada, and

(II) provides for the elimination or reduction of any duty imposed by the United States, and

(ii) either—

(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.

(c) Before the President enters into any trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and with each committee of the House and the Senate and each joint committee of the Congress which has jurisdiction over legislation involving subject matters which would be affected by such trade agreement. Such consultation shall include all matters relating to the implementation of such trade agreement as provided in subsections (d) and (e). If it is proposed to implement such trade agreement, together with one or more other trade agreements entered into under this section, in a single implementing bill, such consultation shall include the desirability and feasibility of such proposed implementation.

(d) Whenever the President enters into a trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall submit such agreement, together with a draft of an implementing bill (described in section 151(b)) and a statement of any administrative action proposed to implement such agreement, to the Congress as provided in subsection (e), and such agreement shall enter into force with respect to the United States only if the provisions of subsection (e) are complied with and the implementing bill submitted by the President is enacted into law.

(e) Each trade agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 90 days before the day on which he enters into such trade agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits a document to the House of Representatives and to the Senate containing a copy of such agreement together with—

(A) a draft of an implementing bill and a statement of any administrative action proposed to implement such agreement, and an explanation as to how the implementing bill and proposed administrative action change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interests of United States commerce and as to why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement; and

(3) the implementing bill is enacted into law.

(f) To insure that a foreign country or instrumentality which receives benefits under a trade agreement entered into under this section is subject to the obligations imposed by such agreement, the President may recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(g) For purposes of this section—

[(1) the term "barrier" includes the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate;

[(2) the term "distortion" includes a subsidy; and

[(3) the term "international trade" includes trade in both goods and services.]

(1) the term "barrier" includes—

(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and

(B) any duty or other import restriction;

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TITLE VI—GENERAL PROVISIONS

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SEC. 612. TRADE RELATIONS WITH CANADA.

It is the sense of the Congress that the United States should enter into a trade agreement with Canada which will guarantee continued stability to the economies of the United States and Canada. In order to promote such economic stability, the President may initiate negotiations for a trade agreement with Canada to establish a free trade area covering the United States and Canada. Nothing in this section shall be construed as prior approval of any legislation which may be necessary to implement such a trade agreement.

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(b) The President is authorized to seek (through an agreement) establishment of a joint commission to resolve trade and other economic issues between the United States and Canada.

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TARIFF ACT OF 1930

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TITLE VII—COUNTERVAILING AND ANTIDUMPING DUTIES

Subtitle A—Imposition of Countervailing Duties

SEC. 701. COUNTERVAILING DUTIES IMPOSED.

(a) GENERAL RULE.—If—

(1) the administering authority determines that—

(A) a country under the Agreement, or

(B) a person who is a citizen or national of such a country, or a corporation, association, or other organization organized in such a country,

is providing, directly or indirectly, a subsidy with respect to the manufacture, production, or exportation of a class or kind of merchandise imported *or sold (or likely to be sold for importation),* into the United States, and

(2) the Commission determines that—

(A) an industry in the United States—

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United States is materially retarded.

by reason of imports of that merchandise *or by reason of sales (or the likelihood of sales) of that merchandise for importation,* then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net subsidy. *For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.*

(b) COUNTRY UNDER THE AGREEMENT.—For purposes of this subtitle, the term 'country under the Agreement' means a country—

(1) between the United States and which the Agreement on Subsidies and Countervailing Measures applies, as determined under section 2(b) of the Trade Agreements Act of 1979,

(2) which has assumed obligations with respect to the United States which are substantially equivalent to obligations under the Agreement, as determined by the President, or

(3) with respect to which the President determines that—

(A) there is an agreement in effect between the United States and that country which—

(i) was in force on June 19, 1979, and

(ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States,

(B) the General Agreement on Tariffs and Trade does not apply between the United States and that country, and

(C) the agreement described in subparagraph (A) does not expressly permit—

(i) actions required or permitted by the General Agreement on Tariffs and Trade, or required by the Congress, or

(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

(c) CROSS REFERENCE.—

"For provisions of law applicable in the case of merchandise which is the product of a country other than a country under the Agreement, see section 303 of this Act.

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SEC. 705. FINAL DETERMINATIONS.

* * * * * * *

(b) FINAL DETERMINATION BY COMMISSION.—

(1) IN GENERAL.—The Commission shall make a final determination of whether—

(A) an industry in the United States—

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United States is materially retarded,

by reason of imports, *or sales (or the likelihood of sales) for importation,* of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 703(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

(A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 703(b), or

(B) the 45th day after the day on which the administering authority makes its affirmative final determination under subsection (a).

(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 703(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

(4) CERTAIN ADDITIONAL FINDINGS.—

(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include findings as to whether—

(i) there is material injury which will be difficult to repair, and

(ii) the material injury was by reason of such massive imports of the subsidized merchandise over a relatively short period.

(B) If the final determination of the Commission is that there is no material injury but that there is threat of material injury, then its determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

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Subtitle B—Imposition of Antidumping Duties

SEC. 731. ANTIDUMPING DUTIES IMPOSED.

If—

(1) the administering authority determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and

(2) the Commission determines that—

(A) an industry in the United States—

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of that merchandise,

then there shall be imposed upon such merchandise an antidumping duty, in addition to any other duty imposed, in an amount equal to the amount by which the foreign market value exceeds the United States price for the merchandise. *For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.*

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Joint Committee on Taxation
JCX-32-84
July 31, 1984

COMPARISON OF H.R. 4280 AND H.R. 2769 (Retirement Equity Act of 1984)

INTRODUCTION

This document provides a summary description of the provisions of H.R. 4280 and H.R. 2769, the Retirement Equity Act of 1984. H.R. 4280 was unanimously approved by the House of Representatives on May 22, 1984.

The Senate passed provisions similar in nature to H.R. 4280, in H.R. 2769, as amended by the Senate, on November 18, 1983. H.R. 2769, as passed by the House, contained the Caribbean Basin Recovery Act; this Act was subsequently enacted in title II of H.R. 2973 (P.L. 98-67). The Senate Committee on Finance amended H.R. 2769 with the provisions of S. 1978, and reported H.R. 2769, as amended, on October 29, 1983 (S. Rep. No. 98-285).

The first part of this document lists the provisions that are the same in the House and Senate bills. The second part is a summary comparison of the differences in the provisions of the House and Senate bills.

I. PROVISIONS THAT ARE THE SAME IN BOTH BILLS

1. Years of service counted for vesting purposes after age 18.

2. Rule of parity changed from 1 year to 5 years for break-in-service computations.

3. Spousal consent required to decline survivor annuity for spouse.

4. Amount of payments under qualified joint and survivor annuity.

5. Special rule for divorced spouse under joint and survivor annuity provisions.

6. Exception to assignment and alienation provisions for qualified domestic relations orders.

7. Definition of qualified domestic relations order.

8. Provision that qualified domestic relations order may not alter amount, form, timing, etc., of benefits payable by the plan.

9. Exception to definition of qualified domestic relations order for payments to former spouse made after earliest retirement age.

10. Tax treatment of divorce distributions.

11. Notice that benefits may be forfeitable.

12. General effective dates.

II. SUMMARY COMPARISON OF DIFFERENCES BETWEEN HOUSE BILL (H.R. 4280) AND SENATE BILL (H.R. 2769)

A. Modifications of Minimum Participation and Vesting Standards

1. Maximum participation age

Present law.--Maximum age that a plan generally can require an employee to attain before becoming a participant is 25.

House bill.--Lowers the general age limit from 25 to 21; lowers the age limit for educational institutions from 30 to 26.

Senate bill.--Lowers the general age limit from 25 to 21; provides no change in the age limit for educational institutions.

Tentative Recommendation

Adopt House provision.

2. Break in service for vesting under defined contribution plans

Present law.--Under defined contribution plans, years of service after a 1-year break in service need not be counted for determining the vested percentage of a pre-break account balance.

House bill.--Except as provided by the rule of parity, years of service after any 5 consecutive 1-year breaks in service are not taken into account in determining the nonforfeitable percentage of employer-derived benefits accrued before the break.

Senate bill.--No provision.

Tentative Recommendation

Adopt House provision.

3. Maternity or paternity leave

Present law.--There is no special break-in-service rule for maternity or paternity leave. Participants on paid maternity or paternity leave may be entitled to credit for up to 501 hours under the normal break in

service rules. Credit of more than 500 hours of service in a period prevents a break in service.

a. Availability of credit

House bill.--Requires credit for absences on account of pregnancy, birth of a child, placement of a child in connection with adoption, or for purposes of caring for the child immediately following the birth or placement.

Senate bill.--Requires credit for absences on account of the birth of a child, adoption of a child, or for purposes of caring for a child immediately following the birth or adoption.

b. Number of hours credited

House bill.--Credits the hours that normally would have been credited under the plan but for the absence or, if the plan is unable to determine the hours, 8 hours per day of absence.

Senate bill.--Credits 8 hours of service for each day of absence.

c. Period for which hours are credited

House bill.--Hours are to be credited only in the year in which the absence begins if needed to prevent a break in service or, in any other case, in the immediately following year.

Senate bill.--No provision.

d. Information required by participant

House bill.--Plan administrator may require that the participant furnish timely information to establish that the absence is for the permitted reasons and the number of days for which there is an absence.

Senate bill.--No provision with respect to plan administrator requesting information.

Tentative Recommendation

Adopt House provision.

B. Joint and Survivor Annuity Provisions

1. Availability of survivor benefits

Present law.--Certain plans must provide a joint and survivor annuity at normal retirement age unless the employee elects benefits in another form. If a plan permits early retirement, then survivor benefit coverage is elective for participants at the later of (a) the plan's early retirement age or (b) 10 years before normal retirement age.

A plan may provide that vested benefits are forfeited if a participant dies before normal retirement age (and has not elected early retirement survivor coverage).

House bill.--In the case of a participant who retires under the plan and who does not elect (with spousal consent) to take benefits in another form, the accrued benefit must be payable in the form of a qualified joint and survivor annuity; in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity must be provided to the surviving spouse.

Senate bill.--A plan must provide for a qualified joint and survivor annuity to a participant who has not elected (with spousal consent) to take benefits in another form, and who (1) while employed, reaches the earliest retirement age and is within 10 years of the normal retirement age or (2) while employed, attains age 45 and has completed at least 10 years of service.

Tentative Recommendation

Adopt House provision.

2. Plans required to provide survivor benefits

Present law.--Only plans that provide a life annuity as the normal form of benefits must provide a joint and survivor annuity (unless the participant declines it). BBS Associates, Inc. v. Comm'r.

House bill.--Any defined benefit plan, any defined contribution plan subject to the minimum funding standards (i.e., a money purchase plan), and any participant under any other defined contribution plan must provide a survivor benefit unless (1) the plan pays the vested account balance upon the participant's death, (2) the participant does not elect benefits in the form

of a life annuity, and (3) the plan is not an indirect or direct transferee of a plan required to provide a survivor benefit. Overrides BBS Associates.

Senate bill.--Any plan that provides for the payment of benefits in the form of a life annuity must provide a survivor benefit. The bill also requires defined benefit plans to provide a life annuity option under the plan. Overrides BBS Associates.

Tentative Recommendation

Adopt House provision, but clarify that a money purchase pension plan that is adopted as part of an ESOP is not treated as a plan subject to the minimum funding standards for purposes of the House rule.

3. Written explanation of survivor benefits

Present law.--Participant must be notified of the right to decline a joint and survivor annuity. Notice must be given within a reasonable period before the annuity starting date.

Notice of elective survivor benefit must be given within a reasonable period before early retirement age.

House bill.--Notice is required within a reasonable period before the annuity starting date (no separate written explanation is required for the preretirement survivor benefit); the explanation must specify the rights of the participant's spouse.

Senate bill.--Notice is required during the period beginning on the first day of the election period and ending on the 90th day before the participant becomes a qualified participant.

Tentative Recommendation

Adopt Senate provision, but require a separate written explanation of the preretirement survivor benefit.

4. Election period

Present law.--A participant can decline a qualified joint and survivor annuity within a reasonable period (90 days under Treasury regulations) before the annuity starting date.

House bill.--In the case of an election to waive the qualified joint and survivor annuity, the election period is the 90-day period ending on the annuity starting date; in the case of an election to waive a

qualified preretirement survivor annuity, the election period is the period that begins on the first day of the plan year in which the participant attains age 35 and ends on the date of the participant's death. In the case of a separated participant, the election period is the period that begins on the date of separation with respect to benefits accrued before that date.

Senate bill.-- The election period is the period beginning on the earlier of the date on which the participant attains age 42 or the earliest retirement age and ending on the annuity starting date.

Tentative Recommendation

Adopt Senate provision, but provide that the joint and survivor annuity election can be made only within the 90-day period ending on the annuity starting date and change the beginning of the notice period for the preretirement survivor annuity from age 42 to 32.

5. 2-year nonaccidental death rule

Present law.--A plan may provide that the survivor annuity is forfeited if the participant dies (due to nonaccidental causes) within 2 years after an election is made with respect to a joint and survivor annuity.

House bill.--Drops the 2-year rule.

Senate bill.--Retains the 2-year rule.

Tentative Recommendation

Adopt House provision.

6. 1-year marriage rule

Present law.--The plan may provide that the survivor annuity is payable only if the participant is married to the same spouse for at least 1 year before (a) the annuity starting date, and (b) death.

House bill.--A joint and survivor and preretirement survivor annuity need not be provided unless the participant and spouse had been married during the 1-year period ending on the earlier of the participant's annuity starting date or the participant's death. If the participant marries within 1 year before the annuity starting date and the participant and spouse have been married for at least 1 year at the date of death, they are treated as satisfying the 1-year marriage rule.

Senate bill.--No special rule for marriages within 1 year of the annuity starting date.

Tentative Recommendation

Adopt House provision.

7. Restrictions on cash-outs

Present law.--Payments to a surviving spouse or to the former spouse of a participant may be made without the consent of the surviving spouse or former spouse.

House bill.--

(a) No cash-out is permitted without the consent of the surviving spouse if the present value of benefits exceeds $3,500;

(b) No cash-out is permitted after annuity starting date unless the participant or surviving spouse consents;

(c) Consent is required for cash-outs in excess of $3,500; and

(d) Present value is determined using an interest rate no greater than the PBGC rate for valuing lump sum distributions upon plan termination.

Senate bill.--No cash-out may be made without the consent of the surviving spouse if the present value of the benefit exceeds $3,500.

Tentative Recommendation

Adopt House provision.

C. Special Rules for Assignments in Divorce, Etc., Proceedings

1. ERISA preemption

Present law.--ERISA preempts all State laws that are inconsistent with its provisions. Some courts have created an implied exception for State domestic relations law.

House bill.--Qualified domestic relations orders are excepted from the ERISA preemption provisions.

Senate bill.--No ERISA preemption exception is provided.

Tentative Recommendation

Adopt House provision.

2. Facts that order must specify

Present law.--No applicable provision.

House bill.--Requires the mailing address of the participant if it is available.

Senate bill.--Requires the mailing address of the participant in all events.

Tentative Recommendation

Adopt Senate provision, but require that the order contain the participant's last known address, if any.

3. Plan procedures with respect to order

Present law.--No applicable provision.

House bill.--A plan administrator is to determine whether an order is qualified within a reasonable period after receipt of the order; the ERISA provisions of the House bill provide procedures with respect to (1) the maximum amount of benefits that a qualified domestic relations order may allocate to an alternate payee, and (2) the procedures that the plan administrator must follow in advising alternate payees of their rights.

Senate bill.--A plan administrator is to determine whether an order is qualified within a reasonable period before benefit payments commence; the Senate bill provides procedures that are similar to the House bill, but do not contain all of the provisions specifying the maximum amount of benefits that a qualified domestic relations order may allocate to an alternate payee.

Tentative Recommendation

Adopt House provision on the time for determining whether an order is qualified; adopt the Senate provision on other plan procedures. In addition, provide that benefits in excess of the actuarial equivalent of the normal retirement benefit are to be paid to an alternate payee only if the participant has actually retired.

4. Procedures for period during which a determination is being made

Present law.--No applicable provision.

House bill.--

(a) During any period for which a determination is being made, the plan administrator is to segregate the amounts in dispute in a separate account in the plan or in an escrow account; and

(b) If, within 2 years, the order is determined to be qualified, the plan administrator is to pay the segregated amounts plus interest to the divorced spouse or other alternate payee. If the issues are not resolved or the order is found not to be qualified within 2 years, the plan administrator is to pay the benefits to the participant, and any subsequent determination that the order is qualified is to be applied prospectively.

Senate bill.--

(a) No segregation of assets is required; and

(b) If the order is determined not to be qualified, the plan administrator may postpone the payment of benefits, pay the benefits to the participant, or pay the benefits to the alternate payee.

Tentative Recommendation

Adopt House provision, but change the period of suspension to 18 months.

5. **Missing alternate payee**

Present law.--State escheat laws are permitted to operate to forfeit the benefit of a lost beneficiary after a period of time (usually 7 years), but a plan may include provisions to prevent escheat.

House bill.--

(a) No express provision;

(b) Plan administrator may not forfeit the amounts payable or pay them to the participant; and

(c) State escheat laws are permitted to operate to forfeit the benefit after a period of time (usually 7 years), as under present law.

Senate bill.--If the plan administrator cannot locate an alternate payee, payments may be postponed for 1 year and then paid to the person who would be eligible to receive them if the order did not exist.

Tentative Recommendation

Adopt House provision.

D. Involuntary Cash-outs--Calculation of Present Value

Present law.--If the present value of benefits of a participant who separates from employment does not exceed $1,750, the plan can cash out the benefits without the participant's consent. No credit for prior service is required if the participant later returns and does not repay the amount previously cashed out.

House bill.--Requires the use of an interest rate assumption no greater than the PBGC rate for valuing lump-sum distributions on plan termination.

Senate bill.--No provision.

Tentative Recommendation

Adopt House provision.

E. Notice of Rollover Treatment to Recipients of Lump-sum Distributions

Present law.--A plan administrator is not required to notify participants of the conditions upon which distributions are eligible for 10-year income averaging or rollover to an IRA or another qualified plan.

House bill.--Requires a plan administrator to notify the participant that distributions may be eligible for rollover to an IRA or another qualified plan and that the transfer must be made within 60 days of receipt. The penalty for each failure is $10 up to $5,000 each calendar year.

Senate bill.--No provision.

Tentative Recommendation

Adopt House provision, but require the issuance of officially approved notices by the Treasury that also describes a participant's rights to 10-year income averaging.

F. Rev. Ruls. 79-90 and 81-12

Present law.--Prohibits plan amendments that reduce previously accrued benefits. Rev. Rul. 79-90 requires plan to specify interest rate assumptions used to value benefits. Rev. Rul. 81-12 prohibits plan amendments that operate to eliminate benefit options or operate to eliminate previously accrued benefits.

House bill.--The bill prohibits the elimination or reduction of a benefit through a plan amendment that changes the basis for determining actuarial equivalency with respect to previously accrued benefits, and prohibits the elimination or reduction of a subsidy, an accrued early retirement benefit, or an optional form of benefit under a defined benefit plan. It does not prevent prospective changes in benefits.

Senate bill.--No statutory provision; committee report contains language, similar to House bill provision, describing present law with respect to optional benefit forms.

Tentative Recommendation

Adopt House provision for all plans, with the following modifications:

(1) provide no special rule for terminated plans (PBGC would continue to guarantee only those benefits it guarantees under present law);

(2) clarify the scope of the provisions with respect to nonretirement-type benefits (such as social security supplements, death benefits, or medical benefits);

(3) clarify that the provisions only protect participants who subsequently satisfy the conditions for receipt of the benefits;

(4) permit elimination of optional benefit forms under Treasury regulations under limited circumstances (e.g., when the law changes, or if the optional form does not provide a valuable right); and

(5) the provision would apply to amendments made on or after July 31, 1984; there would be no inference with respect to present law.

G. **Effective Dates**

1. **Notice of rollover treatment to recipients of lump-sum distributions**

House bill.--Effective for distributions after December 31, 1984.

Senate bill.--No provision.

Tentative Recommendation

Adopt House provision.

2. **Age at which service must be credited for vesting purposes**

House bill.--Applies to participants who have at least 1 hour of service on or after the date of enactment.

Senate bill.--Applies to participants who have at least 1 hour of service on or after the effective date.

Tentative Recommendation

Adopt Senate provision.

3. **Break in service rules**

House bill.--No retroactive credit is required under the break in service rules.

Senate bill.--No express provision.

Tentative Recommendation

Adopt House provision.

4. **Eligibility for survivor benefits**

House bill.--Generally applies to participants who have at least 1 hour of service on or after the date of enactment (including 1 hour of paid leave).

Senate bill.--Generally applies to participants who have at least 1 hour of service on or after the effective date.

Tentative Recommendation

Adopt House provision.

5. Spousal consent required to waive the qualified joint and survivor annuity

House bill.--Spousal consent is required for elections after the date of enactment.

Senate bill.--Spousal consent is required for elections after the effective date.

Tentative Recommendation

Adopt Senate provision with effective date of January 1, 1985.

6. Availability of preretirement survivor benefits in the case of participants dying after the date of enactment

House bill.--The preretirement survivor benefit rules are effective on the date of enactment for any participant who (1) has 1 hour of service after that date; (2) dies before the annuity starting date; and (3) dies on or after the date of enactment and before the effective date. A plan can provide elections to qualified participants on or after the date of enactment.

Senate bill.--No provision.

Tentative Recommendation

Adopt House provision.

7. Treatment of participants who separate from service before the date of enactment under the joint and survivor annuity provisions

House bill.--If a participant had at least 1 hour of service on or after September 2, 1974, separated from service before January 1, 1976, and the annuity starting date has not occurred before the date of enactment, then the joint and survivor annuity rules of ERISA apply to the participant.

Senate bill.--No provision.

Tentative Recommendation

Adopt House provision.

8. <u>Treatment of participants who perform service on or after January 1, 1976, under the joint and survivor annuity provisions</u>

<u>House bill</u>.--

(a) If a participant had at least 1 hour of service on or after January 1, 1976, had at least 10 years of service and was at least partially vested upon separation from service, and whose annuity starting date has not occurred, then the participant may elect to be covered under the preretirement survivor annuity provisions;

(b) The plan must give notice in the first summary annual report made after December 31, 1984;

(c) The penalty for failure to give notice is $1 per participant per day of failure up to $2,500 for any plan. The Secretary of Labor is required to publish notices to inform participants of this right; and

(d) If the plan notice is given, the plan is not liable for the benefit unless an election is received.

<u>Senate bill</u>.--No provision.

Tentative Recommendation

Adopt House provision, but require appropriate notice to participants and require that the benefit is to be provided as a joint and survivor benefit if the plan is so notified.

9. <u>Divorce, etc., proceedings</u>

<u>House bill</u>.--

(a) Effective on the date of enactment (whether an order is received before, on, or after the date of enactment); and

(b) An order issued before the date of enactment is treated as qualified (1) with respect to benefits in pay status on the date of enactment and (2) with respect to other benefits, to the extent consistent with the provisions of the bill.

<u>Senate bill</u>.--Effective on January 1, 1985, except that in the case of orders entered before that date, the plan administrator must treat as qualified orders in pay status and may treat as qualified any other order.

Tentative Recommendation

Adopt Senate provision.

10. Requirement that defined benefit plans provide life annuities

House bill.--No special grandfather provision.

Senate bill.--Provisions do not apply to a defined benefit plan in existence on October 19, 1983, that did not provide for the payment of life annuities at that time.

Tentative Recommendation

Adopt House provision.

H. Study by GAO

House bill.--Directs the Comptroller General to conduct a detailed study of the effect of participation, vesting, funding, integration, survivorship features, and other relevant plan rules on women; gives GAO access to plan and employer documents and records.

Senate bill.--No provision.

Tentative Recommendation

Adopt House provision.

I. Additional Issue - Involuntary Cash-out of Mandatory IRA Rollover

House bill.--Prevents a plan from involuntarily cashing out a benefit to a surviving spouse unless the plan gives the surviving spouse the opportunity to designate an IRA or another qualified plan as the recipient of a direct rollover. A plan may involuntarily cash out a benefit if no designation is received within 60 days of the notice of intent to cash out.

Senate bill.--No provision.

Tentative Recommendation

Adopt Senate provision.

ATTACHMENT E

REQUEST FOR ITC REPORTS ON NON-RUBBER FOOTWEAR

Following its negative June 6, 1984, decision on injury in the non-rubber footwear case, the ITC should be asked to monitor developments in that industry. Specifically, the ITC should report to the Finance Committee on a quarterly basis, on non-rubber footwear production, employment, unemployment, imports, import share of the market, capacity utilization, and plant closings. These reports should reflect data gathered in the normal course by the Department of the Census and the Bureau of Labor Statistics.