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STAFF SUGGESTIONS ON AMENDMENTS TO THE TRADE ACT OF 1970

PREPARED BY THE STAFF

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

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STAFF SUGGESTIONS ON AMENDMENTS TO THE TRADE ACT OF 1970

I. Tariff Cutting Authority (Section 101 of H.R. 18970)

Description of Provision.—This section would extend until July 1, 1973, the authority of the President to enter into new trade agreements under the Trade Expansion Act of 1962. The President would be given new authority to reduce rates of duty by 20 percent, or 2 percentage points, below the rates of duty which will exist on January 1, 1972, when the final stage of the Kennedy Round rate reductions becomes effective.

Although the proposed authority is not specifically so limited, the President and his representatives state that the requested new authority is not designed to be used for major tariff negotiations, but rather to make possible minor adjustments that individual circumstances from time to time require, and that it is intended primarily for cases where the United States finds it necessary to increase a rate of duty which is subject to United States tariff concessions. In such cases, the United States would offer compensatory tariff concessions to the countries affected by the rate increase, since failure to do so could lead to retaliatory action on the part of such countries.

Staff Suggestion.—The staff suggests that the Committee might wish to limit the use of the new authority to "compensation" cases; i.e., those where the President is required under the tariff adjustment provisions or otherwise to proclaim increased import restrictions on an article covered by United States trade-agreement concessions. In such a case the Committee might also wish to extend the new authority, so limited, for an additional period of two years; i.e., until July 1, 1975, to assure that the President would continue to have flexibility in compensation cases.

II. Foreign Import Restrictions (Section 103 of H.R. 18970)

Present Law.—Section 252 of the Trade Expansion Act of 1962 (which was added by the Finance Committee) gives the President authority to retaliate (withdraw concessions, impose higher U.S. tariffs or quotas) against "unreasonable" and "unjustifiable" foreign import restrictions, particularly in the agricultural area. The provision was aimed specifically at European agricultural policies, but in the light of the increasingly protectionist EEC variable levy system, this provision cannot be said to have accomplished its objective. The provision has been used once—unsuccessfully—in the so-called "chicken war" in 1962.

Description of Provision.—The Trade Act of 1970 would generally extend the "retaliatory" authority to industrial as well as agricultural goods and to foreign export subsidies when they "unfairly" affect U.S. exports.

Staff Suggestion.—One of the difficulties with this provision in the law is the absence of a clear complaint-procedure. If the Committee wanted to provide a complaint-procedure in this statute similar in principle to the procedures under some other unfair trade practice statutes, e.g., antidumping, countervailing duty and to the statutory procedures under the national security provision, it might consider the following suggestion: An aggrieved party could file a complaint with the Secretary of Commerce. In accordance with the criteria already spelled out in the statute, the Secretary would then investigate to determine whether or not a foreign nontariff barrier is unjustifiably and unreasonably restricting U.S. commerce. The Secretary would have a time limit, e.g., a six-month period, to reach a finding of whether or not foreign nontariff barriers impair the access of U.S. products to foreign markets. If he reached an affirmative finding, he would inform the President and publish such finding (and the reasons therefor) in the Federal Register. (The reasons for a negative finding would also be published in the Federal Register.) The President would have an additional six months to work out a solution to the problem through negotiation with the foreign government. If the President failed to obtain a satisfactory negotiated solution, he would take the retaliatory action called for by section 252.

III. Tariff Adjustment and Adjustment Assistance

Present Law.—Under present law, petitions by industry for tariff adjustment relief (quotas, higher tariffs) and for adjustment assistance relief for firms (technical assistance and financial aid) and groups of workers (unemployment compensation and training allowances) are filed directly with the Tariff Commission. The criteria for determining serious injury are quite rigid—previous tariff concessions have to be *in major part* the cause of increased imports, and increased imports must be *the major factor* in causing, or threatening to cause, serious injury. As a result, very few cases submitted since 1962 have met these tests. Of the 16 industry tariff adjustment cases between October of 1962 and June of 1970, 13 were negative, 2 were evenly divided, and *one* was affirmative; in the case of firms (adjustment assistance), 7 were negative, 2 evenly divided; in the case of groups of workers (adjustment assistance), 8 were negative, 6 affirmative.

The Provision.—The Trade Act of 1970 substantially alters the procedures and tests for tariff adjustment and adjustment assistance relief, in the direction of making it easier to obtain such relief. The Tariff Commission would continue to make determination for industry-wide tariff adjustment relief, but the adjustment assistance cases would be transferred to the President.

Serious "Injury" Under Proposed Tariff Adjustment Provisions.—The criteria for finding serious injury in tariff adjustment cases are significantly different and should be easier to satisfy than those under present law. The proposed criteria are derived from those in effect under section 7, Trade Agreements Extension Act of 1951—the provisions in effect prior to 1962. The proposed language would result in the following change from existing law:

(1) The relationship between increased imports and trade concessions is eliminated altogether;

(2) The Tariff Commission must find that increased imports have "contributed substantially" toward causing or threatening to cause serious injury to a domestic industry producing like or directly competitive articles instead of being the major cause of serious injury;

(3) The "segmentation" (product by product) concept of industry is specifically adopted in the statute; and

(4) If injury is found under this relaxed criteria an additional finding is required.

The additional finding has been referred to as a "trigger" mechanism and it works as follows. If the Tariff Commission found serious injury under the relaxed criteria outlined above, it would proceed to determine whether—

(A) Imports of the article constituted more than 15 percent of apparent domestic consumption in the first year preceding the calendar year in which the investigation was instituted; increased by three percentage points over the corresponding ratio for the second calendar year preceding the calendar year in which the investigation was instituted; and increased by 5 percentage points from the corresponding ratio in the third calendar year preceding the year in which the investigation was instituted; or

(B) As a result of increased imports, domestic production of the like or competitive article is declining or is likely to decline; so as to substantially affect the ability of domestic producers to continue to produce the like or directly competitive product at a level of reasonable profit *and* production workers jobs, man-hours worked or wages are declining substantially, or are likely to decline substantially.

If *either* criteria (A) or (B) is met, the Tariff Commission must further find that:

(C) The imported article is offered for sale at prices substantially below domestic market prices for the comparable product and is produced at unit labor costs substantially below those attributable to producing like or competitive articles in the United States.

The majority finding injury and reaching the further additional finding must also recommend the kind of import relief that would be a remedy.

Presidential Action in Tariff Adjustment Cases.—In tariff adjustment cases where only the first finding is affirmative; i.e., the Tariff Commission finds serious injury, the bill provides that the President *shall* proclaim any duties or other import restrictions *as he deems necessary* to prevent or remedy serious injury (unless he determined it is not in the national interest). In cases where there are *two affirmative findings;* i.e., serious injury plus the "trigger", the bill provides that the President *shall impose whatever restriction the majority of the Commissioners found necessary* to prevent serious injury, unless he determined it would not be in the national interest to do so. The difference thus appears to be that in the first instance the President must act as he deems necessary to prevent serious injury, while in the second instance, he must generally accept the Tariff Commission's remedy.

Actually, under both cases he could declare it in the national interest not to act. But if the President did not provide any relief by virtue of having invoked the national interest exemption, he must declare those firms and workers affected to be eligible for adjustment assistance. If the President does not impose the import restriction recommended by the Tariff Commission, he shall report the reasons why (except that he need not report the reason for not acting under the "national interest" authority) to both Houses of Congress within 60 days, and the President's decision can be reversed if *the majority of the authorized membership* of both Houses adopts a concurrent resolution to that effect.

Staff Suggestions.—The staff suggests that the Committee may wish to consider the following amendments to the proposed tariff adjustment and adjustment assistance provisions:

(1) A technical amendment to restore a casual link between trade-agreement concessions and increased imports. This would not reduce the effectiveness of the generally relaxed criteria for industry relief. It would maintain the President's traditional delegated authority to change rates of duty in column numbered 1 of the TSUS applying to non-Communist countries. It would withdraw the authority apparently inadvertently granted to change the rates of duty for products of designated Communist countries. The President did not request this authority in submitting his original bill, and the House Ways and Means Committee did not focus upon the solution of the problems raised by its amendment.

(2) The so-called "trigger" provisions can be simplified, and at the same time provide a more effective remedy against severe injury to domestic industry. The "trigger" provisions are highly complex and involve a number of new, untried subjective criteria, including an arithmetical formula for measuring the degree of import penetration and rate of increase. Determinations under this complex "trigger" mechanism would greatly increase the Commission's investigative workload *without* assuring a better qualitative determination of the degree of injury involved in a particular case. Substantial simplification of the "trigger" along the following lines would permit greater flexibility and exercise of sound judgment by the Commission.

If the Tariff Commission finds serious injury it shall also determine whether the article is being imported in such quantities and disposed of in the United States under such conditions as to (i) acutely and severely injure the domestic industry, or (ii) threaten to acutely and severely injure such industry.

As would be the case under the present provisions of the Trade Act of 1970, if the Tariff Commission so finds it would immediately notify the President who shall impose whatever restrictions the Tariff Commission recommends to remedy the injury or threat thereof, unless he determines it is not in the national interest. The authority of the Congress to reverse a negative decision by the President would be preserved.

(3) A transitional period of 90 days between enactment and effectiveness of the proposed tariff adjustment and adjustment assistance provisions should be considered to allow time for the

Tariff Commission to draft and publish new rules of practice and procedure and to otherwise prepare for the anticipated substantial increase in its investigative workload.

IV. Quotas on Certain Textile and Footwear Articles

The Senate Amendment.—Section 201 of the Trade Act of 1970 would impose statutory quotas, beginning in calendar year 1971, on *each category* of textile and footwear articles equal to the average annual imports of each category in the calendar years 1967, 1968, and 1969. Imports would be permitted to grow by up to 5 percent for subsequent years as the President determines is consistent with the purposes of this section. Section 201(d)(1) provides the President with authority to exclude any articles from the quotas which he finds are not causing disruption of the United States market. Section 201(d)(2) provides the President with the authority to exempt any article from import controls on "national interest" grounds. Section 202 provides Presidential authority to enter into international bilateral or multilateral agreements on textile and footwear articles which would result in the regulation of imports of such articles into the United States. Such agreements would supersede the statutory quotas for the articles covered by the agreements.

Staff Suggestions.—The language in section 206 specifically excludes from the quota provisions: "woven fabric 20 inches or over, but not 46 inches in width, for use only in manufacture of neckties other than the linings therefor." The staff suggests that the specific exclusion for fabric to be used in the manufacture of neckties is unnecessary. If the President determined that imports of such fabric are not disrupting the United States market he could exempt them under section 201(d)(1). The specific statutory exemption for necktie fabric has given rise to charges of discrimination against this particular segment of the textile industry. The importers of such fabric even argue in a brief submitted to the Committee that the actual end-use test in the proposed bill is unworkable.

V. Amendments to Antidumping Statutes

Present Law—Antidumping Act of 1921.—The Antidumping Act of 1921 provides for an assessment of antidumping duties whenever the Treasury Department finds price discrimination (sales at less than fair value) and the Tariff Commission finds injury by reason of the price discrimination. There are no time limits in the law for the Treasury Department, and, until recently, Treasury has been dilatory in processing some complaints.

The Proposal.—Under Section 301 of the Trade Act of 1970, the Secretary of the Treasury would have four months from the day the complaint was made to reach a tentative decision on price discrimination and "withholding of appraisement" on the offending goods. He would have an additional three months to reach a final decision.

Staff Suggestions.—The staff notes that under certain circumstances a time limit of *four months* might be unreasonable on the Treasury Department. For example, one case in point involves a complaint regarding large power transformers from France, Italy, Japan, Sweden,

Switzerland, and the United Kingdom. Each transformer is engineered and manufactured to individual customer specifications. Because of this, it is a highly complex task to arrive at the proper allowances for circumstances of sale in the fair value comparisons. The staff suggests that in such extraordinary situations, the Committee might wish to give the Secretary an additional period of 90 days in which to reach tentative finding, provided he publish notice of the need for the additional time within 60 days after the complaint was filed. It would be made clear that he would be expected to use this additional time only in extraordinary cases.

VI. Tariff Commission

Present Law.—Under existing provisions, there are six Tariff Commissioners (no more than three from any one political party) with six-year terms. (At present there are two vacancies on the Commission.)

The Proposal.—The Trade Act of 1970 would establish a seven-man Commission (no more than four from any one political party) with 7-year terms.

Staff Suggestions.—In the past the Senate's view on the size of the Commission has been based on the independent, fact-finding, nonpartisan nature of the Tariff Commission's functions. Under these conditions, the Senate has always supported a six-member Commission with a maximum of three members from any one political party.[1] The staff feels that this traditional Senate position is still valid.

The staff also notes that the Tariff Commission has a serious budgetary problem at a time when its public investigations have nearly doubled in the space of two years.

Between June 30, 1967 and June 30, 1970, the number of employees in the Tariff Commission has declined by 17.2 percent, compared with an increase of 3.3 percent for the government as a whole. The average age of Tariff Commission employees is also considerably above the government-wide average. Thus, at a time when the case-load is increasing dramatically, the vitality of the Commission is being sapped by retirements, personnel transfers, and the inability to hire new personnel. If the tariff adjustment provisions of this Act are enacted as well as the liberalization of the adjustment assistance provisions, the Tariff Commission will undoubtedly have many more cases to handle in the next several years than they have had in the past.

There is evidence that the executive branch may, in the past, have tried to influence the Commission's orientation by selecting personnel for nomination to the Commission whose trade views were in harmony with its own. The Finance Committee expressed its concern that this was inconsistent with the independent nature of the Tariff Commission. The statistical data cited above, prepared by the General Accounting Office, suggest a new effort to negate the Tariff Commission by putting it in the untenable position of a sharply reduced

[1] The Tariff Commission has been comprised of six members since its establishment as a permanent body in 1916. Twice the House has passed bills which would have changed the Tariff Commission to a seven member body—in 1930 and again in 1953. In both instances, the Senate—stressing its desire for nonpartisanship—successfully resisted the proposed House changes. The present proposal is identical with that made in the 1953 House bill.

budget request to Congress on the one hand, and a sharply increased work-load (caused in part by Executive Branch requests for major studies and investigations) on the other hand. This double squeeze is bound to adversely affect the quality of the Commission's work, it's usefulness to the Congress and its morale.

Therefore, the staff suggests the Committee may wish to consider an amendment which would identify the Tariff Commission more closely as independent from the Executive Departments and place its budget authority directly under control of the Congress. This could be accomplished by revising its statute along the lines of the General Accounting Office statute. Under this proposal there would be no change in the duties or functions of the Tariff Commission or in the rights of the Executive Branch or the Congress to call on the Commission for special studies or investigations.

VII. Authorization of United States Financial Contribution to the General Agreement on Tariffs and Trade (GATT)

Present Law.—There is no statutory recognition of GATT. The Executive never submitted the GATT to the Congress either for its advice and consent or for implementing legislation. United States participation is through the signing in 1947 of the "Protocol of Provisional Application." In trade agreement authorizations the Congress has often put a disclaimer regarding GATT, e.g., "The enactment of this Act shall not be construed to determine or indicate the approval or disapproval by the Congress of the Executive Agreement known as the General Agreement on Tariffs and Trade." The United States share of GATT expenses currently comes through the contingency fund of the Department of State.

The Proposal.—The proposed amendment would provide for explicit authorization for the U.S. share of GATT expenses (about $570,000).

Staff Suggestions.—The proposed authorization would be a direct recognition by the Congress of the General Agreement on Tariffs and Trade. The Committee may wish to consider deleting this special authorization because of the apparent lack of balance and reciprocity for U.S. trade under many of the GATT provisions.

There are a number of outstanding problems in the field of international trade which require intensive study. The Committee may wish to request Executive Branch studies on the following urgent matters in order that the Committee and the Congress may exercise their Constitutional prerogatives in the field of international trade:

A. *The GATT Agreement.*—Since the advent of the trade-agreement program in 1934, the avowed aim of U.S. foreign trade policy has been the promotion of international trade under rules which, to the greatest extent practicable, assure that the goods of each nation can freely and fairly compete in world markets. The presently constituted GATT Agreement contains certain provisions that were written in 1947 when the United States had an overwhelmingly dominant position in world trade. Some of these provisions were designed to put dollars into the hands of the then war-torn European countries. In 1947 we had a $10

billion trade surplus, and $25 billion in gold with only $7.6 billion in liquid foreign claims against that gold; in 1970 our trade surplus has virtually disappeared, our gold stock has been reduced to about $11 billion, and foreigners have $42 billion in liquid claims against our remaining gold stock. In the light of the changed international economic conditions since 1947, the staff questions whether the GATT provisions offer the United States full reciprocity in international trade. For example, the GATT permission to rebate "indirect" taxes on exports and to apply border taxes on imports in the case of "indirect" taxes, while denying comparable treatment for "direct" taxes (such as the U.S. income tax) is an example of lack of balance and reciprocity in the agreement.

In addition, the GATT appears to allow European countries to enter into special commercial arrangements with other countries in violation of the most favored nation principle. The GATT fails to adequately deal with the question of agricultural trade.

The staff believes that a new GATT is needed. This new GATT would encompass principles of fair and freer trade, and provide for machinery to resolve disputes dealing with both international trade and investment problems among member countries.

As a first step toward this goal, all existing GATT provisions and interpretations should be thoroughly studied, with a view toward reaching agreement between all responsible parties of the U.S. Government as to the basic principles and mechanisms that should be incorporated in the new agreement.

Therefore, the Committee may wish the Executive to do a thorough study of all GATT provisions. Such a study would include, but not be limited to—

(1) A review of the most favored nation (MFN) principle and the exceptions thereto; the effect of MFN exceptions on intra-regional trade where common markets and free trade areas are concerned;

(2) The GATT provisions and interpretations on export subsidies and border taxes, the rationale underlying the differing treatment of "indirect" and "direct" taxes insofar as border tax adjustments are concerned;

(3) The adequacy of GATT provisions dealing with agriculture;

(4) The adequacy of the balance of payments exceptions in Article XII;

(5) The GATT provisions on unfair trade practices, fair labor standards, and relief from injurious imports;

(6) The GATT provisions on "compensation" and "retaliation."

B. *Other Important Trade Issues.*—In addition to the above study of GATT provisions it would appear useful to have a detailed study by the Administration of its plans for negotiating foreign nontariff barriers and other matters, including:

(1) The quantitative restrictions that remain in effect in many countries such as Japan;

(2) The common agricultural policy of the EEC;

(3) The border tax-export rebate system of the EEC, and the reasons why indirect tax rebates on exports are not considered "bounties or grants" within the meaning of the countervailing duty statute as interpreted by Supreme Court cases; [2]

(4) Discriminatory government procurement policies;

(5) The probable effects of British entry into the Common Market on United States trade and balance of payments.

(6) The effect of foreign exchange-rate changes on United States trade and tariff concessions;

(7) An analysis of whether or not greater flexibility in foreign exchange rates would serve in the interests of United States and world trade;

(8) The nature and extent to which other countries subsidize their exports directly or indirectly; and

(9) The various agency responsibilities within the Executive Branch for handling all United States foreign trade matters, and the means by which policy coordination is achieved.

C. *Tariff Commission Study.*—Finally, in order to know where we should be going, it is necessary to know where we are. To this end, the Committee may wish to ask the Tariff Commission for:

(1) A study of the tariff and nontariff barriers among the principal trading nations in the industrialized countries;

(2) A study of the nature and extent of the tariff concessions granted in the GATT by the principal trading nations in the industrialized countries, and

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[2] The case of Nicholas and Co., v. U.S. (G. S. Nichols & Co. v. United States 249 U.S. 34 (1919)) represents a landmark decision in the area of countervailing duties. The question in the Nicholas case was whether a certain sum of money paid by the British government to its exporters on the exportation of certain British alcoholic spirits amounted to a direct or indirect bounty or grant under the terms of paragraph E of § 4, Tariff Act of 1913.

"The statute was addressed to a condition, and its words must be considered as intending to define it, and all of them—'grant' as well as 'bounty'—must be given effect. If the word 'bounty' has a limited sense, the word 'grant' has not. A word of broader significance than 'grant' could not have been used. Like its synonyms 'give' and 'bestow,' it expresses a concession,—the conferring of something by one person upon another. And, if the 'something' be conferred by a country 'upon the exportation of any article or merchandise,' a countervailing duty is required by paragraph E[of Section IV of the Tariff Act of 1913]."

"We have the fact of spirits able to be sold cheaper in the United States than in the place of their production, and this the result of an act of government because of the destination of the spirits being a foreign market. For that situation ParagraphE was intendedto provide." (At pages 39–40.)

In the decision of the Court of Customs Appeals in the same case (*Nicholas & Co.*, v. *United States*, 7 Ct. Cust. Appls. 97), that court, after commenting upon the clarity of the language and purpose of the statute, said:

"There is nothing obscure, abstruse, mystic, or even ambiguous about this language, which has been as to the particular words, a part of all our tariff acts from 1897 to and including the present act. Section 5, tariff act of 1897 (30 Stat. L., 151), section 6, tariff act of 1909 (36 Stat. L., 11), paragraph E of section 4, tariff act of 1913 (38 Stat. L., 114). Its plain, explicit, and unequivocal purpose is: Whenever a foreign power or dependency or any political subdivision of a government shall give *any aid or advantage* to exporters of goods imported into this country therefrom *whereby they may be sold for less in competition with our domestic goods*, to that extent by this paragraph the duties fixed in the schedule of the act are increased. It was a *result* Congress was seeking to equalize regardless of whatever name or in whatever manner or form or for whatever purpose it was done. The statute interprets itself as a member of an act calculated to maintain an accorded protection, incidental or otherwise, as against payments or grants of any kind by foreign powers, *resulting* in an equalization thereof to any extent directly or indirectly. Wherefore, in obedience to that obvious purpose, the court does not feel at liberty to adopt any constrained or technical definitions of the words 'bounty' or 'grant' suggested, but to vouchsafe the paragraph a meaning, well within its language, that will best effectuate the unquestioned congressional purpose." (at page 106).

Other Supreme Court decisions have spoken with equal clearness on the subject. The *Downs* case involved a bounty paid upon the exportation of sugar by the Russian government. The court cited examples of what may constitute a bounty within the meaning of the countervailing duty statute:

"A bounty may be direct, as where a certain amount is paid upon the production or exportation of particular articles, of which the Act of Congress of 1890, allowing a bounty upon the production of sugar, and Rev. Stat. sections 3014–3027, allowing a draw-back upon certain articles exported, are examples; *or indirect, by the remission of taxes upon the exportation of articles which are subjected to a tax when sold or consumed in the country of their production, of which our laws, permitting distillers of spirits to export the same without payment of an internal revenue tax or other burden, is an example.*"

Further:

"When a tax is imposed on all sugar produced, but is remitted upon all sugar exported, then, by whatever process, or in whatever manner, or under whatever name it is disguised, it is a bounty upon exportation."

(3) A study of (a) the foreign customs valuation procedures and those of the United States with a view to developing and suggesting uniform standards of custom valuation which would operate fairly among all classes of shippers in international trade and (b) the economic effects which would follow if the United States adopts such standards of valuation, based on rates of duty which will become effective on January 1, 1972.

VIII. Miscellaneous Provisions

United States-Canadian Automobile Agreement

Present Law.—The adjustment assistance provisions of the United States-Canadian Auto Agreement expired on July 1, 1968.

The Proposal.—This section provides for a continuation of adjustment assistance for parties injured by the Canadian Automobile Agreement. It changes the injury test from "a primary cause" to a "substantially contribute" test as in the adjustment assistance provisions of the Senate amendment.

Staff Suggestion.—The United States-Canadian Automobile Agreement is not two-way free trade. While a United States citizen is free to go into Canada and purchase a new or used car and bring it back into this country free of U.S. customs duty, a Canadian citizen is not allowed to purchase a new or used car in this country and return with it to Canada free of Canadian customs duty. The Canadians still maintain fairly high duties on imports of new autos and parts, and prohibit importation of used cars. The Canadian duty on automobiles was negotiated in the Kennedy Round to be reduced from 17.5 percent ad valorem to 15 percent ad valorem in five equal stages.

When the Committee considered legislation to implement the Canadian Automobile Agreement, it was informed by the Department of State that: "The Agreement itself contains built-in momentum toward removing the remaining restrictions (Canadian duties). Article IV provides for a comprehensive review of the operation of the Agreement no later than January 1, 1968. The Canadian limitations, *which are necessary in the short run, will be carefully re-examined at that time.*" [3] (Emphasis added.)

To date, there has been no evidence that the "momentum" referred to by the State Department has resulted in any significant diminution of the Canadian duties which inhibit the free-flow of automobile trade between the United States and Canada.

It would appear that six years of operation under the Agreement would be sufficient for Canadian production to achieve the economies of scale necessary to permit the dismantling of the relatively high Canadian barriers against United States automobiles and parts.

The President today is authorized by the Automotive Products Trade Act of 1965 to terminate United States participation in the United States-Canadian Automobile Agreement.

The Committee may want to consider expressing the view that complete reciprocity in automotive trade between the United States

[3] Hearings before the Committee on Finance, United States Senate, on the United States-Canadian Automobile Agreement (H.R. 9042) 89th Congress, First Session, p. 61.

and Canada is expected. The President should take whatever action is necessary to assure that the goal of complete free trade is achieved and that failure to achieve free trade in automobiles and parts between the United States and Canada, within a specified period of time, such as two years, will be considered grounds for terminating U.S. participation in this agreement.

Certain Classifications by the Secretary of Agriculture

Present Law.—Under present law, the Secretary of the Treasury has the responsibility to classify articles within the import restrictions proclaimed by the President under Section 22 of the Agricultural Adjustment Act, as amended.

Senate Amendment.—The Senate amendment would delegate to the Secretary of Agriculture authority to classify agricultural items under the Tariff Schedules for Section 22 restriction purposes only.

Staff Suggestions.—Classification of imported materials is properly a function of the Bureau of Customs in the Treasury Department and, therefore, the staff suggests that the Committee may wish to delete this provision.

Mink and Certain Fur Skins

The Proposal.—The proposed amendment would establish a tariff-rate quota on mink skins under which 4.6 million skins, or pieces of skins, may enter duty free as under present law. The tariff applicable to imports of more than 4.6 million skins (or pieces of skins) would be 25 percent ad valorem. The proposal also applies a rate of 14 percent ad valorem to imports of mink wearing apparel and repeals the embargo on seven kinds of fur skins from the Soviet Union and Communist China (ermine, fox, kolinsky, marten, mink, muskrat, and weasel furs and skins, dressed and undressed). Fur skins from Communist China would continue to be subject to the Foreign Assets Control Regulations which currently prohibit importation.

The Staff Suggestions.—The Committee may wish to reinstate the embargo on Communist furs. The staff observes that this suggestion will not change the current practice of importing Communist furs in the form of coats manufactured in Western Europe, Taiwan and Hong Kong, although the House prevented the rate of duty on such coats from being reduced from 14 to 10 percent ad valorem.

The mink quotas are set at the average level for 1967, 1968, and 1969 which is one million pelts higher than the 1969 level. The staff suggests that the Committee may wish to amend the provision to establish a more viable quota reflecting the current level of imports. To avoid market disruption, the Committee may also wish to allocate the quota on a quarterly basis.

In addition, the proposed provision fails to take into account a special problem regarding imports of certain scrap trimmings of mink fur skins and imports of plates etc., made from such scrap trimmings. These imports do not compete with imports of prime skins. The staff suggests that they be excluded from the quota.

CIF Import Statistics

The Problem.—Current trade statistics distort and mislead the general public and foreign nations as to the true nature of our international competitive position. Our exports are overstated by the inclusion of nonremunerative foreign aid and P.L. 480 sales, while our imports are understated in that they do not include the cost of insurance and freight charges, as most other countries do. In the past, the Committee tried to work out an agreement with the Department of Commerce whereunder both c.i.f. and f.o.b. data would be published concurrently. The Department has not carried out the agreement in any meaningful manner.

Staff Suggestion.—The Committee may wish to require the Secretary of Commerce to publish all monthly trade statistics on a c.i.f. import basis, and to exclude from the export totals those exports financed with the use of Government grants and credits.