# TRADE AGREEMENTS ACT OF 1979

## HEARINGS

BEFORE THE

## SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

## COMMITTEE ON FINANCE

## UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

## S. 1376

A BILL TO APPROVE AND IMPLEMENT THE TRADE AGREEMENTS NEGOTIATED UNDER THE TRADE ACT OF 1974, AND FOR OTHER PURPOSES

JULY 10 AND 11, 1979

PART 1 OF 2 PARTS

(July 10, 1979)

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# TRADE AGREEMENTS ACT OF 1979

TUESDAY, JULY 10, 1979

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10 a.m. in room 3302, Dirksen Senate Office Building, Hon. Abraham Ribicoff (chairman of the subcommittee) presiding.

Present: Senators Ribicoff, Long, Nelson, Moynihan, Baucus, Dole, Roth, Chafee, and Heinz.

[The press release announcing these hearings and the bill S. 1376 follow:]

[Press release No. H-38]

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE TO HOLD HEARINGS ON THE TRADE AGREEMENTS ACT OF 1979 (S. 1376)

The Honorable Abraham Ribicoff (D., Ct.) Chairman of the Subcommittee on International Trade of the Committee on Finance, today announced that the Subcommittee will hold a hearing on the Trade Agreements Act of 1979 (S. 1376), a bill to implement for the United States the results of the Tokyo Round of Multilateral Trade Negotiations. The Administration will be represented at these hearings by the Special Representative for Trade Negotiations, Ambassador Robert S. Strauss. Senator Ribicoff noted that the Congressional procedures for consideration of legislation implementing trade negotiations prohibit any amendments to the legislation submitted by the President to the Congress. The purpose, therefore, of this hearing is to provide members of the public an opportunity to express their views as to whether the implementing legislation, taken as a whole, is in the best interests of the United States and should be approved by the Congress.

The hearing will begin at 10 a.m., Tuesday, July 10, 1979, in room 3302 Dirksen Senate Office Building.

*Requests to testify.*—Chairman Ribicoff stated that witnesses desiring to testify during this hearing must make their requests to testify to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than the close of business on Thursday, July 5, 1979. Witnesses who are scheduled to testify will be notified as soon as possible after this date as to when they will appear. If for some reason the witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance. Chairman Ribicoff also stated that, in light of the large number of people who will be interested in testifying and the limited time available for the hearings, the Subcommittee strongly urges all witnesses who have a common position or the same general interest to consolidate their testimony and to designate a single spokesman to present their common viewpoint to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than it might otherwise obtain.

*Legislative Reorganization Act.*—Chairman Ribicoff stated that the Legislative Reorganization Act of 1946 requires all witnesses appearing before the Committees of Congress to "file in advance written statements of their proposed testimony and to limit their oral presentation to brief summaries of their argument." Senator Ribicoff stated that, in light of this statute, the number of witnesses who desire to appear before the Subcommittee, and the limited time available for the hearings, all witnesses who are scheduled to testify must comply with the following rules:

1. All witnesses must include with their written statements a summary of the principal points included in the statement.

2. The written statements must be typed on lettersize paper (not legal size) and at least 100 copies must be delivered to room 2227, Dirksen Senator Office Building, not later than 5:00 P.M. on Monday, July 9, 1979.

3. Witnesses are not to read their written statements to the Subcommittee, but are to confine their oral presentations to a summary of the points included in the statement.

4. All witnesses will be limited to no more than five minutes for their oral summary before the Subcommittee.

Witnesses who fail to comply with these rules will forfeit their privilege to testify.

*Written statements.*—Persons not scheduled to make an oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statements should be submitted to Michael Stern, Staff Director, Senate Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than Tuesday, July 17, 1979.

96TH CONGRESS
1ST SESSION

# S. 1376

To approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 19 (legislative day, MAY 21), 1979

Mr. LONG (for himself, Mr. RIBICOFF, Mr. DOLE, Mr. ROTH, Mr. MOYNIHAN, Mr. HEINZ, Mr. DANFORTH, Mr. CHAFEE, Mr. DURENBERGER, Mr. PACKWOOD, Mr. GRAVEL, Mr. BENTSEN, Mr. MATSUNAGA, Mr. BOREN, Mr. BRADLEY, Mr. JAVITS, Mr. JEPSEN, Mr. MORGAN, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

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# A BILL

To approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Trade Agreements Act of 1979".

(b) TABLE OF CONTENTS.—

TITLE IV—TECHNICAL BARRIERS TO TRADE (STANDARDS)

Subtitle A—Obligations of the United States



Subtitle B—Functions of Federal Agencies



Subtitle C—Administrative and Judicial Proceedings Regarding Standards-Related Activities

CHAPTER 1—REPRESENTATIONS ALLEGING UNITED STATES VIOLATIONS OF OBLIGATIONS



CHAPTER 2—OTHER PROCEEDINGS REGARDING CERTAIN STANDARDS-RELATED ACTIVITIES



Subtitle D—Definitions and Miscellaneous Provisions



TITLE V—IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

TITLE X—JUDICIAL REVIEW



TITLE XI—MISCELLANEOUS PROVISIONS



(c) PURPOSES.—The purposes of this Act are—

(1) to approve and implement the trade agreements negotiated under the Trade Act of 1974;

(2) to foster the growth and maintenance of an open world trading system;

(3) to expand opportunities for the commerce of the United States in international trade; and

(4) to improve the rules of international trade and to provide for the enforcement of such rules, and for other purposes.

SEC. 2. APPROVAL OF TRADE AGREEMENTS.

(a) APPROVAL OF AGREEMENTS AND STATEMENTS OF ADMINISTRATIVE ACTION.—In accordance with the provisions of sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves the trade

agreements described in subsection (c) submitted to the Congress on June 19, 1979, and the statements of administrative action proposed to implement such trade agreements submitted to the Congress on that date.

(b) ACCEPTANCE OF AGREEMENTS BY THE PRESIDENT.—

(1) IN GENERAL.—The President may accept for the United States the final legal instruments or texts embodying each of the trade agreements approved by the Congress under subsection (a). The President shall submit a copy of each final instrument or text to the Congress on the date such text or instrument is available, together with a notification of any changes in the instruments or texts, including their annexes, if any, as accepted and the texts of such agreements as submitted to the Congress under subsection (a). Such final legal instruments or texts shall be deemed to be the agreements submitted to and approved by the Congress under subsection (a) if such changes are—

(A) only rectifications of a formal character or minor technical or clerical changes which do not affect the substance or meaning of the texts as submitted to the Congress on June 19, 1979, or

(B) changes in annexes to such agreements, and the President determines that the balance of United States rights and obligations under such agreements is maintained.

(2) APPLICATION OF AGREEMENT BETWEEN THE UNITED STATES AND OTHER COUNTRIES.—No agreement accepted by the President under paragraph (1) shall apply between the United States and any other country unless the President determines that such country—

(A) has accepted the obligations of the agreement with respect to the United States, and

(B) should not otherwise be denied the benefits of the agreement with respect to the United States because such country has not accorded adequate benefits, including substantially equal competitive opportunities for the commerce of the United States to the extent required under section 126(c) of the Trade Act of 1974 (19 U.S.C. 2136(c)), to the United States.

(3) LIMITATION ON ACCEPTANCE CONCERNING MAJOR INDUSTRIAL COUNTRIES.—The President may not accept an agreement described in paragraph (1), (2), (3), (4), (5), (6), (7), (9), (10), or (11) of section 2(c), unless he determines that each major industrial

country (as defined in section 126(d) of the Trade Act of 1974 (19 U.S.C. 2136(d)) is also accepting the agreement. Notwithstanding the preceding sentence, the President may accept such an agreement, if he determines that only one major industrial country is not accepting that agreement and the acceptance of that agreement by that country is not essential to the effective operation of the agreement, and if—

(A) that country is not a major factor in trade in the products covered by that agreement,

(B) the President has authority to deny the benefits of the agreement to that country and has taken steps to deny the benefits of the agreement to that country, or

(C) a significant portion of United States trade would benefit from the agreement, notwithstanding such nonacceptance, and the President determines and reports to the Congress that it is in the national interest of the United States to accept the agreement.

For purposes of this paragraph, the acceptance of an agreement by the European Communities on behalf of its member countries shall also be treated as acceptance of that agreement by each member country, and acceptance of an agreement by all the member coun-

tries of the European Communities shall also be treated as acceptance of that agreement by the European Communities.

(c) TRADE AGREEMENTS TO WHICH THIS ACT APPLIES.—The trade agreements to which subsection (a) applies are the following:

(1) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (relating to customs valuation).

(2) The Agreement on Government Procurement.

(3) The Agreement on Import Licensing Procedures.

(4) The Agreement on Technical Barriers to Trade (relating to product standards).

(5) The Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures).

(6) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(7) The International Dairy Arrangement.

(8) Certain bilateral agreements on cheese, other dairy products, and meat.

(9) The Arrangement Regarding Bovine Meat.

(10) The Agreement on Trade in Civil Aircraft.

(11) Texts Concerning a Framework for the Conduct of World Trade.

(12) Certain Bilateral Agreements to Eliminate the Wine-Gallon Method of Tax and Duty Assessment.

(13) Certain other agreements to be reflected in Schedule XX of the United States to the General Agreement on Tariffs and Trade, including Agreements—

(A) to Modify United States Watch Marking Requirements, and to Modify United States Tariff Nomenclature and Rates of Duty for Watches,

(B) to Provide Duty-Free Treatment for Agricultural and Horticultural Machinery, Equipment, Implements, and Parts Thereof, and

(C) to Modify United States Tariff Nomenclature and Rates of Duty for Ceramic Tableware.

(14) The Agreement with the Hungarian People's Republic.

SEC. 3. RELATIONSHIP OF TRADE AGREEMENTS TO UNITED STATES LAW.

(a) UNITED STATES STATUTES TO PREVAIL IN CONFLICT.—No provision of any trade agreement approved by the Congress under section 2(a), nor the application of any

such provision to any person or circumstance, which is in conflict with any statute of the United States shall be given effect under the laws of the United States.

(b) IMPLEMENTING REGULATIONS.—Regulations necessary or appropriate to carry out actions proposed in any statement of proposed administrative action submitted to the Congress under section 102 of the Trade Act of 1974 to implement each agreement approved under section 2(a) shall be issued within 1 year after the date of the entry into force of such agreement with respect to the United States.

(c) CHANGES IN STATUTES TO IMPLEMENT A REQUIREMENT, AMENDMENT, OR RECOMMENDATION.—

(1) PRESIDENTIAL DETERMINATION.—Whenever the President determines that it is necessary or appropriate to amend, repeal, or enact a statute of the United States in order to implement any requirement of, amendment to, or recommendation under such an agreement, he shall submit to the Congress a draft of a bill to accomplish the amendment, repeal, or enactment and a statement of any administrative action proposed to implement the requirement, amendment, or recommendation. Not less than 30 days before submitting such a bill, the President shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate,

and each committee of the House or Senate which has jurisdiction over legislation involving subject matters which would be affected by such amendment, repeal, or enactment. The consultation shall treat all matters relating to the implementation of such requirement, amendment, or recommendation, as provided in paragraphs (2) and (3).

(2) CONDITIONS FOR TAKING EFFECT UNDER UNITED STATES LAW.—No such amendment shall enter into force with respect to the United States, and no such requirement, amendment, or recommendation shall be implemented under United States law, unless—

(A) the President, after consultation with the Congress under paragraph (1), notifies the House of Representatives and the Senate of his determination and publishes notice of that determination in the Federal Register,

(B) the President transmits a document to the House of Representatives and to the Senate containing a copy of the text of such requirement, amendment, or recommendation, together with—

(i) a draft of a bill to amend or repeal provisions of existing statutes or to create statutory authority and an explanation as to

how the bill and any proposed administrative action affect existing law, and

(ii) a statement of how the requirement, amendment, or recommendation serves the interests of United States commerce and why the legislative and administrative action is necessary or appropriate to carry out the requirement, amendment, or recommendation, and

(C) the bill submitted by the President is enacted into law.

(3) RECOMMENDATIONS AS TO APPLICATION.—The President may make the same type of recommendations, in the same manner and subject to the same conditions, to the Congress with respect to the application of any such requirement, amendment, or recommendation as he may make, under section 102(f) of the Trade Act of 1974, with respect to a trade agreement.

(4) CONGRESSIONAL PROCEDURES APPLICABLE.—The bill submitted by the President shall be introduced in accordance with the provisions of subsection (c)(1) of section 151 of the Trade Act of 1974, and the provisions of subsections (d), (e), (f), and (g) of such section shall apply to the consideration of the bill.

For the purpose of applying section 151 of such Act to such bill—

(A) the term "trade agreement" shall be treated as a reference to the requirement, amendment, or recommendation, and

(B) the term "implementing bill" or "implementing revenue bill", whichever is appropriate, shall be treated as a reference to the bill submitted by the President.

(e) CONGRESSIONAL LIAISON.—Paragraph (1) of section 161(b) of the Trade Act of 1974 (19 U.S.C. 2211(b)) is amended by inserting "or any requirement of, amendment to, or recommendation under, such agreement" immediately after "trade agreement".

(f) UNSPECIFIED PRIVATE REMEDIES NOT CREATED.—Neither the entry into force with respect to the United States of any agreement approved under section 2(a), nor the enactment of this Act, shall be construed as creating any private right of action or remedy for which provision is not explicitly made under this Act or under the laws of the United States.

# TITLE I—COUNTERVAILING AND ANTIDUMPING DUTIES

## SEC. 101. ADDITION OF NEW COUNTERVAILING AND ANTIDUMPING DUTIES TITLE TO TARIFF ACT OF 1930.

The Tariff Act of 1930 is amended by adding at the end thereof the following new title:

"TITLE VII—COUNTERVAILING AND ANTIDUMPING DUTIES

"Subtitle A—Imposition of Countervailing Duties



"Subtitle B—Imposition of Antidumping Duties



"Subtitle C—Review of Determinations



"Subtitle D—General Provisions

## "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 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,

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.

"(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.**

**"SEC. 702. PROCEDURES FOR INITIATING A COUNTERVAILING DUTY INVESTIGATION.**

"(a) INITIATION BY ADMINISTERING AUTHORITY.—A countervailing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 701(a) exist.

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—A countervailing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the

duty imposed by section 701(a), and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

"(c) PETITION DETERMINATION.—Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 701(a) and contains information reasonably available to the petitioner supporting the allegations,

"(2) if the determination is affirmative, commence an investigation to determine whether a subsidy is being provided with respect to the class or kind of merchandise described in the petition, and provide for the publication of notice of the determination to commence an investigation in the Federal Register, and

"(3) if the determination is negative, dismiss the petition, terminate the proceeding, notify the petitioner

in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—The administering authority shall—

"(1) notify the Commission immediately of any determination it makes under subsection (a) or (c), and

"(2) if the determination is affirmative, make available to the Commission such information as it may have relating to the matter under investigation, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

"SEC. 703. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 702(c)(3), the Commission, within 45 days after the date on which a petition is filed under section 702(b) or on which it receives notice from the administering authority of an investigation commenced under section 702(a), shall make a determination, based upon the best information available to it at

the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

"(2) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 702(b), or an investigation is commenced under section 702(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that a subsidy is being provided with respect to the merchandise which is the subject of the investigation. If the determination of the administering authority under this subsection is affirmative, the determination shall include an estimate of the net subsidy.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

"(1) IN GENERAL.—If—

"(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b), or

"(B) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the number and complexity of the alleged subsidy practices;

"(II) the novelty of the issues presented;

"(III) the need to determine the extent to which particular subsidies are used by individual manufacturers, producers, and exporters; or

"(IV) the number of firms whose activities must be investigated; and

"(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b) until not later than the 150th day after the date on which a petition is filed under section 702(b), or an investigation is commenced under section 702(a).

"(2) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b), if it intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement. Notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority—

"(1) shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

"(2) shall order the posting of a cash deposit, bond, or other security, as it deems appropriate, for

each entry of the merchandise concerned equal to the estimated amount of the net subsidy, and

"(3) shall make available to the Commission all information upon which its determination was based and which the Commission considers relevant to its injury determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

"(1) IN GENERAL.—If a petitioner alleges critical circumstances in its original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly determine, on the basis of the best information available to it at that time, whether there is a reasonable basis to believe or suspect that—

"(A) the alleged subsidy is inconsistent with the Agreement, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(2) SUSPENSION OF LIQUIDATION.—If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

"(f) NOTICE OF DETERMINATIONS.—Whenever the Commission or the administering authority makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

"SEC. 704. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administering authority or the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the

preceding sentence before a preliminary determination is made by the administering authority under section 703(b).

"(b) AGREEMENTS TO ELIMINATE OR OFFSET COMPLETELY A SUBSIDY OR TO CEASE EXPORTS OF SUBSIDIZED MERCHANDISE.—The administering authority may suspend an investigation if the government of the country in which the subsidy practice is alleged to occur agrees, or exporters who account for substantially all of the imports of the merchandise which is the subject of the investigation agree—

"(1) to eliminate the subsidy completely or to offset completely the amount of the net subsidy, with respect to that merchandise exported directly or indirectly to the United States, within 6 months after the date on which the investigation is suspended, or

"(2) to cease exports of that merchandise to the United States within 6 months after the date on which the investigation is suspended.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, it may suspend an investigation upon the acceptance of an agreement from a government described in subsection (b), or from exporters described in subsection (b), if the agreement will eliminate com-

pletely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

"(2) CERTAIN ADDITIONAL REQUIREMENTS.—Except in the case of an agreement by a foreign government to restrict the volume of imports of the merchandise which is the subject of the investigation into the United States, the administering authority may not accept an agreement under this subsection unless—

"(A) the suppression or undercutting of price levels of domestic products by imports of that merchandise will be prevented, and

"(B) at least 85 percent of the net subsidy will be offset.

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with a foreign government under this subsection to restrict the volume of imports of merchandise which is the subject of an investigation into the United States, but it may not accept such an agreement with exporters.

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

"(A) EXTRAORDINARY CIRCUMSTANCES.—For purposes of this subsection, the term 'extraor-

dinary circumstances' means circumstances in which—

"(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and

"(ii) the investigation is complex.

"(B) COMPLEX.—For purposes of this paragraph, the term 'complex' means—

"(i) there are a large number of alleged subsidy practices and the practices are complicated,

"(ii) the issues raised are novel, or

"(iii) the number of exporters involved is large.

"(d) ADDITIONAL RULES AND CONDITIONS.—

"(1) PUBLIC INTEREST; MONITORING.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—

"(A) it is satisfied that suspension of the investigation is in the public interest, and

"(B) effective monitoring of the agreement by the United States is practicable.

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept

any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

"(e) SUSPENSION OF INVESTIGATION PROCEDURE.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall—

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify other parties to the investigation and the Commission not less than 30 days before the date on which it suspends the investigation,

"(2) provide a copy of the proposed agreement to the petitioner at the time of the notification, together

with an explanation of how the agreement will be carried out and enforced (including any action required of foreign governments), and of how the agreement will meet the requirements of subsections (b) and (d) or (c) and (d), and

"(3) permit all parties to the investigation to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

"(1) IN GENERAL.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then—

"(A) it shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 703(b) with respect to the merchandise which is the subject of the investigation, unless it has previously issued such a determination in the same investigation,

"(B) the Commission shall suspend any investigation it is conducting with respect to that merchandise, and

"(C) the suspension of investigation shall take effect on the day on which such notice is published.

"(2) LIQUIDATION OF ENTRIES.—

"(A) CESSATION OF EXPORTS; COMPLETE ELIMINATION OF NET SUBSIDY.—If the agreement accepted by the administering authority is an agreement described in subsection (b), then—

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 703(d)(1),

"(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 703(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 703(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 703(d)(2) may be adjusted to reflect the effect of the agreement.

"(3) WHERE INVESTIGATION IS CONTINUED.—If, pursuant to subsection (g), the administering authority and the Commission continue an investigation in which an agreement has been accepted under subsection (b) or (c), then—

"(A) if the final determination by the administering authority or the Commission under section 705 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

"(B) if the final determinations by the administering authority and the Commission under such

section are affirmative, the agreement shall remain in force, but the administering authority shall not issue a countervailing duty order in the case so long as—

"(i) the agreement remains in force,

"(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and (d), and

"(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

"(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

"(1) the government of the country in which the subsidy practice is alleged to occur, or

"(2) an interested party described in subparagraph (C), (D), or (E) of section 771(9) which is a party to the investigation,

then the administering authority and the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.—

"(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), or (E) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed with it, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission's determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 703(b) had been made on that date.

"(3) SUSPENSION OF LIQUIDATION TO CONTINUE DURING REVIEW PERIOD.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is pub-

lished in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 703(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 703(d)(2).

"(i) VIOLATION OF AGREEMENT.—

"(1) IN GENERAL.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of its determination, it shall—

"(A) suspend liquidation under section 703(d)(1) of unliquidated entries of the merchandise made on or after the later of—

"(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

"(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsections (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

"(B) if the investigation was not completed, resume the investigation as if its affirmative preliminary determination under section 703(b) were made on the date of its determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue a countervailing duty order under section 706(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

"(D) notify the petitioner, interested parties who are or were parties to the investigation, and the Commission of its action under this paragraph.

"(2) INTENTIONAL VIOLATION TO BE PUNISHED BY CIVIL PENALTY.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 705, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 705. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of its preliminary determination under section 703(b), the administering authority shall make a final determi-

nation of whether or not a subsidy is being provided with respect to the merchandise.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 703(e), shall also contain a finding as to whether—

"(A) the subsidy is inconsistent with the Agreement, and

"(B) there have been massive imports of the class or kind of merchandise involved over a relatively short period.

"(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 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.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then—

"(A) the administering authority shall make available to the Commission all information upon which such determination was based and which

the Commission considers relevant to its determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 703(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue a countervailing duty order under section 706(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 703(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 703(d)(2).

"(3) EFFECT OF NEGATIVE DETERMINATIONS UNDER SUBSECTIONS (a)(2) AND (b)(4)(A).—If the determination of the administering authority or the Commission under subsection (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall—

"(A) terminate any retroactive suspension of liquidation required under section 703(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required, under section 703(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 703(e)(2).

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

"SEC. 706. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF COUNTERVAILING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 705(b), the administering authority shall publish a countervailing duty order which—

"(1) directs customs officers to assess a countervailing duty equal to the amount of the net subsidy determined or estimated to exist, within 6 months after the date on which the administering authority receives satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption,

"(2) includes a description of the class or kind of merchandise to which it applies, in such detail as the administering authority deems necessary, and

"(3) requires the deposit of estimated countervailing duties pending liquidation of entries of merchandise at the same time as estimated normal customs duties on that merchandise are deposited.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in its final determination under section 705(b), finds material

injury or threat of material injury which, but for the suspension of liquidation under section 703(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the countervailing duty order, the liquidation of which has been suspended under section 703(d)(1), shall be subject to the imposition of countervailing duties under section 701(a).

"(2) SPECIAL RULE.—If the Commission, in its final determination under section 705(b), finds threat of material injury, other than threat of material injury described in paragraph (1), or material retardation of the establishment of an industry in the United States, then merchandise subject to a countervailing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 705(b) shall be subject to the imposition of countervailing duties under section 701(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of countervailing duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

"SEC. 707. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED COUNTERVAILING DUTY AND FINAL ASSESSED DUTY UNDER COUNTERVAILING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED COUNTERVAILING DUTY UNDER SECTION 703(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated countervailing duty under section 703(d)(2) is different from the amount of the countervailing duty determined under a countervailing duty order issued under section 706, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 705(b) is published shall be—

"(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or

"(2) refunded or released, to the extent that the cash deposit, bond, or other security is higher than the duty under the order.

"(b) DEPOSIT OF ESTIMATED COUNTERVAILING DUTY UNDER SECTION 706(a)(3).—If the amount of an estimated countervailing duty deposited under section 706(a)(3) is different from the amount of the countervailing duty determined under a countervailing duty order issued under section 706, then the difference for entries of merchandise entered, or

withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 705(b) is published shall be—

"(1) collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order, or

"(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order,

together with interest as provided by section 778.

## "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.

"SEC. 732. PROCEDURES FOR INITIATING AN ANTIDUMPING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An antidumping duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 731 exist.

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—An antidumping proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 731, and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

"(c) PETITION DETERMINATION.—Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 731 and contains information reasonably available to the petitioner supporting the allegations,

"(2) if the determination is affirmative, commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at less than its fair value, and provide for the publication of notice of the determination in the Federal Register, and

"(3) if the determination is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—The administering authority shall—

"(1) notify the Commission immediately of any determination it makes under subsection (a) or (c), and

"(2) if the determination is affirmative, make available to the Commission such information as it may have relating to the matter under investigation, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

"SEC. 733. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 732(c)(3), the Commission, within 45 days after the date on which a petition is filed under section 732(b) or on which it receives notice from the administering authority of an investigation commenced under section 732(a), shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

"(2) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) PERIOD OF ANTIDUMPING DUTY INVESTIGATION.—Within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold at less than fair value. If the determination of the administering authority under this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.

"(2) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATION.—Within 75 days after the

initiation of an investigation, the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 60 days of the investigation, and, if there appears to be sufficient information available upon which the preliminary determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available non-confidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), or (E) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a preliminary determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), or (E) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient informa-

tion is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made within 90 days after the commencement of the investigation on the basis of the record established during the first 60 days after the investigation was commenced.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

"(1) IN GENERAL.—If—

"(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b)(1), or

"(B) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the number and complexity of the transactions to be investigated or adjustments to be considered,

"(II) the novelty of the issues presented, or

"(III) the number of firms whose activities must be investigated, and

"(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b)(1) until not later than the 210th day after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a).

"(2) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b)(1), if it intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority—

"(1) shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

"(2) shall order the posting of a cash deposit, bond, or other security, as it deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the foreign market value exceeds the United States price, and

"(3) shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to its injury determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

"(1) IN GENERAL.—If a petitioner alleges critical circumstances in its original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly determine, on the basis of the best information available to it at that time, whether there is a reasonable basis to believe or suspect that—

"(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of

the merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(2) SUSPENSION OF LIQUIDATION.—If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

"(f) NOTICE OF DETERMINATIONS.—Whenever the Commission or the administering authority makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which

the determination is based, and it shall publish notice of its determination in the Federal Register.

"SEC. 734. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administering authority or the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 733(b).

"(b) AGREEMENTS TO ELIMINATE COMPLETELY SALES AT LESS THAN FAIR VALUE OR TO CEASE EXPORTS OF MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

"(1) to cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

"(2) to revise their prices to eliminate completely any amount by which the foreign market value of the merchandise which is the subject of the agreement exceeds the United States price of that merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, it may suspend an investigation upon the acceptance of an agreement to revise prices from exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise into the United States, if the agreement will eliminate completely the injurious effect of exports to the United States of that merchandise and if—

"(A) the suppression or undercutting of price levels of domestic products by imports of that merchandise will be prevented, and

"(B) for each entry of each exporter the amount by which the estimated foreign market value exceeds the United States price will not exceed 15 percent of the weighted average amount by which the estimated foreign market value exceeded the United States price for all less-than-fair-value entries of the exporter examined during the course of the investigation.

"(2) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

"(A) EXTRAORDINARY CIRCUMSTANCES.—For purposes of this subsection, the term 'extraordinary circumstances' means circumstances in which—

"(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and

"(ii) the investigation is complex.

"(B) COMPLEX.—For purposes of this paragraph, the term 'complex' means—

"(i) there are a large number of transactions to be investigated or adjustments to be considered,

"(ii) the issues raised are novel, or

"(iii) the number of firms involved is large.

"(d) ADDITIONAL RULES AND CONDITIONS.—

"(1) PUBLIC INTEREST; MONITORING.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—

"(A) it is satisfied that suspension of the investigation is in the public interest, and

"(B) effective monitoring of the agreement by the United States is practicable.

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection (b)(1) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by the agreement exported to the United States during the period provided for cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

"(e) SUSPENSION OF INVESTIGATION PROCEDURE.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall—

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify other parties to the investigation and the Commission not less than 30 days before the date on which it suspends the investigation,

"(2) provide a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced, and of how the agreement will meet the requirements of subsections (b) and (d) or (c) and (d), and

"(3) permit all parties to the investigation to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

"(1) IN GENERAL.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then—

"(A) it shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 733(b) with respect to the merchandise which is the subject of the investigation, unless it has previously issued such a determination in the same investigation,

"(B) the Commission shall suspend any investigation it is conducting with respect to that merchandise, and

"(C) the suspension of investigation shall take effect on the day on which such notice is published.

"(2) LIQUIDATION OF ENTRIES.—

"(A) CESSATION OF EXPORTS; COMPLETE ELIMINATION OF DUMPING MARGIN.—If the

agreement accepted by the administering authority is an agreement described in subsection (b), then—

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 733(d)(1),

"(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 733(d)(2).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), the liquidation of entries of the merchandise subject to the investigation shall be suspended under section 733(d)(1), or, if the liquidation of entries of such

merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 733(d)(2) may be adjusted to reflect the effect of the agreement.

"(3) WHERE INVESTIGATION IS CONTINUED.—If, pursuant to subsection (g), the administering authority and the Commission continue an investigation in which an agreement has been accepted under subsection (b) or (c), then—

"(A) if the final determination by the administering authority or the Commission under section 735 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

"(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue an antidumping duty order in the case so long as—

"(i) the agreement remains in force,

"(ii) the agreement continues to meet the requirements of subsections (b) and (d), or (c) and (d), and

"(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

"(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

"(1) an exporter or exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or

"(2) an interested party described in subparagraph (C), (D), or (E) of section 771(9) which is a party to the investigation,

then the administering authority and the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.—

"(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), or (E) of

section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed with it, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission's determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 733(b) had been made on that date.

"(3) SUSPENSION OF LIQUIDATION TO CONTINUE DURING REVIEW PERIOD.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2),

the date on which notice of an affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 733(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 733(d)(2).

"(i) VIOLATION OF AGREEMENT.—

"(1) IN GENERAL.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of its determination, it shall—

"(A) suspend liquidation under section 733(d)(1) of unliquidated entries of the merchandise made on the later of—

"(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

"(ii) the date on which the merchandise, the sale or export to the United States of

which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsections (b) and (d), or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

"(B) if the investigation was not completed, resume the investigation as if its affirmative preliminary determination were made on the date of its determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an antidumping duty order under section 736(a) effective with respect to entries of merchandise liquidation of which was suspended, and

"(D) notify the petitioner, interested parties who are or were parties to the investigation, and the Commission of its action under this paragraph.

"(2) INTENTIONAL VIOLATION TO BE PUNISHED BY CIVIL PENALTY.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedures, as the

penalty imposed for a fraudulent violation of section 592(a) of this Act.

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 735, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 735. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) GENERAL RULE.—Within 75 days after the date of its preliminary determination under section 733(b), the administering authority shall make a final determination of whether the merchandise which was the subject of the investigation is being, or is likely to be, sold in the United States at less than its fair value.

"(2) EXTENSION OF PERIOD FOR DETERMINATION.—The administering authority may postpone making the final determination under paragraph (1) until not later than the 135th day after the date on

which it published notice of its preliminary determination under section 733(b) if a request in writing for such a postponement is made by—

"(A) exporters who account for a significant proportion of exports of the merchandise which is the subject of the investigation, in a proceeding in which the preliminary determination by the administering authority under section 733(b) was affirmative, or

"(B) the petitioner, in a proceeding in which the preliminary determination by the administering authority under section 733(b) was negative.

"(3) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 733(e), shall also contain a finding of whether—

"(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling

the merchandise which is the subject of the investigation at less than its fair value, and

"(B) there have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

"(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 of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a)(1).

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 733(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 733(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 733(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 a finding as to whether the material injury is by reason of massive imports described in subsection (a)(3) to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty imposed by section 731 retroactively on those imports.

"(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 the 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 the merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then—

"(A) the administering authority shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to its determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information as to which confidential treat-

ment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 733(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an antidumping duty order under section 736(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 703(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 733(d)(2).

"(3) EFFECT OF NEGATIVE DETERMINATIONS UNDER SUBSECTIONS (a)(3) AND (b)(4)(A).—If the de-

termination of the administering authority or the Commission under subsection (a)(3) or (b)(4)(A), respectively, is negative, then the administering authority shall—

"(A) terminate any retroactive suspension of liquidation required under section 733(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required, under section 733(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 733(e)(2).

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

"SEC. 736. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ANTIDUMPING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 735(b), the administering authority shall publish an antidumping duty order which—

"(1) directs customs officers to assess an antidumping duty equal to the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise, within 6 months after the date on which the administering authority receives satisfactory information upon which the assessment may be based, but in no event later than—

"(A) 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption, or

"(B) in the case of merchandise not sold prior to its importation into the United States, 12 months after the end of the annual accounting period of the manufacturer or exporter within which it is sold in the United States to a person who is not the exporter of that merchandise,

"(2) includes a description of the class or kind of merchandise to which it applies, in such detail as the administering authority deems necessary, and

"(3) requires the deposit of estimated antidumping duties pending liquidation of entries of merchandise at the same time as estimated normal customs duties on that merchandise are deposited.

"(b) IMPOSITION OF DUTY.—

"(1) GENERAL RULE.—If the Commission, in its final determination under section 735(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 733(d)(1) would have led to a finding of material injury, then entries of the merchandise subject to the antidumping duty order, the liquidation of which has been suspended under section 733(d)(1), shall be subject to the imposition of antidumping duties under section 731.

"(2) SPECIAL RULE.—If the Commission, in its final determination under section 735(b), finds threat of material injury, other than threat of material injury described in paragraph (1), or material retardation of the establishment of an industry in the United States, then merchandise subject to an antidumping duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 735(b) shall be subject to the assessment of antidumping duties under section 731, and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to en-

tries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

"(c) SECURITY IN LIEU OF ESTIMATED DUTY PENDING EARLY DETERMINATION OF DUTY.—

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if, on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(A) an affirmative preliminary determination by the administering authority under section 733(b), or

"(B) if its determination under section 733(b) was negative, an affirmative final determination

by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b).

"(2) NOTICE; HEARING.—If the administering authority permits the posting of a bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), it shall—

"(A) publish notice of its action in the Federal Register, and

"(B) upon the request of any interested party, hold a hearing in accordance with section 774 before determining the foreign market value and the United States price of the merchandise.

"(3) DETERMINATIONS TO BE BASIS OF ANTIDUMPING DUTY.—The administering authority shall publish notice in the Federal Register of the results of its determination of foreign market value and United States price, and that determination shall be the basis for the assessment of antidumping duties on entries of merchandise to which the notice under this subsection applies and also shall be the basis for the deposit of estimated antidumping duties or future entries of merchandise of manufacturers, producers, or exporters de-

scribed in paragraph (1) to which the order issued under subsection (a) applies.

"SEC. 737. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ANTIDUMPING DUTY AND FINAL ASSESSED DUTY UNDER ANTIDUMPING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ANTIDUMPING DUTY UNDER SECTION 733(d)(2).—If the amount of a cash deposit collected as security for an estimated antidumping duty under section 733(d)(2) is different from the amount of the antidumping duty determined under an antidumping duty order published under section 736, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 735(b) is published shall be—

"(1) disregarded, to the extent the cash deposit collected is lower than the duty under the order, or

"(2) refunded, to the extent the cash deposit is higher than the duty under the order.

"(b) DEPOSIT OF ESTIMATED ANTIDUMPING DUTY UNDER SECTION 736(a)(3).—If the amount of an estimated antidumping duty deposited under section 736(a)(3) is different from the amount of the antidumping duty determined under an antidumping duty order published under section 736, then the difference for entries of merchandise entered,

or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 735 (b) is published shall be—

"(1) collected, to the extent that the deposit under section 736(a)(3) is lower than the duty determined under the order, or

"(2) refunded, to the extent that the deposit under section 736(a)(3) is higher than the duty determined under the order,

together with interest as provided by section 778.

"SEC. 738. CONDITIONAL PAYMENT OF ANTIDUMPING DUTY.

"(a) GENERAL RULE.—For all entries, or withdrawals from warehouse, for consumption of merchandise subject to an antidumping duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirements of subsection (b) and deposits with the appropriate customs officer an estimated antidumping duty in an amount determined by the administering authority.

"(b) IMPORTER REQUIREMENTS.—In order to meet the requirements of this subsection, a person shall—

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for determining

the United States price of the merchandise imported by or for the account of that person, and such other information as the administering authority deems necessary for ascertaining any antidumping duty to be imposed under this title;

"(2) maintain and furnish to the customs officer such records concerning the sale of the merchandise as the administering authority, by regulation, requires;

"(3) state under oath before the customs officer that he is not an exporter, or if he is an exporter, declare under oath at the time of entry the exporter's sales price of the merchandise to the customs officer if it is then known, or, if not, so declare within 30 days after the merchandise has been sold, or has been made the subject of an agreement to be sold, in the United States; and

"(4) pay, or agree to pay on demand, to the customs officer the amount of antidumping duty imposed under section 731 on that merchandise.

**"SEC. 739. DUTIES OF CUSTOMS OFFICERS.**

"In the case of all imported merchandise of a class or kind as to which the administering authority has published an antidumping duty order under section 736 under which entries have not been liquidated, the appropriate customs officer shall, by all reasonable ways and means and consistently

with the provisions of this title, ascertain and determine, or estimate, the foreign market value, the United States price, and any other information which the administering authority deems necessary for the purposes of administering this title.

"SEC. 740. ANTIDUMPING DUTY TREATED AS REGULAR DUTY FOR DRAWBACK PURPOSES.

"The antidumping duty imposed by section 731 shall be treated in all respects as a normal customs duty for the purpose of any law relating to the drawback of customs duties.

## "Subtitle C—Review of Determinations

"SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

"(a) PERIODIC REVIEW OF AMOUNT OF DUTY.—

"(1) IN GENERAL.—At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, after publication of notice of such review in the Federal Register, shall—

"(A) review and determine the amount of any net subsidy,

"(B) review, and determine (in accordance with paragraph (2)), the amount of any antidumping duty, and

"(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net subsidy or margin of sales at less than fair value involved in the agreement,

and shall publish the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed in the Federal Register.

"(2) DETERMINATION OF ANTIDUMPING DUTIES.—For the purpose of paragraph (1)(B), the administering authority shall determine—

"(A) the foreign market value and United States price of each entry of merchandise subject to the antidumping duty order and included within that determination, and

"(B) the amount, if any, by which the foreign market value of each such entry exceeds the United States price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of antidumping duties in the Fed-

eral Register, and that determination shall be the basis for the assessment of antidumping duties on entries of the merchandise included within the determination and for deposits of estimated duties.

"(b) REVIEWS UPON INFORMATION OR REQUEST.—

"(1) IN GENERAL.—Whenever the administering authority or the Commission receives information concerning, or a request for the review of, an agreement accepted under section 704 or 734 or an affirmative determination made under section 704(h)(2), 705(a), 705(b), 734(h)(2), 735(a), or 735(b), which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the Federal Register. In reviewing its determination under section 704(h)(2) or 734(h)(2), the Commission shall consider whether, in the light of changed circumstances, an agreement accepted under section 704(c) or 734(c) continues to eliminate completely the injurious effects of imports of the merchandise.

"(2) LIMITATION ON PERIOD FOR REVIEW.—In the absence of good cause shown—

"(A) the Commission may not review a determination under section 705(b) or 735(b), and

"(B) the administering authority may not review a determination under section 705(a) or 735(a), or the suspension of an investigation suspended under section 704 or 734,

less than 24 months after the date of publication of notice of that determination or suspension.

"(c) REVOCATION OF COUNTERVAILING DUTY ORDER OR ANTIDUMPING DUTY ORDER.—The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order, or terminate a suspended investigation, after review under this section. Any such revocation or termination shall apply with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after a date determined by the administering authority.

"(d) HEARINGS.—Whenever the administering authority or the Commission conducts a review under this section it shall, upon the request of any interested party, hold a hearing in accordance with section 774(b) in connection with that review.

"(e) DETERMINATION THAT BASIS FOR SUSPENSION NO LONGER EXISTS.—If the determination of the Commission under the last sentence of subsection (b)(1) is negative, the agreement shall be treated as not accepted, beginning on the date of the publication of the Commission's determina-

tion, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

## "Subtitle D—General Provisions

### "SEC. 771. DEFINITIONS; SPECIAL RULES.

"For purposes of this title—

"(1) ADMINISTERING AUTHORITY.—The term 'administering authority' means the Secretary of the Treasury, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under this title are transferred by law.

"(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

"(3) COUNTRY.—The term 'country' means a foreign country, a political subdivision, dependent territory, or possession of a foreign country, and, except for the purpose of antidumping proceedings, may include an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of

countries into a customs union outside the United States.

"(4) INDUSTRY.—

"(A) IN GENERAL.—The term 'industry' means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

"(B) RELATED PARTIES.—When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term 'industry' may be applied in appropriate circumstances by excluding such producers from those included in that industry.

"(C) REGIONAL INDUSTRIES.—In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if—

"(i) the producers within such market sell all or almost all of their production of

the like product in question in that market, and

"(ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collective output of a like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury, or if the establishment of an industry is being materially retarded, by reason of the subsidized or dumped imports.

"(D) PRODUCT LINES.—The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate iden-

tification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

"(5) SUBSIDY.—The term 'subsidy' has the same meaning as the term 'bounty or grant' as that term is used in section 303 of this Act, and includes, but is not limited to, the following:

"(A) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

"(B) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

"(i) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

"(ii) The provision of goods or services at preferential rates.

"(iii) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

"(iv) The assumption of any costs or expenses of manufacture, production, or distribution.

"(6) NET SUBSIDY.—For the purpose of determining the net subsidy, the administering authority may subtract from the gross subsidy the amount of—

"(A) any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the subsidy,

"(B) any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by Government order, and

"(C) export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

"(7) MATERIAL INJURY.—

"(A) IN GENERAL.—The term 'material injury' means harm which is not inconsequential, immaterial, or unimportant.

"(B) VOLUME AND CONSEQUENT IMPACT.—In making its determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission shall consider, among other factors—

"(i) the volume of imports of the merchandise which is the subject of the investigation,

"(ii) the effect of imports of that merchandise on prices in the United States for like products, and

"(iii) the impact of imports of such merchandise on domestic producers of like products.

"(C) EVALUATION OF VOLUME AND OF PRICE EFFECTS.—For purposes of subparagraph (B)—

"(i) VOLUME.—In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or

relative to production or consumption in the United States, is significant.

"(ii) PRICE.—In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether—

"(I) there has been significant price undercutting by the imported merchandise as compared with the price of like products of the United States, and

"(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

"(iii) IMPACT ON AFFECTED INDUSTRY.—In examining the impact on the affected industry, the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to—

"(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(II) factors affecting domestic prices, and

"(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

"(D) SPECIAL RULES FOR AGRICULTURAL PRODUCTS.—

"(i) The Commission shall not determine that there is no material injury or threat of material injury to United States producers of an agricultural commodity merely because the prevailing market price is at or above the minimum support price.

"(ii) In the case of agricultural products, the Commission shall consider any increased burden on government income or price support programs.

"(E) SPECIAL RULES.—For purposes of this paragraph—

"(i) NATURE OF SUBSIDY.—In determining whether there is a threat of material injury, the Commission shall consider such information as may be presented to it by the administering authority as to the nature of

the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign country and the effects likely to be caused by the subsidy.

"(ii) STANDARD FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) or (D) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury.

"(8) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES; AGREEMENT.—The terms 'Agreement on Subsidies and Countervailing Measures' and 'Agreement' mean the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures) approved under section 2(a) of the Trade Agreements Act of 1979.

"(9) INTERESTED PARTY.— The term 'interested party' means—

"(A) a foreign manufacturer, producer, or exporter, or the United States importer, of merchan-

dise which is the subject of an investigation under this title or a trade or business association a majority of the members of which are importers of such merchandise,

"(B) the government of a country in which such merchandise is produced or manufactured,

"(C) a manufacturer, producer, or wholesaler in the United States of a like product,

"(D) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product, and

"(E) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

"(10) LIKE PRODUCT.—The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

"(11) AFFIRMATIVE DETERMINATIONS BY DIVIDED COMMISSION.—If the Commissioners voting on a determination by the Commission are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have

made an affirmative determination. For the purpose of applying this paragraph when the issue before the Commission is to determine whether there is—

"(A) material injury to an industry in the United States,

"(B) threat of material injury to such an industry, or

"(C) material retardation of the establishment of an industry in the United States,

by reason of imports of the merchandise, an affirmative vote on any of the issues shall be treated as a vote that the determination should be affirmative.

"(12) ATTRIBUTION OF MERCHANDISE TO COUNTRY OF MANUFACTURE OR PRODUCTION.—For purposes of subtitle A, merchandise shall be treated as the product of the country in which it was manufactured or produced without regard to whether it is imported directly from that country and without regard to whether it is imported in the same condition as when exported from that country or in a changed condition by reason of remanufacture or otherwise.

"(13) EXPORTER.—For the purpose of determining United States price, the term 'exporter' includes the person by whom or for whose account the merchandise is imported into the United States if—

"(A) such person is the agent or principal of the exporter, manufacturer, or producer;

"(B) such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer;

"(C) the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person; or

"(D) any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 percent or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 percent or more of such power or control in the business of the exporter, manufacturer, or producer.

"(14) SOLD OR, IN THE ABSENCE OF SALES, OFFERED FOR SALE.—The term 'sold or, in the absence of sales, offered for sale' means sold or, in the absence of sales, offered—

"(A) to all purchasers at wholesale, or

"(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

"(15) ORDINARY COURSE OF TRADE.—The term 'ordinary course of trade' means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind.

"(16) SUCH OR SIMILAR MERCHANDISE.—The term 'such or similar merchandise' means merchandise in the first of the following categories in respect of which a determination for the purposes of subtitle B of this title can be satisfactorily made:

"(A) The merchandise which is the subject of an investigation and other merchandise which is identical in physical characteristics with, and was

produced in the same country by the same person as, that merchandise.

"(B) Merchandise—

"(i) produced in the same country and by the same person as the merchandise which is the subject of the investigation,

"(ii) like that merchandise in component material or materials and in the purposes for which used, and

"(iii) approximately equal in commercial value to that merchandise.

"(C) Merchandise—

"(i) produced in the same country and by the same person and of the same general class or kind as the merchandise which is the subject of the investigation,

"(ii) like that merchandise in the purposes for which used, and

"(iii) which the administering authority determines may reasonably be compared with that merchandise.

"(17) USUAL WHOLESALE QUANTITIES.—The term 'usual wholesale quantities', in any case in which the merchandise which is the subject of the investigation is sold in the market under consideration at differ-

ent prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

"SEC. 772. UNITED STATES PRICE.

"(a) UNITED STATES PRICE.—For purposes of this title, the term 'United States price' means the purchase price, or the exporter's sales price, of the merchandise, whichever is appropriate.

"(b) PURCHASE PRICE.—For purposes of this section, the term 'purchase price' means the price at which merchandise is purchased, or agreed to be purchased, prior to the date of importation, from the manufacturer or producer of the merchandise for exportation to the United States. Appropriate adjustments for costs and expenses under subsection (d) shall be made if they are not reflected in the price paid by the person by whom, or for whose account, the merchandise is imported.

"(c) EXPORTER'S SALES PRICE.—For purposes of this section, the term 'exporter's sales price' means the price at which merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, as adjusted under subsections (d) and (e).

"(d) ADJUSTMENTS TO PURCHASE PRICE AND EXPORTER'S SALES PRICE.—The purchase price and the exporter's sales price shall be adjusted by being—

"(1) increased by—

"(A) when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States,

"(B) the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States;

"(C) the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and

"(D) the amount of any countervailing duty imposed on the merchandise under subtitle A of

this title or section 303 of this Act to offset an export subsidy, and

"(2) reduced by—

"(A) except as provided in paragraph (1)(D), the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and

"(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the country of exportation on the exportation of the merchandise to the United States other than an export tax, duty, or other charge described in section 771(6)(C).

"(e) ADDITIONAL ADJUSTMENTS TO EXPORTER'S SALES PRICE.—For purposes of this section, the exporter's sales price shall also be adjusted by being reduced by the amount, if any, of—

"(1) commissions for selling in the United States the particular merchandise under consideration,

"(2) expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and

"(3) any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter of the merchandise.

"SEC. 773. FOREIGN MARKET VALUE.

"(a) DETERMINATION; FICTITIOUS MARKET; SALES AGENCIES.—For purposes of this title—

"(1) IN GENERAL.—The foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States—

"(A) at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption, or

"(B) if not so sold or offered for sale for home consumption, or if the administering authority determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for

comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States,

increased by, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of importation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

"(2) USE OF CONSTRUCTED VALUE.—If the administering authority determines that the foreign market value of imported merchandise cannot be determined under paragraph (1)(A), then, notwithstanding paragraph (1)(B), the foreign market value of the merchandise may be the constructed value of that merchandise, as determined under subsection (e).

"(3) INDIRECT SALES AND OFFERS FOR SALE.—If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 771(13), the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.

"(4) OTHER ADJUSTMENTS.—In determining foreign market value, if it is established to the satisfaction of the administering authority that the amount of any difference between the United States price and the foreign market value (or that the fact that the United States price is the same as the foreign market value) is wholly or partly due to—

"(A) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale, for exportation to, or in the principal markets of, the United States, as appropriate, in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale, in the principal markets of the country of exportation

in the ordinary course of trade for home consumption (or, if not so sold for home consumption, then for exportation to countries other than the United States);

"(B) other differences in circumstances of sale; or

"(C) the fact that merchandise described in paragraph (B) or (C) of section 771(16) is used in determining foreign market value,

then due allowance shall be made therefor.

"(b) SALES AT LESS THAN COST OF PRODUCTION.—Whenever the administering authority has reasonable grounds to believe or suspect that sales in the home market of the country of exportation, or, as appropriate, to countries other than the United States, have been made at prices which represent less than the cost of producing the merchandise in question, it shall determine whether, in fact, such sales were made at less than the cost of producing the merchandise. If the administering authority determines that sales made at less than cost of production—

"(1) have been made over an extended period of time and in substantial quantities, and

"(2) are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade,

such sales shall be disregarded in the determination of foreign market value. Whenever sales are disregarded by virtue of having been made at less than the cost of production and the remaining sales, made at not less than cost of production, are determined to be inadequate as a basis for the determination of foreign market value under subsection (a), the administering authority shall employ the constructed value of the merchandise to determine its foreign market value.

"(c) STATE-CONTROLLED ECONOMIES.—If available information indicates to the administering authority that the economy of the country from which the merchandise is exported is State-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a) of this section, the administering authority shall determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either—

"(1) the prices, determined in accordance with subsection (a) of this section, at which such or similar merchandise of a non-State-controlled-economy country or countries is sold either—

"(A) for consumption in the home market of that country or countries, or

"(B) to other countries, including the United States; or

"(2) the constructed value of such or similar merchandise in a non-State-controlled-economy country or countries as determined under subsection (e).

"(d) SPECIAL RULE FOR CERTAIN MULTINATIONAL CORPORATIONS.—Whenever, in the course of an investigation under this title, the administering authority determines that—

"(1) merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm or corporation which also owns or controls, directly or indirectly, other facilities for the production of such or similar merchandise which are located in another country or countries;

"(2) the sales of such or similar merchandise by the company concerned in the home market of the exporting country are nonexistent or inadequate as a basis for comparison with the sales of the merchandise to the United States; and

"(3) the foreign market value of such or similar merchandise produced in one or more of the facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise

produced in the facilities located in the country of exportation,

it shall determine the foreign market value of such merchandise by reference to the foreign market value at which such or similar merchandise is sold in substantial quantities by one or more facilities outside the country of exportation. The administering authority, in making any determination under this paragraph, shall make adjustments for the difference between the costs of production (including taxes, labor, materials, and overhead) of such or similar merchandise produced in facilities outside the country of exportation and costs of production of such or similar merchandise produced in the facilities in the country of exportation, if such differences are demonstrated to its satisfaction. For the purposes of this subsection, in determining foreign market value of such or similar merchandise produced in a country outside of the country of exportation, the administering authority shall determine its price at the time of exportation from the country of exportation and shall make any adjustments required by subsection (a) of this section for the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States by reference to such costs in the country of exportation.

"(e) CONSTRUCTED VALUE.—

"(1) DETERMINATION.—For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

"(A) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

"(B) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that—

"(i) the amount for general expenses shall not be less than 10 percent of the cost as defined in subparagraph (A), and

"(ii) the amount for profit shall not be less than 8 percent of the sum of such general expenses and cost; and

"(C) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

"(2) TRANSACTIONS DISREGARDED; BEST EVIDENCE.—For the purposes of this subsection, a transaction directly or indirectly between persons specified in any one of the subparagraphs in paragraph (3) of this subsection may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the subparagraphs in paragraph (3) of this section.

"(3) RELATED PARTIES.—The persons referred to in paragraph (2) of this subsection are:

"(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"(B) Any officer or director of an organization and such organization.

"(C) Partners.

"(D) Employer and employee.

"(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

"(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

"(f) AUTHORITY TO USE SAMPLING TECHNIQUES AND TO DISREGARD INSIGNIFICANT ADJUSTMENTS.—For the purpose of determining foreign market value under this section, the administering authority may—

"(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"SEC. 774. HEARINGS.

"(a) INVESTIGATION HEARINGS.—The administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(b) PROCEDURES.—Any hearing required or permitted under this title shall be conducted after notice published in the Federal Register, and a transcript of the hearing shall be prepared and made available to the public. The hearing shall not be subject to the provisions of subchapter II of chapter 5 of title 5, United States Code, or to section 702 of such title.

"SEC. 775. SUBSIDY PRACTICES DISCOVERED DURING AN INVESTIGATION.

"If, in the course of an investigation under this title, the administering authority discovers a practice which appears to be a subsidy, but was not included in the matters alleged in a countervailing duty petition, then the administering authority—

"(1) shall include the practice in the investigation if it appears to be a subsidy with respect to the merchandise which is the subject of the investigation, or

"(2) shall transfer the information concerning the practice (other than confidential information) to the library maintained under section 777(a)(1), if the practice appears to be a subsidy with respect to any other merchandise.

"SEC. 776. VERIFICATION OF INFORMATION.

"(a) GENERAL RULE.—Except with respect to information the verification of which is waived under section 733(b)(2), the administering authority shall verify all information relied upon in making a final determination in an investigation. In publishing such a determination, the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its determination, which may include the information submitted in support of the petition.

"(b) DETERMINATIONS TO BE MADE ON BEST INFORMATION AVAILABLE.—In making their determinations under this title, the administering authority and the Commission shall, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available.

"SEC. 777. ACCESS TO INFORMATION.

"(a) INFORMATION GENERALLY MADE AVAILABLE.—

"(1) PUBLIC INFORMATION FUNCTION.—There shall be established a library of information relating to foreign subsidy practices and countervailing measures. Copies of material in the library shall be made available to the public upon payment of the costs of preparing such copies.

"(2) PROGRESS OF INVESTIGATION REPORTS.—The administering authority and the Commission shall, from time to time upon request, inform the parties to an investigation of the progress of that investigation.

"(3) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of ex parte meetings between—

"(A) interested parties or other persons providing factual information in connection with an investigation, and

"(B) the person charged with making the determination, and any person charged with making a final recommendation to that person, in connection with that investigation.

The record of the ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the

ex parte meeting shall be included in the record of the proceeding.

"(4) SUMMARIES; NONCONFIDENTIAL SUBMISSIONS.—The administering authority and the Commission may disclose—

"(A) any confidential information received in the course of a proceeding if it is disclosed in a form which cannot be associated with, or otherwise be used to identify, operations of a particular person, and

"(B) any information submitted in connection with a proceeding which is not designated as confidential by the person submitting it.

"(b) CONFIDENTIAL INFORMATION.—

"(1) CONFIDENTIALITY MAINTAINED.—Except as provided in subsection (a)(4)(A) and subsection (c), information submitted to the administering authority or the Commission which is designated as confidential by the person submitting it shall not be disclosed to any person (other than an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted) without the consent of the person submitting it. The administering authority and the Commission may require that

information for which confidential treatment is requested be accompanied by a non-confidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or a statement that the information is not susceptible to summary, accompanied by a statement of the reasons in support of the contention.

"(2) UNWARRANTED DESIGNATION.—If the administering authority or the Commission determines, on the basis of the nature and extent of the information or its availability from public sources, that designation of any information as confidential is unwarranted, then it shall notify the person who submitted it and ask for an explanation of the reasons for the designation. Unless that person persuades the administering authority or the Commission that the designation is warranted, or withdraws the designation, the administering authority or the Commission, as the case may be, shall return it to the party submitting it.

"(c) LIMITED DISCLOSURE OF CERTAIN CONFIDENTIAL INFORMATION UNDER PROTECTIVE ORDER.—

"(1) DISCLOSURE BY ADMINISTERING AUTHORITY OR COMMISSION.—

"(A) IN GENERAL.—Upon receipt of an application, which describes with particularity the

information requested and sets forth the reasons for the request, the administering authority and the Commission may make confidential information submitted by any other party to the investigation available under a protective order described in subparagraph (B).

"(B) PROTECTIVE ORDER.—The protective order under which information is made available shall contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall provide by regulation for such sanctions as the administering authority and the Commission determine to be appropriate, including disbarment from practice before the agency.

"(2) DISCLOSURE UNDER COURT ORDER.—If the administering authority denies a request for information under paragraph (1), or the Commission denies a request for confidential information submitted by the petitioner or an interested party in support of the petitioner concerning the domestic price or cost of production of the like product, then application may be made to the United States Customs Court for an order directing the administering authority or the Commission to make

the information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may issue an order, under such conditions as the court deems appropriate, which shall not have the effect of stopping or suspending the investigation, directing the administering authority or the Commission to make all or a portion of the requested information described in the preceding sentence available under a protective order and setting forth sanctions for violation of such order if the court finds that, under the standards applicable in proceedings of the court, such an order is warranted, and that—

"(A) the administering authority or the Commission has denied access to the information under subsection (b)(1),

"(B) the person on whose behalf the information is requested is an interested party who is a party to the investigation in connection with which the information was obtained or developed, and

"(C) the party which submitted the information to which the request relates has been notified, in advance of the hearing, of the request

made under this section and of its right to appear and be heard.

"SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after the date on which notice of an affirmative determination by the Commission under section 705(b) or 735(b) with respect to such merchandise is published.

"(b) RATE.—The rate at which such interest is payable shall be 8 percent per annum, or, if higher, the rate in effect under section 6621 of the Internal Revenue Code of 1954 on the date on which the rate or amount of the duty is finally determined.".

SEC. 102. PENDING INVESTIGATIONS.

(a) PENDING INVESTIGATIONS OF BOUNTIES OR GRANTS.—If, on the effective date of the application of title VII of the Tariff Act of 1930 to imports from a country, there is an investigation in progress under section 303 of that Act as to whether a bounty or grant is being paid or bestowed on imports from such country, then:

(1) If the Secretary of the Treasury has not yet made a preliminary determination under section 303 of that Act as to whether a bounty or grant is being paid

or bestowed, he shall terminate the investigation under section 303 and the matter previously under investigation shall be subject to this title as if the affirmative determination called for in section 702 of that Act were made with respect to that matter on the effective date of the application of title VII of that Act to such country.

(2) If the Secretary has made a preliminary determination under such section 303, but not a final determination, as to whether a bounty or grant is being paid or bestowed, he shall terminate the investigation under such section 303 and the matter previously under investigation shall be subject to the provisions of title VII of that Act as if the preliminary determination under section 303 were a preliminary determination under section 703 of that title made on the effective date of the application of that title to such country.

(b) PENDING INVESTIGATIONS OF LESS-THAN-FAIR-VALUE SALES.—If, on the effective date of title VII of the Tariff Act of 1930, there is an investigation in progress under the Antidumping Act, 1921, as to whether imports from a country are being, or are likely to be, sold in the United States or elsewhere at less than fair value, then:

(1) If the Secretary has not yet made a preliminary determination under the Antidumping Act, 1921,

as to the question of less-than-fair value sales, he shall terminate the investigation and the United States International Trade Commission shall terminate any investigation under section 201(c)(2) of the Antidumping Act, 1921, and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 as if the affirmative determination called for in section 732 were made with respect to such matter on the effective date of title VII of the Tariff Act of 1930.

(2) If the Secretary has made under the Antidumping Act, 1921, a preliminary determination, but not a final determination, that imports from such country are being or are likely to be sold in the United States or elsewhere at less than fair value, the investigation shall be terminated and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 as if the preliminary determination under the Antidumping Act, 1921, were a preliminary determination under section 733 of that title made on the effective date of title VII of the Tariff Act of 1930.

(c) PENDING INVESTIGATIONS OF INJURY.—If, on the effective date of the application of title VII of the Tariff Act of 1930 to imports from a country, the United States Inter-

national Trade Commission is conducting an investigation under section 303 of the Tariff Act of 1930 or section 201(a) of the Antidumping Act, 1921, as to whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, it shall terminate any such investigation and initiate an investigation, under subtitle A or B of title VII of the Tariff Act of 1930, which shall be completed within 75 days, and—

(1) treat any final determination of the Secretary of the Treasury under section 303 as a final determination under section 705(a) of the Tariff Act of 1930 and consider the net amount of the bounty or grant estimated or determined under section 303 as the net subsidy amount under subtitle A of that title; and

(2) treat any final determination of the Secretary of the Treasury under the Antidumping Act, 1921, as a final determination under section 735(a) of the Tariff Act of 1930.

SEC. 103. AMENDMENT OF SECTION 303 OF THE TARIFF ACT OF 1930.

(a) APPLICATION OF SECTION 303.—Paragraph (1) of section 303(a) of the Tariff Act of 1930 (19 U.S.C. 1303(a)) is amended by striking out "Whenever" and inserting in lieu thereof the following: "Except in the case of an article or merchandise which is the product of a country under the

Agreement (within the meaning of section 701(b) of this Act), whenever".

(b) CERTAIN PROVISIONS OF NEW LAW TO APPLY.—Section 303 of such Act (19 U.S.C. 1303) is amended—

(1) by striking out paragraphs (3) through (6) of subsection (a),

(2) by striking out subsections (b) and (c) and inserting in lieu thereof the following new subsection:

"(b) The duty imposed under subsection (a) shall be imposed, under regulations prescribed by the administering authority (as defined in section 771(1)), in accordance with title VII of this Act (relating to the imposition of countervailing duties) except that, in the case of any imported article or merchandise which is not free of duty—

"(1) no determination by the United States International Trade Commission under section 703(a), 704, or 705(b) shall be required,

"(2) an investigation may not be suspended under section 704(c),

"(3) no determination as to the presence of critical circumstances shall be made under section 703(e) or 705 (a)(2) or (b)(4)(A), and

"(4) any reference to determinations by the Commission, or to the suspension of an investigation under

section 704(c) which are not permitted or required by this subsection shall be disregarded.", and

(3) by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCE.—

**"For provisions of law applicable in the case of articles and merchandise which are the product of countries under the Agreement within the meaning of section 701(b) of this Act, see title VII of this Act.".**

(c) CONFORMING AMENDMENT.—Paragraph 2 of section 303(a) of such Act (19 U.S.C. 1303(a)) is amended—

(1) by striking out "an affirmative determination" and inserting in lieu thereof "affirmative determinations", and

(2) by striking out "subsection (b)(1)" and inserting in lieu thereof "title VII".

**SEC. 104. TRANSITION RULES FOR COUNTERVAILING DUTY ORDERS.**

(a) WAIVED COUNTERVAILING DUTY ORDERS.—

(1) NOTIFICATION OF COMMISSION.—The administering authority shall notify the United States International Trade Commission by January 7, 1980, of any countervailing duty order in effect on January 1, 1980—

(A)(i) for which the Secretary of the Treasury has waived the imposition of countervailing

duties under section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), and

(ii) which applies to merchandise other than quota cheese (as defined in section 701(c)(1) of this Act), which is a product of a country under the Agreement,

(B) published after September 29, 1979, and before January 1, 1980, with respect to products of a country under the Agreement (as defined in section 701(b) of the Tariff Act of 1930), or

(C) applicable to frozen, boneless beef from the European Communities under Treasury Decision 76–109,

and shall furnish to the Commission the most current information it has with respect to the net subsidy benefitting the merchandise subject to the countervailing duty order.

(2) DETERMINATION BY THE COMMISSION.—Within 180 days after the date on which it receives the information from the administering authority under paragraph (1), the Commission shall make a 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 of the merchandise subject to the order.

(3) EFFECT OF DETERMINATION.—

(A) AFFIRMATIVE DETERMINATION.—Upon being notified by the Commission of an affirmative determination under paragraph (2), the administering authority shall terminate the waiver of imposition of countervailing duties for merchandise subject to the order, if any. The countervailing duty order under section 303 of the Tariff Act of 1930 which applies to that merchandise shall remain in effect until revoked, in whole or in part, under section 751(d) of such Act.

(B) NEGATIVE DETERMINATION.—Upon being notified by the Commission of a negative determination under paragraph (2), the administering authority shall revoke the countervailing order, and publish notice in the Federal Register of the revocation.

(b) OTHER COUNTERVAILING DUTY ORDERS.—

(1) REVIEW BY COMMISSION UPON REQUEST.—In the case of a countervailing duty order issued under

section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)—

(A) which is not a countervailing duty order to which subsection (a) applies,

(B) which applies to merchandise which is the product of a country under the Agreement, and

(C) which is in effect on January 1, 1980, or which is issued pursuant to court order in an action brought under section 516(d) of that Act before that date,

the Commission, upon the request of the government of such a country or of exporters accounting for a significant proportion of exports to the United States of merchandise which is covered by the order, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 shall make a determination under paragraph (2) of this subsection.

(2) DETERMINATION BY THE COMMISSION.—In a case described in paragraph (1) with respect to which it has received a request for review, the Commission shall commence an investigation to determine whether—

(A) an industry in the United States—

(i) would be materially injured, or

(ii) would be threatened with material injury, or

(B) the establishment of an industry in the United States would be materially retarded,

by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked.

(3) SUSPENSION OF LIQUIDATION; INVESTIGATION TIME LIMITS.—Whenever the Commission receives a request under paragraph (1), it shall promptly notify the administering authority and the administering authority shall suspend liquidation of entries of the affected merchandise made on or after the date of receipt of the Commission's notification, or in the case of butter from Australia, entries of merchandise subject to the assessment of countervailing duties under Treasury Decision 42937, as amended, and collect estimated countervailing duties pending the determination of the Commission. The Commission shall issue its determination in any investigation under this subsection not later than 3 years after the date of commencement of such investigation.

(4) EFFECT OF DETERMINATION.—

(A) AFFIRMATIVE DETERMINATION.—Upon being notified of an affirmative determination under paragraph (2) by the Commission, the administering authority shall liquidate entries of merchandise the liquidation of which was suspended under paragraph (3) of this subsection and impose countervailing duties in the amount of the estimated duties required to be deposited. The countervailing duty order shall remain in effect until revoked, in whole or in part, under section 751(c) of the Tariff Act of 1930.

(B) NEGATIVE DETERMINATION.—Upon being notified of a negative determination under paragraph (2) by the Commission, the administering authority shall revoke the countervailing duty order then in effect, publish notice thereof in the Federal Register, and refund, without payment of interest, any estimated countervailing duties collected during the period of suspension of liquidation.

(c) ALL OUTSTANDING COUNTERVAILING DUTY ORDERS.—Subject to the provisions of subsections (a) and (b), any countervailing duty order issued under section 303 of the Tariff Act of 1930 which is—

(1) in effect on the effective date of title VII of the Tariff Act of 1930 (as added by section 101 of this Act), or

(2) issued pursuant to court order in a proceeding brought before that date under section 516(d) of the Tariff Act of 1930,

shall remain in effect after that date and shall be subject to review under section 751 of the Tariff Act of 1930.

(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the Commission makes a determination under subsection (a) or (b), it shall publish notice of that determination in the Federal Register and notify the administering authority of its determination.

(e) DEFINITIONS.—Whenever any term which is defined in section 771 of the Tariff Act of 1930 is used in this section, it has the same meaning as when it is used in title VII of that Act.

SEC. 105. CONTINUATION OF CERTAIN WAIVERS.

(a) WAIVERS.—Subparagraph (B) of section 303(d)(4) of the Tariff Act of 1930 (19 U.S.C. 1303(d)(4)) is amended to read as follows:

"(B) Any determination made by the Secretary under this subsection with respect to merchandise of a country which, if title VII of the Tariff Act of 1930 were in effect, would, as deter-

mined by the President, be a country under the Agreement (within the meaning of section 701(b) of such Act), which is in effect on September 29, 1979, shall remain in effect until whichever of the following dates first occurs:

"(i) The date on which the United States International Trade Commission makes a determination under section 104 of the Trade Agreements Act of 1979.

"(ii) The date such determination is revoked under paragraph (3).

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 106. CONFORMING CHANGES.

(a) REPEAL OF OLD LAW.—The Antidumping Act, 1921 (19 U.S.C. 160 et seq.) is hereby repealed but findings in effect on the effective date of this Act, or issued pursuant to court order in an action brought before that date, shall remain in effect, subject to review under section 751 of the Tariff Act of 1930.

(b) CONFORMING AMENDMENTS.—

(1) Section 337(b)(3) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(3)) is amended by striking out "the Antidumping Act, 1921" and inserting in lieu thereof "subtitle B of title VII of the Tariff Act of 1930".

(2) Section 516(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended by striking out "section 202 of the Antidumping Act, 1921" and inserting in lieu thereof "subtitle B of title VII of the Tariff Act of 1930".

(3) Section 503 of the Automotive Products Trade Act of 1965 (19 U.S.C. 2033) is amended by striking out "the Anti-Dumping Act, 1921 (19 U.S.C. 160–173)" and inserting in lieu thereof "subtitle B of title VII of the Tariff Act of 1930,".

(4) Section 201(b)(6) of the Trade Act of 1974 (19 U.S.C. 2251(b)(6)) is amended by striking out "the Antidumping Act, 1921, section 303 or 337," and inserting in lieu thereof subtitles A and B of title VII or section 337.

SEC. 107. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by it shall take effect on January 1, 1980, if—

(1) the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General

Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), and

(2) the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures),

approved by the Congress under section 2(a) of this Act have entered into force with respect to the United States as of that date.

# TITLE II—CUSTOMS VALUATION

## Subtitle A—Valuation Standards Amendments

### SEC. 201. VALUATION OF IMPORTED MERCHANDISE.

(a) VALUATION STANDARDS.—Section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) is amended to read as follows:

"SEC. 402. VALUE.

"(a) IN GENERAL.—(1) Except as otherwise specifically provided for in this Act, imported merchandise shall be appraised, for the purposes of this Act, on the basis of the following:

"(A) The transaction value provided for under subsection (b).

"(B) The transaction value of identical merchandise provided for under subsection (c), if the value referred to in subparagraph (A) cannot be determined, or

can be determined but cannot be used by reason of subsection (b)(2).

"(C) The transaction value of similar merchandise provided for under subsection (c), if the value referred to in subparagraph (B) cannot be determined.

"(D) The deductive value provided for under subsection (d), if the value referred to in subparagraph (C) cannot be determined and if the importer does not request alternative valuation under paragraph (2).

"(E) The computed value provided for under subsection (e), if the value referred to in subparagraph (D) cannot be determined.

"(F) The value provided for under subsection (f), if the value referred to in subparagraph (E) cannot be determined.

"(2) If the value referred to in paragraph (1)(C) cannot be determined with respect to imported merchandise, the merchandise shall be appraised on the basis of the computed value provided for under paragraph (1)(E), rather than the deductive value provided for under paragraph (1)(D), if the importer makes a request to that effect to the customs officer concerned within such time as the Secretary shall prescribe. If the computed value of the merchandise cannot subsequently be determined, the merchandise may not be appraised on the basis of the value referred to in paragraph (1)(F) unless

the deductive value of the merchandise cannot be determined under paragraph (1)(D).

"(3) Upon written request therefor by the importer of merchandise, and subject to provisions of law regarding the disclosure of information, the customs officer concerned shall provide the importer with a written explanation of how the value of that merchandise was determined under this section.

"(b) TRANSACTION VALUE OF IMPORTED MERCHANDISE.—(1) The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts equal to—

"(A) the packing costs incurred by the buyer with respect to the imported merchandise;

"(B) any selling commission incurred by the buyer with respect to the imported merchandise;

"(C) the value, apportioned as appropriate, of any assist;

"(D) any royalty or license fee related to the imported merchandise that the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States; and

"(E) the proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.

The price actually paid or payable for imported merchandise shall be increased by the amounts attributable to the items (and no others) described in subparagraphs (A) through (E) only to the extent that each such amount (i) is not otherwise included within the price actually paid or payable; and (ii) is based on sufficient information. If sufficient information is not available, for any reason, with respect to any amount referred to in the preceding sentence, the transaction value of the imported merchandise concerned shall be treated, for purposes of this section, as one that cannot be determined.

"(2)(A) The transaction value of imported merchandise determined under paragraph (1) shall be the appraised value of that merchandise for the purposes of this Act only if—

"(i) there are no restrictions on the disposition or use of the imported merchandise by the buyer other than restrictions that—

"(I) are imposed or required by law,

"(II) limit the geographical area in which the merchandise may be resold, or

"(III) do not substantially affect the value of the merchandise;

"(ii) the sale of, or the price actually paid or payable for, the imported merchandise is not subject to any condition or consideration for which a value cannot be determined with respect to the imported merchandise;

"(iii) no part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment therefor can be made under paragraph (1)(E); and

"(iv) the buyer and seller are not related, or the buyer and seller are related but the transaction value is acceptable, for purposes of this subsection, under subparagraph (B).

"(B) The transaction value between a related buyer and seller is acceptable for the purposes of this subsection if an examination of the circumstances of the sale of the imported merchandise indicates that the relationship between such buyer and seller did not influence the price actually paid or payable; or if the transaction value of the imported merchandise closely approximates—

"(i) the transaction value of identical merchandise, or of similar merchandise, in sales to unrelated buyers in the United States;

"(ii) the deductive value or computed value for identical merchandise or similar merchandise; or

"(iii) the transaction value determined under this subsection in sales to unrelated buyers of merchandise, for exportation to the United States, that is identical in all respects to the imported merchandise but was not produced in the country in which the imported merchandise was produced;

but only if each value referred to in clause (i), (ii) or (iii) that is used for comparison relates to merchandise that was exported to the United States at or about the same time as the imported merchandise. No two sales to unrelated buyers may be used for comparison for purposes of clause (iii) unless the sellers are unrelated.

"(C) In applying the values used for comparison purposes under subparagraph (B), there shall be taken into account differences with respect to the sales involved (if such differences are based on sufficient information whether supplied by the buyer or otherwise available to the customs officer concerned) in—

"(i) commercial levels;

"(ii) quantity levels;

"(iii) the costs, commissions, values, fees, and proceeds described in paragraph (1); and

"(iv) the costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

"(3) The transaction value of imported merchandise does not include any of the following, if identified separately from the price actually paid or payable and from any cost or other item referred to in paragraph (1):

"(A) Any reasonable cost or charge that is incurred for—

"(i) the construction, erection, assembly, or maintenance of, or the technical assistance provided with respect to, the merchandise after its importation into the United States; or

"(ii) the transportation of the merchandise after such importation.

"(B) The customs duties and other Federal taxes currently payable on the imported merchandise by reason of its importation, and any Federal excise tax on, or measured by the value of, such merchandise for which vendors in the United States are ordinarily liable.

"(4) For purposes of this subsection—

"(A) The term 'price actually paid or payable' means the total payment (whether direct or indirect,

and exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller.

"(B) Any rebate of, or other decrease in, the price actually paid or payable that is made or otherwise effected between the buyer and seller after the date of the importation of the merchandise into the United States shall be disregarded in determining the transaction value under paragraph (1).

"(c) TRANSACTION VALUE OF IDENTICAL MERCHANDISE AND SIMILAR MERCHANDISE.—(1) The transaction value of identical merchandise, or of similar merchandise, is the transaction value (acceptable as the appraised value for purposes of this Act under subsection (b) but adjusted under paragraph (2) of this subsection) of imported merchandise that is—

"(A) with respect to the merchandise being appraised, either identical merchandise or similar merchandise, as the case may be; and

"(B) exported to the United States at or about the time that the merchandise being appraised is exported to the United States.

"(2) Transaction values determined under this subsection shall be based on sales of identical merchandise or similar merchandise, as the case may be, at the same commercial level and in substantially the same quantity as the sales of the merchandise being appraised. If no such sale is found, sales of identical merchandise or similar merchandise at either a different commercial level or in different quantities, or both, shall be used, but adjusted to take account of any such difference. Any adjustment made under this paragraph shall be based on sufficient information. If in applying this paragraph with respect to any imported merchandise, two or more transaction values for identical merchandise, or for similar merchandise, are determined, such imported merchandise shall be appraised on the basis of the lower or lowest of such values.

"(d) DEDUCTIVE VALUE.—(1) For purposes of this subsection, the term 'merchandise concerned' means the merchandise being appraised, identical merchandise, or similar merchandise.

"(2)(A) The deductive value of the merchandise being appraised is whichever of the following prices (as adjusted under paragraph (3)) is appropriate depending upon when and

in what condition the merchandise concerned is sold in the United States:

"(i) If the merchandise concerned is sold in the condition as imported at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity at or about such date.

"(ii) If the merchandise concerned is sold in the condition as imported but not sold at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity after the date of importation of the merchandise being appraised but before the close of the 90th day after the date of such importation.

"(iii) If the merchandise concerned was not sold in the condition as imported and not sold before the close of the 90th day after the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise being appraised, after further processing, is sold in the greatest aggregate quantity before the 180th day after the date of such importation. This clause shall apply to appraisement of merchandise only if the importer so elects and notifies

the customs officer concerned of that election within such time as shall be prescribed by the Secretary.

"(B) For purposes of subparagraph (A), the unit price at which merchandise is sold in the greatest aggregate quantity is the unit price at which such merchandise is sold to unrelated persons, at the first commercial level after importation (in cases to which subparagraph (A) (i) or (ii) applies) or after further processing (in cases to which subparagraph (A)(iii) applies) at which such sales take place, in a total volume that is (i) greater than the total volume sold at any other unit price, and (ii) sufficient to establish the unit price.

"(3)(A) The price determined under paragraph (2) shall be reduced by an amount equal to—

"(i) any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, in connection with sales in the United States of imported merchandise that is of the same class or kind, regardless of the country of exportation, as the merchandise concerned;

"(ii) the actual costs and associated costs of transportation and insurance incurred with respect to international shipments of the merchandise concerned from the country of exportation to the United States;

"(iii) the usual costs and associated costs of transportation and insurance incurred with respect to ship-

ments of such merchandise from the place of importation to the place of delivery in the United States, if such costs are not included as a general expense under clause (i);

"(iv) the customs duties and other Federal taxes currently payable on the merchandise concerned by reason of its importation, and any Federal excise tax on, or measured by the value of, such merchandise for which vendors in the United States are ordinarily liable; and

"(v) (but only in the case of a price determined under paragraph (2)(A)(iii)) the value added by the processing of the merchandise after importation to the extent that the value is based on sufficient information relating to cost of such processing.

"(B) For purposes of applying paragraph (A)—

"(i) the deduction made for profits and general expenses shall be based upon the importer's profits and general expenses, unless such profits and general expenses are inconsistent with those reflected in sales in the United States of imported merchandise of the same class or kind, in which case the deduction shall be based on the usual profit and general expenses reflected in such sales, as determined from sufficient information; and

"(ii) any State or local tax imposed on the importer with respect to the sale of imported merchandise shall be treated as a general expense.

"(C) The price determined under paragraph (2) shall be increased (but only to the extent that such costs are not otherwise included) by an amount equal to the packing costs incurred by the importer or the buyer, as the case may be, with respect to the merchandise concerned.

"(D) For purposes of determining the deductive value of imported merchandise, any sale to a person who supplies any assist for use in connection with the production or sale for export of the merchandise concerned shall be disregarded.

"(e) COMPUTED VALUE.—(1) The computed value of imported merchandise is the sum of—

"(A) the cost or value of the materials and the fabrication and other processing of any kind employed in the production of the imported merchandise;

"(B) an amount for profit and general expenses equal to that usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by the producers in the country of exportation for export to the United States;

"(C) any assist, if its value is not included under subparagraph (A) or (B); and

"(D) the packing costs.

"(2) For purposes of paragraph (1)—

"(A) the cost or value of materials under paragraph (1)(A) shall not include the amount of any internal tax imposed by the country of exportation that is directly applicable to the materials or their disposition if the tax is remitted or refunded upon the exportation of the merchandise in the production of which the materials were used; and

"(B) the amount for profit and general expenses under paragraph (1)(B) shall be based upon the producer's profits and expenses, unless the producer's profits and expenses are inconsistent with those usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States, in which case the amount under paragraph (1)(B) shall be based on the usual profit and general expenses of such producers in such sales, as determined from sufficient information.

"(f) VALUE IF OTHER VALUES CANNOT BE DETERMINED OR USED.—(1) If the value of imported merchandise cannot be determined, or otherwise used for the purposes of this Act, under subsections (b) through (e), the merchandise shall be appraised for the purposes of this Act on the basis of a value that is derived from the methods set forth in such

subsections, with such methods being reasonably adjusted to the extent necessary to arrive at a value.

"(2) Imported merchandise may not be appraised, for the purposes of this Act, on the basis of—

"(A) the selling price in the United States of merchandise produced in the United States;

"(B) a system that provides for the appraisement of imported merchandise at the higher of two alternative values;

"(C) the price of merchandise in the domestic market of the country of exportation;

"(D) a cost of production, other than a value determined under subsection (e) for merchandise that is identical merchandise or similar merchandise to the merchandise being appraised;

"(E) the price of merchandise for export to a country other than the United States;

"(F) minimum values for appraisement; or

"(G) arbitrary or fictitious values.

This paragraph shall not apply with respect to the ascertainment, determination, or estimation of foreign market value or United States price under title VII.

"(g) SPECIAL RULES.—(1) For purposes of this section, the persons specified in any of the following subparagraphs shall be treated as persons who are related:

"(A) Members of the same family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.

"(B) Any officer or director of an organization and such organization.

"(C) An officer or director of an organization and an officer or director of another organization, if each such individual is also an officer or director in the other organization.

"(D) Partners.

"(E) Employer and employee.

"(F) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

"(G) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

"(2) For purposes of this section, merchandise (including, but not limited to, identical merchandise and similar merchandise) shall be treated as being of the same class or kind as other merchandise if it is within a group or range of merchandise produced by a particular industry or industry sector.

"(3) For purposes of this section, information that is submitted by an importer, buyer, or producer in regard to the appraisement of merchandise may not be rejected by the customs officer concerned on the basis of the accounting method by which that information was prepared, if the preparation was in accordance with generally accepted accounting principles. The term 'generally accepted accounting principles' refers to any generally recognized consensus or substantial authoritative support regarding—

"(A) which economic resources and obligations should be recorded as assets and liabilities;

"(B) which changes in assets and liabilities should be recorded;

"(C) how the assets and liabilities and changes in them should be measured;

"(D) what information should be disclosed and how it should be disclosed; and

"(E) which financial statements should be prepared.

The applicability of a particular set of generally accepted accounting principles will depend upon the basis on which the value of the merchandise is sought to be established.

"(h) DEFINITIONS.—As used in this section—

"(1)(A) The term 'assist' means any of the following if supplied directly or indirectly, and free of charge

or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:

"(i) Materials, components, parts, and similar items incorporated in the imported merchandise.

"(ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.

"(iii) Merchandise consumed in the production of the imported merchandise.

"(iv) Engineering, development, artwork, design work, and plans and sketches that are undertaken elsewhere than in the United States and are necessary for the production of the imported merchandise.

"(B) No service or work to which subparagraph (A)(iv) applies shall be treated as an assist for purposes of this section if such service or work—

"(i) is performed by an individual who is domiciled within the United States;

"(ii) is performed by that individual while he is acting as an employee or agent of the buyer of the imported merchandise; and

"(iii) is incidental to other engineering, development, artwork, design work, or plans or sketches that are undertaken within the United States.

"(C) For purposes of this section, the following apply in determining the value of assists described in subparagraph (A)(iv):

"(i) The value of an assist that is available in the public domain is the cost of obtaining copies of the assist.

"(ii) If the production of an assist occurred in the United States and one or more foreign countries, the value of the assist is the value thereof that is added outside the United States.

"(2) The term 'identical merchandise' means—

"(A) merchandise that is identical in all respects to, and was produced in the same country and by the same person as, the merchandise being appraised; or

"(B) if merchandise meeting the requirements under subparagraph (A) cannot be found (or for purposes of applying subsection (b)(2)(B) (i), regardless of whether merchandise meeting such requirements can be found), merchandise that is identical in all respects to, and was produced in

the same country as, but not produced by the same person as, the merchandise being appraised. Such term does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch that—

"(I) was supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or the sale for export to the United States of the merchandise; and

"(II) is not an assist because undertaken within the United States.

"(3) The term 'packing costs' means the cost of all containers and coverings of whatever nature and of packing, whether for labor or materials, used in placing merchandise in condition, packed ready for shipment to the United States.

"(4) The term 'similar merchandise' means—

"(A) merchandise that—

"(i) was produced in the same country and by the same person as the merchandise being appraised,

"(ii) is like the merchandise being appraised in characteristics and component material, and

"(iii) is commercially interchangeable with the merchandise being appraised; or

"(B) if merchandise meeting the requirements under subparagraph (A) cannot be found (or for purposes of applying subsection (b)(2)(B)(i), regardless of whether merchandise meeting such requirements can be found), merchandise that—

"(i) was produced in the same country as, but not produced by the same person as, the merchandise being appraised, and

"(ii) meets the requirement set forth in subparagraph (A) (ii) and (iii).

Such term does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch that—

"(I) was supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or the sale for export to the United States of the merchandise; and

"(II) is not an assist because undertaken within the United States.

"(5) The term 'sufficient information', when required under this section for determining—

"(A) any amount—

"(i) added under subsection (b)(1) to the price actually paid or payable,

"(ii) deducted under subsection (d)(3) as profit or general expense or value from further processing, or

"(iii) added under subsection (e)(2) as profit or general expense;

"(B) any difference taken into account for purposes of subsection (b)(2)(C); or

"(C) any adjustment made under subsection (c)(2);

means information that establishes the accuracy of such amount, difference, or adjustment.".

(b) REPEAL OF EXISTING ALTERNATIVE VALUATION STANDARDS.—Section 402a of the Tariff Act of 1930 (19 U.S.C. 1402) is repealed.

SEC. 202. CONFORMING AMENDMENTS.

(a) TARIFF ACT OF 1930.—The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended as follows:

(1) Paragraph (2) of section 332(e) is amended to read as follows:

"(2) The term 'import cost' means the transaction value of the imported merchandise determined in accordance with section 402(b) plus, when not included in the transaction value, all necessary expenses, exclu-

sive of customs duties, of bringing such merchandise to the United States.".

(2) Section 336 is amended—

(A) by striking out subsection (b);

(B) by striking out "or in basis of value" in each of subsections (c), (d), (f), and (k); and

(C) by striking out subsection (j).

(3) Paragraph (2)(D)(ii) of section 351(a) is amended by striking out "or 402(a)".

(4) Paragraph (a) of section 500 is amended to read as follows:

"(a) appraise merchandise by ascertaining or estimating the value thereof, under section 402, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, other document to the contrary notwithstanding;".

(b) TARIFF SCHEDULES OF THE UNITED STATES.—The Tariff Schedules of the United States (19 U.S.C. 1202) are further amended as follows:

(1) General headnote 6(b)(i) is amended by striking out "or section 402a".

(2) Each of the following headnotes is amended by striking out "or 402a" wherever it appears therein:

(A) Headnote 4 to subpart E of part 3 of schedule 6.

(B) Headnote 1 to subpart B of part 11 of schedule 7.

(C) Headnote 2 to part 1 of schedule 8.

(D) Headnotes 2(a), 2(c), and 3(a) to subpart B of part 1 of schedule 8.

(c) OTHER LAWS.—

(1) TRADE ACT OF 1974.—Section 601(4) of the Trade Act of 1974 (19 U.S.C. 2481(4)) is amended by striking out "(19 U.S.C. sec. 1401a or 1402)" and inserting in lieu thereof "(as in effect before the effective date of the amendments made by title II of the Trade Agreements Act of 1979) or in section 402 of such Act of 1930 (as in effect on the effective date of such title II amendments) whichever is".

(2) INTERNAL REVENUE CODE OF 1954.—Paragraph (1) of section 993(c) of the Internal Revenue Code of 1954 is amended by striking out "402a of the Tariff Act of 1930 (19 U.S.C. sec. 1401a or 1402)" and inserting in lieu thereof "of the Tariff Act of 1930 (19 U.S.C. 1401a)".

SEC. 203. PRESIDENTIAL REPORT ON OPERATION OF THE AGREEMENT.

As soon as practicable after the close of the 2-year period beginning on the date on which the amendments made by this title (other than section 223(b), relating to certain rubber footwear) take effect, the President shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade approved under section 2(a) (hereinafter in this subtitle referred to as the "Agreement"), both domestically and internationally, during that period.

SEC. 204. TRANSITION TO VALUATION STANDARDS UNDER THIS TITLE.

(a) EFFECTIVE DATE OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title (except the amendments made by section 223(b)) shall take effect on—

(A) January 1, 1981, if the Agreement enters into force with respect to the United States by that date; or

(B) if subparagraph (A) does not apply, that date after January 1, 1981, on which the Agreement enters into such force;

and shall apply with respect to merchandise that is exported to the United States on or after whichever of such dates applies.

(2) EARLIER EFFECTIVE DATE UNDER CERTAIN CIRCUMSTANCES.—If the President determines before January 1, 1981, that—

(A) the European Economic Community has accepted the obligations of the Agreement with respect to the United States; and

(B) each of the member states of the European Economic Community has implemented the Agreement under its laws;

the President shall by proclamation announce such determination and the amendments made by this title (except the amendments made by section 223(b)) shall take effect on the date specified in the proclamation (but not before July 1, 1980) and shall apply with respect to merchandise that is exported to the United States on or after such date; except that unless the Agreement enters into force with respect to the United States by January 1, 1981, all provisions of law that were amended by such amendments are revived (as in effect on the day before such amendments took effect) on January 1, 1981, and such provisions—

(i) shall remain in effect until the date on which the Agreement enters into force with respect to the United States (and on such date the amendments made by this title (except the amendments made by section 223(b)) are revived and shall apply with respect to merchandise exported to the United States on or after such date); and

(ii) shall apply with respect to merchandise exported to the United States on or after January 1, 1981, and before the date on which the Agreement enters into such force.

(b) APPLICATION OF OLD LAW VALUATION STANDARDS.—For purposes of the administration of the customs laws, all merchandise (other than merchandise to which subsections (a) and (c) apply) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

(c) SPECIAL TREATMENT FOR CERTAIN RUBBER FOOTWEAR.—The amendments made by section 223(b) shall take effect July 1, 1981, or, if later, the date on which the Agreement enters into force with respect to the United States, and shall apply, together with the other amendments made by this title, to rubber footwear exported to the United States on or after such date. For purposes of the administration of the customs laws, all rubber footwear (other than

rubber footwear to which the preceding sentence applies) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

(d) DEFINITION.—For purposes of this section, the term "rubber footwear" means articles described in item 700.60 of the Tariff Schedules of the United States (as in effect on the day before the day on which the amendments made by section 223(b) take effect).

## Subtitle B—Final List and American Selling Price Rate Conversions

### SEC. 221. AMENDMENT OF TARIFF SCHEDULES.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule or other provision, the reference shall be considered to be made to a schedule or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

### SEC. 222. FINAL LIST RATE CONVERSIONS.

(a) BALL AND ROLLER BEARINGS.—Schedule 6, part 4, subpart J is amended—

(1) by striking out items 680.35 and 680.36 and inserting in lieu thereof the following:

"

| | | | |
|---|---|---|---|
| | Other: | | |
| 680.37 | Ball bearings and parts thereof | 11% ad val. | 67% ad val. |
| 680.38 | If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6) | Free | |
| 680.39 | Other | 13% ad val. | 67% ad val. |

| | | | | | |
|---|---|---|---|---|---|
| 680.41 | If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6) | Free | | | "; |

and

(2) by redesignating item 680.40 as item 680.42.

(b) PNEUMATIC TIRES.—Schedule 7, part 12, subpart C is amended by striking out "4% ad val." in rate column numbered 1 of item 772.51 and inserting in lieu thereof "5.7% ad val.".

**SEC. 223. AMERICAN SELLING PRICE RATE CONVERSIONS.**

(a) CLAMS.—Schedule 1, part 3, subpart E is amended—

(1) by striking out the headnote; and

(2) by striking out item 114.05 and inserting in lieu thereof the following new items:

| | | | | | |
|---|---|---|---|---|---|
| " | 114.04 | Other:<br>Boiled clams, whether whole, minced, or chopped, and whether or not salted, but not otherwise prepared or preserved, in immediate containers the contents of which do not exceed 24 ounces gross weight | 22.2% ad val. | 110% ad val. | |
| | 114.06 | Other | 14% ad val. | 35% ad val. | ". |

(b) FOOTWEAR.—Schedule 7, part 1, subpart A is amended—

(1) by striking out headnote 3(b) and redesignating headnote 3(a) as headnote 3;

(2) by striking out item 700.60 and inserting in lieu thereof the following new items:

| | | | | | |
|---|---|---|---|---|---|
| " | 700.57 | Other:<br>Hunting boots, galoshes, rainwear, and other footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease, or chemicals or cold or | | | |

| | | | |
|---|---|---|---|
| | inclement weather | 37.5% ad val. | 66⅔% ad val. |
| 700.59 | Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear provided for in item 700.57 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper | 37.5% ad val. | 66% ad val. |
| | Other: | | |
| | Footwear having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the outsole with an adhesive); the foregoing except footwear having a foxing or foxing-like band applied to or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel: | | |
| 700.61 | Valued not over $6.50 per pair | 37.5% ad val. | 66% ad val. |
| 700.62 | Valued over $6.50 but not over $12 per pair | 90¢ per pair +20% ad val. | $1.58 per pair +35% ad val. |
| 700.63 | Valued over $12 per pair | 20% ad val. | 35% ad val. |
| | Other: | | |
| 700.64 | Valued not over $3.00 per pair | 48% ad val. | 84% ad val. |
| 700.67 | Valued over $3.00 but not over $6.50 per pair | 90¢ per pair +37.5% ad val. | $1.58 per pair +66% ad val. |
| 700.69 | Valued over $6.50 but not over $12 per pair | 90¢ per pair +20% ad val. | $1.58 per pair +35% ad val. |
| 700.71 | Valued over $12 per pair | 20% ad val. | 35% ad val. |

";

and

(3) by redesignating items 700.58, 700.66, 700.68, and 700.70 as items 700.56, 700.72, 700.73, and 700.74, respectively.

(c) WOOL KNIT GLOVES.—Schedule 7, part 1, subpart C is amended—

(1) by striking out headnote 4; and

(2) by striking out "(see headnote 4 of this subpart)" in item 704.55.

(d) CHEMICALS.—Schedule 4, part 1, is amended—

(1) by striking out headnotes 4 and 5, and

(2) by striking out subparts B and C and inserting in lieu thereof the following:

| | | | |
|---|---|---|---|
| " | Subpart B.—Industrial Organic Chemicals<br>Subpart B headnotes:<br>1. The provisions of items 402.00 to 406.61, inclusive, in this subpart shall apply not only to the products described therein when obtained, derived, or manufactured in whole or in part from products described in subpart A of this part, but shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in said subpart A.<br>2. For the purpose of classification of merchandise provided for under items 402.36 to 406.61, inclusive, the following provisions shall govern:<br>(a) The term "derivatives" refers to only those derivatives which may be obtained by one or more of the following processes: Halogenation, nitration, nitrosation, or sulfonation, and is to be understood to include sulfonyl halides.<br>(b) A compound with functional groups described in two or more items under items 402.36 to 406.61, inclusive, is to be classified in the latest applicable item. For example, 4-acetamido-2-aminophenol, which contains three functional groups, will be classified in 405.12 (Amides), rather than in 404.92 to 405.06, inclusive (Aminophenols), or in 404.84 and 404.88 (Amines), or in 403.51 (Phenols) When applicable, classification should be made in accordance with the following principles:<br>(i) Salts of organic acids (including phenols) with inorganic bases and salts of organic bases with inorganic acids are to be classified under the same superior heading as the organic acid or base; salts of organic acids with organic bases are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free base, whichever is listed later.<br>(ii) Esters of organic acids are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free alcohol or phenol, whichever is listed later.<br>(iii) The above provisions apply also in cases where the component having the functional groups described under the later superior heading is not of benzenoid origin. For example, benzyl acetate is classified under carboxylic acids (404.24 to 404.48, inclusive) rather than under alcohols (403.45).<br>---<br>Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid | | |

| | | | |
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| | structure, not provided for in subpart A or C of this part: | | |
| 402.00 | Anthracene having a purity of 80% or more by weight | 1.4¢ per lb. +9.3% ad val. | 7¢ per lb. +46.5% ad val. |
| 402.04 | Carbazole having a purity of 65% or more by weight | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 402.08 | Naphthalene which after the removal of all water present has a solidifying point of 79 C. or above | 0.7¢ per lb. +4% ad val. | 7¢ per lb. +40% ad val. |
| 402.12 | Phthalic anhydride | 1.2¢ per lb. +8.6% ad val. | 7¢ per lb. +49% ad val. |
| 402.16 | Styrene | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| | All distillates of coal tar, blast-furnace tar, oil-gas tar, and water-gas tar, which on being subjected to distillation yield in the portion distilling below 190 C. a quantity of tar acids equal to or more than 5% by weight of the original distillate or which on being subjected to distillation yield in the portion distilling below 215 C. a quantity of tar acids equal to or more than 75% by weight of the original distillate: | | |
| 402.20 | Phenol (carbolic acid) which on being subjected to distillation yields in the portion distilling below 190 C. a quantity of tar acids equal to or more than 5% by weight of the original distillate | 1.5¢ per lb. +12.5% ad val. | 3.5¢ per lb. +29.5% ad val. |
| 402.24 | Cresylic acid which on being subjected to distillation yields in the portion distilling below 215 C. a quantity of tar acids equal to or more than 75% by weight of the original distillate | 0.65¢ per lb. +5% ad val. | 3.5¢ per lb. +20% ad val. |
| 402.28 | Metacresol, orthocresol, paracresol, and metaparacresol, all the foregoing having a purity of 75% or more by weight | 0.8¢ per lb. +5.3% ad val. | 7¢ per lb. +42.5% ad val. |
| 402.32 | Other | 1.7¢ per lb. +8.4% ad val. | 7¢ per lb. +33.5% ad val. |
| | Other: | | |
| | Hydrocarbons: | | |
| 402.36 | Alkylbenzenes and polyalkylbenzenes | 1.7¢ per lb. +17.3% ad val. | 7¢ per lb. +55% ad val. |
| 402.40 | Bi- and polyphenyls | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 402.44 | α-Methylstyrene | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 402.48 | Vinyltoluene | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |

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| 402.52 | Other | 1.7¢ per lb. +21.4% ad val. | 7¢ per lb. +68.5% ad val. |
| | Halogenated hydrocarbons: | | |
| 402.56 | Benzyl chloride (α-Chlorotoluene) | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 402.60 | Benzotrichloride (α,α,α, - Trichloro - toluene) | 1.7¢ per lb. +15.2% ad val. | 7¢ per lb. +48% ad val. |
| | Chlorobenzenes, mono-, di-, and tri-: | | |
| 402.64 | Monochlorobenzene | 1.7¢ per lb. +28.6% ad val. | 7¢ per lb. 91.5% ad val. |
| 402.68 | Orthodichlorobenzene | 1.7¢ per lb. +26.3% ad val. | 7¢ per lb. +84% ad val. |
| 402.72 | Other | 1.7¢ per lb. +12.6% ad val. | 7¢ per lb +40.5% ad val. |
| 402.76 | Chlorinated biphenyl | 1.7¢ per lb. +12.1% ad val. | 7¢ per lb. +39% ad val. |
| 402.80 | Other | 1.7¢ per lb. +22.3% ad val. | 7¢ per lb. +71% ad val. |
| | Hydrocarbon derivatives: | | |
| 402.84 | Monochloromononitrobenzenes | 1.7¢ per lb. +16.4% ad val. | 7¢ per lb. +50% ad val. |
| 402.88 | 4,4' - Dinitrostilbene - 2,2' - disulfonic acid | 1.7¢ per lb. +15.6% ad val. | 7¢ per lb. +50% ad val. |
| | Nitrated benzene, toluene, or naphthalene: | | |
| 402.96 | p - Nitrotoluene | 1.4¢ per lb. +10% ad val. | 7¢ per lb. +40% ad val. |
| 402.98 | Other | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 403.00 | Nitrotoluenesulfonic acids | 1.7¢ per lb. +23.3% ad val. | 7¢ per lb. +74.5% ad val. |
| 403.05 | p - Toluenesulfonyl chloride | 1.7¢ per lb. +13% ad val. | 7¢ per lb. +41.5% ad val. |
| | Other: | | |
| 403.09 | m - Benzenedisulfonic acid, sodium salt; 1 - Bromo - 2 - nitrobenzene; 1 - Chloro - 3,4 - dinitrobenzene; 1,2 - Dichloro - 4 - nitrobenzene; o - Fluoronitrobenzene; 1,5 - Naphthalenedisulfonic acid; p - Nitro - o - xylene; and o - (and p) - Toluenesulfonic acid, methyl ester | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 403.12 | Other | 1.7¢ per lb. +15.9% ad val. | 7¢ per lb. +51% ad val. |
| | Alcohols, phenols, ethers (including epoxides and acetals), aldehydes, ketones, alcohol | | |

| | | | |
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| | peroxides, ether peroxides, ketone peroxides, and their derivatives: | | |
| 403.16 | Alkyl cresols | 1.7¢ per lb. + 12.6% ad val. | 7¢ per lb. + 40.5% ad val. |
| 403.20 | Alkyl phenols | 1.7¢ per lb. + 25% ad val. | 7¢ per lb. + 80% ad val. |
| 403.24 | 6 - Chloro - m - cresol [OH = 1] | 1.5¢ per lb. + 10.2% ad val. | 7¢ per lb. + 41% ad val. |
| 403.28 | Naphthols | 1.7¢ per lb. + 22.7% ad val. | 7¢ per lb. + 73% ad val. |
| 403.32 | 2 - Naphthol - 3,6 - disulfonic acid and its salts | 1.4¢ per lb. + 13.5% ad val. | 7¢ per lb. + 54% ad val. |
| 403.36 | Nitrophenols | 1.7¢ per lb. + 16.1% ad val. | 7¢ per lb. + 51.5% ad val. |
| 403.41 | Resorcinol | 1.7¢ per lb. + 12.5% ad val. | 7¢ per lb. + 40% ad val. |
| | Other. | | |
| 403.45 | Alcohols | 1.7¢ per lb. + 12.5% ad val. | 7¢ per lb. + 40% ad val. |
| | Phenols and phenol - alcohols: | | |
| 403.49 | 4,4' - Isopropylidenediphenol (Bisphenol A) | 1.7¢ per lb. + 13.7% ad val. | 7¢ per lb. + 44% ad val. |
| 403.51 | Other | 1.7¢ per lb. + 13.7% ad val. | 7¢ per lb. + 44% ad val. |
| | Halogenated, sulfonated, nitrated, or nitrosated derivatives of phenols or phenol - alcohols: | | |
| 403.52 | m - Chlorophenol;<br>2,5 - Dihydroxybenzene - sulfonic acid, potassium salt,<br>3,6 - Dihydroxy - 2,7 - naphthalenedisulfonic acid;<br>3,6 - Dihydroxy - 2,7 - naphthalenedisulfonic acid, sodium salt;<br>Dinitro - o - cresol;<br>4 - Hydroxy - 1 - naphtha - lene - sulfonic acid;<br>4 - Hydroxy - 1 - naphtha - lene - sulfonic acid sodium salt (1 - Naphthol - 4 - sulfonic acid);<br>1 - Naphthol - 3,6 - disulfonic acid; and<br>4 - Nitro - m - cresol | 1.7¢ per lb. + 14.3% ad val. | 7¢ per lb. + 45.5% ad val. |
| 403.56 | Other | 1.7¢ per lb. + 19.4% ad val. | 7¢ per lb. + 62% ad val. |
| | Ethers, ether - alcohols, ether - phenols, ether - alcohol - phenols, peroxides of alcohols, | | |

| | | | |
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| | ethers, and ketones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives: | | |
| 403.61 | 5 - Chloro - 2 - nitroanisole; Dimethyl diphenyl ether; 4 - Ethylguaiacol; 2-(α-Hydroxyethoxy) phenol; and Nitrochlorohydroquinone, dimethyl ester | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 403.64 | Other | 1.7¢ per lb. +22% ad val. | 7¢ per lb. +70.5% ad val. |
| 403.68 | Epoxides, epoxyalcohols, epoxy - phenols, and epoxyethers, with a three- or four - member ring, and their halogenated, sulfonated, nitrated, or nitrosated derivatives | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 403.72 | Acetals and hemiacetals and single and complex oxygen function acetals and hemiacetals, and their halogenated, sulfonated, nitrated, or nitrosated derivatives | 1.7¢ per lb. +13% ad val. | 7¢ per lb. +41.5% ad val. |
| 403.76 | Aldehydes, aldehyde - alcohols, aldehyde - ethers, aldehyde - phenols, and other single or complex oxygen - function aldehydes; cyclic polymers of aldehydes and paraformaldehyde | 1.7¢ per lb +12.9% ad val. | 7¢ per lb. +41% ad val. |
| 403.81 | Halogenated, sulfonated, nitrated, or nitrosated derivatives of aldehydes, aldehyde - alcohols, aldehyde - ethers, aldehyde - phenols, and other single or complex oxygen - function aldehydes, cyclic polymers of aldehydes and paraformaldehyde | 1.7¢ per lb +24.3% ad val. | 7¢ per lb. +77.5% ad val. |
| | Ketones, ketone - alcohols, ketone-phenols, ketone - aldehydes, quinones, quinone - alcohols, quinone - phenols, quinone - aldehydes, and other single or complex oxygen - function ketones and quinones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives: | | |
| 403.88 | 2,3 - Dichloro - 1,4 - naphthoquinone | 1.4¢ per lb. +13% ad val. | 7¢ per lb. +52% ad val. |

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| 403.92 | 1,8 - Dihydroxy - 4,5 - dinitroanthraquinone | 1.5¢ per lb. + 10.8% ad val. | 7¢ per lb. + 43% ad val. |
| 403.96 | Other | 1.7¢ per lb. + 13.1% ad val. | 7¢ per lb. + 42% ad val. |
| | Carboxylic acids, anhydrides, halides, acyl peroxides, peroxyacids, and their derivatives: | | |
| 404.00 | 1,2,4 - Benzenetricarboxylic acid, 1,2 - dianhydride (Trimellitic anhydride) | 1.7¢ per lb. + 12.5% ad val. | 7¢ per lb. + 40% ad val. |
| 404.04 | Benzoic acid | 1.7¢ per lb. + 12.5% ad val | 7¢ per lb. + 40% ad val. |
| 404.08 | Benzoyl chloride | 1.7¢ per lb. + 13.7% ad val. | 7¢ per lb. + 44% ad val. |
| 404.12 | Isophthalic acid | 1.7¢ per lb. + 12.5% ad val. | 7¢ per lb. + 40% ad val. |
| 404.16 | Terephthalic acid | 1.7¢ per lb. + 24% ad val. | 7¢ per lb. + 77% ad val. |
| 404.20 | Terephthalic acid, dimethyl ester | 1.7¢ per lb. + 13.1% ad val. | 7¢ per lb. + 42% ad val. |
| | Other: | | |
| | Monocarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives: | | |
| 404.24 | Benzoic anhydride; tert - Butyl peroxybenzoate; 4 - Chloro - 3 - nitrobenzoic acid; m - Chloroperoxybenzoic acid; Metrizoic acid; p - Nitrobenzoyl chloride; 2 - Nitro - m - toluic acid; 3 - Nitro - o - toluic acid; and Phenylacetic acid (α - Toluic acid) | 1.7¢ per lb. + 12.6% ad val. | 7¢ per lb. + 40.5% ad val. |
| 404.28 | Other | 1.7¢ per lb. + 17.9% ad val. | 7¢ per lb. + 57% ad val. |
| | Polycarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives: | | |
| 404.32 | Naphthalic anhydride; Phthalic acid; 4 - Sulfo - 1,8 - naphthalic anhydride; and Terephthalaldehyde | 1.7¢ per lb. + 11.6% ad val. | 7¢ per lb. + 37% ad val. |

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|---|---|---|---|
| 404.36 | Other | 1.7¢ per lb. +22.7% ad val. | 7¢ per lb. +73% ad val. |
| | Carboxylic acids with alcohol, phenol, aldehyde, or ketone function and other single or complex oxygen - function carboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives: | | |
| 404.40 | p - Anisic acid; Benzilic acid; Benzilic acid, methyl ester; 2,3 - Cresotic acid; m - Hydroxybenzoic acid; 2 - Hydroxybenzoic acid, calcium salt; 1 - Hydroxy - 2 - naphthoic acid; 2 - Hydroxy - 1 - naphthoic acid; 1 - Hydroxy - 2 - naphthoic acid, phenyl ester; 3 - Phenoxybenzoic acid; α - Resorcylic acid; γ - Resorcylic acid; and 5 - Sulfosalicylic acid | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 404.44 | Gentisic acid; p - Hydroxybenzoic acid; and Hydroxycinnamic acid and its salts | 1.4¢ per lb. +12.1% ad val. | 7¢ per lb. +48.5% ad val. |
| 404.46 | Other | 1.7¢ per lb. +17.9% ad val. | 7¢ per lb. +57% ad val. |
| 404.48 | Esters of inorganic acids (except hydrocyanic acid, hydrogen halides, and hydrogen sulfide) and their derivatives | 1.7¢ per lb. +13.4% ad val. | 7¢ per lb. +43% ad val. |
| | Amines and their derivatives: | | |
| 404.52 | 7 - Amino - 1,3 - naphthalenedisulfonic acid and its salts; 5 - Amino - 2 - naphthalenesulfonic acid and its salts; 8 - Amino - 1 - naphthalenesulfonic acid and its salts; 4 - Amino - 2 - stilbenesulfonic acid and its salts; m - Phenylenediamine; o - Phenylenediamine; N - Phenyl - 2 - naphthylamine; Toluene - 2,4 - diamine; and 2,4-Xylidine | 1.4¢ per lb. +12.1% ad val. | 7¢ per lb. +48.5% ad val. |
| 404.56 | 8 - Amino - 2 - naphthalenesulfonic acid and its salts | 1.4¢ per lb. +9.7% ad val. | 7¢ per lb. +39% ad val. |

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| 404.60 | Aniline | 1.7¢ per lb. +13.6% ad val. | 7¢ per lb. +43.5% ad val. |
| 404.64 | 4,4' - Diamino - 2,2' - stilbenedisulfonic acid | 1.7¢ per lb. +25% ad val. | 7¢ per lb. +80% ad val. |
| 404.68 | N,N - Dimethylaniline | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 404.72 | N - Methylaniline; and 2,4,6 - Trimethylaniline (Mesidine) | 1.5¢ per lb. +9.8% ad val. | 7¢ per lb. +37% ad val. |
| 404.76 | 4,4' - Methylenedianiline | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 404.80 | Nitrodiphenylamine | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| | Other: | | |
| 404.84 | 5 - Amino - 2 - (p - aminoanilino) benzenesulfonic acid;<br>o - Aminobenzenesulfonic acid (Orthanilic acid);<br>p - Aminobenzoylamino - naphthalene - sulfonic acid;<br>3 - Amino - 2,7 - naphthalene - disulfonic acid;<br>4 - Amino - 1 - naphthalene - sulfonic acid, sodium salt;<br>5 - Amino - 1 - naphthalene - sulfonic acid (Laurent's acid);<br>7 - Amino - 1,3,6 - naphthalene - trisulfonic acid;<br>Aminophenol, substituted;<br>8 - Anilino - 1 - naphthalene - sulfonic acid (Phenyl Peri acid);<br>6 - Chlorometanilic acid;<br>2 - Chloro - 5 - nitroaniline;<br>4 - Chloro - 3 - nitroaniline;<br>4 - Chloro - o - toluidine [$NH_2 = 1$] and hydrochloride;<br>5 - Chloro - o - toluidine [$NH_2 = 1$] (Chloro - o - toluidine [$NH_2 = 1$]);<br>6 - Chloro - o - toluidine [$NH_2 = 1$];<br>4,4' - Diamino - 3 - biphenyl - sulfonic acid (3 - benzidine - sulfonic acid);<br>2,3 - Dichloroaniline;<br>2,4 - Dichloroaniline;<br>3,5 - Dichloroaniline;<br>2,6 - Dichloro - m - toluidine;<br>N,N - Diethylmetanilic acid;<br>2,4 - Difluoroaniline;<br>3,3' - Dimethylbenzidine (o - Tolidine);<br>3,3' - Dimethylbenzidine hydrochloride;<br>N,N - Dimethyl - p - toluidine;<br>p - Ethylaniline;<br>3 - (N - Ethylanilino)propionic acid, methyl ester;<br>N - Ethyl - N - benzyl - m - | | |

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| | | toluidine; | | |
| | | N - Ethyl - N,N' - dimethyl - N' - phenylethylenediamine; | | |
| | | N - Ethyl - 1 - naphthylamine; | | |
| | | p - Fluoroaniline; | | |
| | | 4,4' - Methylenebis[2 - chloroaniline]; | | |
| | | 1,8 - Naphthalenediamine; | | |
| | | m - Nitroaniline; | | |
| | | 1 - (p - Nitrophenyl) - 2 - amino - 1,3 - propane diol; | | |
| | | 4 - Nitro - m - phenylenediamine; | | |
| | | Toluene - 2,5 - diamine; | | |
| | | Toluidine carbonate; | | |
| | | 2,4,5 - Trichloroaniline; | | |
| | | 2,3 - Xylidine; and | | |
| | | 3,4 - Xylidine | 1.7¢ per lb. + 12.4% ad val. | 7¢ per lb. + 39.5% ad val. |
| 404.88 | | Other | 1.7¢ per lb. + 18.8% ad val. | 7¢ per lb. + 60% ad val. |
| | | Amines having one or more oxygen functions, and their derivatives: | | |
| 404.92 | | p - Acetaminobenzaldehyde; | | |
| | | 2' - Aminoacetophenone; | | |
| | | m - Aminobenzoic acid, technical; | | |
| | | Aminobisphenol ester; | | |
| | | 2 - Amino - 4 - chlorophenol; | | |
| | | 2 - Amino - 4 - chlorophenol hydrochloride; | | |
| | | 2 - Amino - p - cresol; | | |
| | | 4 - Amino - o - cresol; | | |
| | | 6 - Amino - 2,4 - dichloro - 3 - methyl - phenol; | | |
| | | 4 - Amino - 5 - hydroxy - 1,3 - naphthalenedisulfonic acid (Chicago acid); | | |
| | | 4 - Amino - 5 - hydroxy - 1,3 - naphthalenesulfonic acid, potassium salt; | | |
| | | 4 - Amino - 5 - hydroxy - 2,7 - naphthalenedisulfonic acid, potassium salt (H acid, monopotassium salt); | | |
| | | 4 - Amino - 5 - hydroxy - 2,7 - naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt); | | |
| | | 4 - Amino - 5 - hydroxy - 1,3 - naphthalenedisulfonic acid, sodium salt; | | |
| | | 4 - Amino - 3 - hydroxy - 1 - naphtha - lenesulfonic acid; | | |
| | | 2 - (3 - Amino - 4 - hydroxyphenyl - sulfonyl)ethanol; | | |
| | | 2 - Amino - 4 - nitrophenol; | | |
| | | 2 - Amino - 5 - nitrophenol; | | |
| | | 2 - Amino - 4 - nitrophenol, sodium salt; | | |
| | | m - Aminophenol; | | |
| | | 2 - (4' - Aminophenoxy)ethylsulfate; | | |
| | | 1,4 - Bis[1 - anthraquinonylamino] - anthraquinone; | | |
| | | 4,4', - Bis(dimethylamino)benzhydrol (Michler's hydrol); | | |
| | | 5 - Chloro - 2[2',4' - dichlorophenoxy]- aniline; | | |

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| | 3,5 - Diaminobenzoic acid; DL - 3 - (3,4 - Dihydroxyphenyl) - alanine; 1,4 - Dimesidinoanthraquinone; 3,4 - Dimethoxyphenethylamine (Homoveratrylamine); 4 - Dimethylaminobensaldehyde; 2 - Hydroxy - 5 - nitrometanilic acid; β - (β - Methoxyethoxyethyl) - 4 - aminobenzoate; 4 - Methoxymetanilic acid; 6' - Methoxymetanilic acid; 4 - Methoxy - m - phenylenediamine; 5 - Methoxy - m - phenylenediamine sulfate; 6 - (Methylamino) - 1 - naphthol - 3 - sulfonic acid; 7 - (Methylamino) - 1 - naphthol - 3 - sulfonic acid; 2 - Methyl - p - anisidine [$NH_2 = 1$]; Nitra acid amide (1 - amino - 9,10 - dihydro - N - (3 - methoxypropyl) - 4 - nitro - 9,10 - dioxo - 2-anthram- ide); and | | |
| | L - Phenylalanine | 1.7¢ per lb. +12.2% ad val. | 7¢ per lb. +39% ad val. |
| 404.96 | 5' - Aminoacetophenone; o - Anisidine; p - Anisidine; m - Diethylaminophenol; 3 - Ethylamino - p - cresol; Iminodianthraquinone; 5 - Methoxy - m - phenylenediamine; and | | |
| | dl - Phenylephrine base | 1.5¢ per lb. +16.2% ad val. | 7¢ per lb. +65% ad val. |
| 405.00 | p - Aminobenzoic acid; 6 - Amino - 1 - naphthol - 3 - sulfonic acid and its salts; 8 - Amino - 1 - naphthol - 5 - sulfonic acid and its salts; m - Dimethylaminophenol; and | | |
| | p - Phenetidine | 1.4¢ per lb. +12.7% ad val. | 7¢ per lb. +51% ad val. |
| 405.03 | 4 - Chloro - 2,5 - dimethoxyaniline [$NH_2 = 1$]; and | | |
| | 2,4 - Dimethoxyaniline | 1.5¢ per lb. +10.4% ad val. | 7¢ per lb. +41.5% ad val. |
| 405.06 | Other | 1.7¢ per lb. +15.6% ad val. | 7¢ per lb. +50% ad val. |
| | Amides and their derivatives: | | |
| 405.12 | 4 - Acetamido - 2 - aminophenol | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 405.16 | 2 - Acetamido - 3 - chloro-anthraquinone; o - Acetoacetanisidide; o - Acetoacetotoluidide; 2',4' - Acetoacetoxylidide; and | | |

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| | 1 - Amino - 5 - benzamidoanthraquinone | 1.5¢ per lb. +13.2% ad val. | 7¢ per lb. +55% ad val. |
| 405.21 | Benzanilide | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 405.24 | Biligrafin acid; and 3,5 - Diacetamido - 2,4,6 - triiodobenzoic acid | 1.4¢ per lb. +8.5% ad val. | 7¢ per lb. +34% ad val. |
| | Other: | | |
| 405.28 | p - Acetanisidide; Acetoacetbenzylamide; Acetoacet - 5 - chloro - 2 - toluidide; p - Acetoacetophenetidide; N - Acetyl - 2,6 - xylidine (N - Acetyl - 2,6 - dimethylaniline); p - Aminobenzoic acid isooctyl - amide; 2 - Amino - 4 - chlorobenzamide; 4 - Aminohippuric acid; 4' - Amino - N - methylacetanilide; p - Aminophenyl urethane; 1 - Benzamido - 4 - chloro - anthraquinone; 1 - Benzamido - 5 - chloro - anthraquinone; 4' - Chloroacetoacetanilide; 3 - (N,N - Dihydroxy - ethylamino)benzanilide; 2,5 - Dihydroxy - N - (2 - hydroxyethyl)benzamide; 2,5 - Dimethoxyacetanilide; Gentisamide; N - (7 - Hydroxy - 1 - naphthyl)acetamide; and | | |
| | Phenacetin, technical | 1.7¢ per lb. +12.4% ad val. | 7¢ per lb. +39.5% ad val. |
| 405.32 | Other | 1.7¢ per lb. +18.1% ad val. | 7¢ per lb. +58% ad val. |
| | Other nitrogen-function compounds (except those in which the only nitrogen function is a nitro (—NO2) or a nitroso (—NO) group, or an ammonium salt of an organic acid) and their derivatives: | | |
| 405.36 | Benzonitrile | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 405.41 | Diazoaminobenzene (1,3 - Diphenyl - triazene) | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 405.44 | Toluenediisocyanates (unmixed) | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| | Other: | | |
| 405.48 | Quaternary ammonium salts and hydroxides | 1.7¢ per lb. +11.2% ad val. | 7¢ per lb. +36% ad val. |
| 405.52 | Carboxyimide-function compounds (including orthobenzoic sulfimide and its salts) and | | |

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| | imine-function compounds..... | 1.7¢ per lb. +19.1% ad val. | 7¢ per lb. +61% ad val. |
| | Nitrile-function compounds: | | |
| 405.56 | 2 - Amino - 4 - chlorobenzonitrile (5 - Chloro - 2 - cyanoaniline); 2 - Amino - 5 - chlorobenzo - nitrile; 4 - Amino - 3 - chlorobenzo - nitrile; 2 - Amino - 5 - nitrobenzonitrile; (Cyanoethyl)(hydroxyethyl) - m - toluidine; 2 - Cyano - 4 - nitroaniline; Dichlorobenzonitrile; Phthalonitrile; and Tetrachloro - 3 - cyanobenzoic acid, methyl ester..... | 1.7¢ per lb. +12.7% ad val. | 7¢ per lb. +41% ad val. |
| 405.60 | Other..... | 1.7¢ per lb. +20.5% ad val. | 7¢ per lb. +65.5% ad val. |
| | Diazo-, azo-, and azoxy - compounds: | | |
| 405.64 | p - Aminoazobenzenedisulfonic acid; 4 - Aminoazobenzenedisulfonic acid, monosodium salt; 6 - Amino - 3,4' - azodibenzene sulfonic acid (C.I. acid yellow 9); and 6 - Bromo - 5 - methyl - 1H - imidazo [4,5 - b]pyridine.... | 1.7¢ per lb. +12.6% ad val. | 7¢ per lb. +40.5% ad val. |
| 405.68 | Other..... | 1.7¢ per lb. +19.9% ad val. | 7¢ per lb. +65.5% ad val. |
| 405.72 | Organic derivatives of hydrazine or hydroxylamine..... | 1.7¢ per lb. +13.6% ad val. | 7¢ per lb. +43.5% ad val. |
| | Compounds with other nitrogen functions: | | |
| 405.76 | Bitolylene diisocyanate (TODI); o-Isocyanic acid, o-tolyl ester; and Xylene diisocyanate..... | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 405.80 | Other..... | 1.7¢ per lb. +16.2% ad val. | 7¢ per lb. +52% ad val. |
| | Organo-inorganic compounds (i.e., compounds having an atom other than carbon, hydrogen, oxygen, nitrogen, chlorine or other halogen attached directly to a carbon atom), and their derivatives: | | |
| 405.84 | Benzenethiol (Thiophenol)..... | 1.7¢ per lb. +12% ad val. | 7¢ per lb. +38.5% ad val. |

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| 405.88 | Phenylsulfone | 1.5¢ per lb. +13.3% ad val. | 7¢ per lb. +53% ad val. |
| 406.92 | Sodium tetraphenylboron | 1.5¢ per lb. +10% ad val. | 7¢ per lb. +40% ad val. |
| 406.96 | 2,4,4', 5' - Tetrachlorophenylsulfone | 1.4¢ per lb. +10.4% ad val. | 7¢ per lb. +41.5% ad val. |
| | Other: | | |
| 406.00 | Organo-sulfur compounds | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40.5% ad val. |
| 406.05 | Organo-mercury compounds | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 406.08 | Other | 1.7¢ per lb. +21.4% ad val. | 7¢ per lb. +68.5% ad val. |
| | Heterocyclic compounds and their derivatives (including lactones and lactams but excluding epoxides with three membered rings, anhydrides and imides of polybasic acids, and cyclic esters of polyhydric alcohols with polybasic acids): | | |
| 406.12 | 1,2 Dihydro - 2,2,4 - trimethylquinoline | 1.7¢ per lb. - +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 406.16 | 2,2' - Dithiobisbenzothiazole | 1.7¢ per lb. +17.9% ad val. | 7¢ per lb. +57% ad val. |
| 406.20 | Ethoxyquin (1,2 - Dihydro - 6 - ethoxy - 2,2,4 - trimethylquinoline) | 1.7¢ per lb. +17.1% ad val. | 7¢ per lb. +55% ad val. |
| 406.24 | 1 - Hydroxy - 2 - carbazolecarboxylic acid;<br>2 - Hydroxy - 3 - dibenzofuran - carboxylic acid; and<br>7 - Nitronaphth[1,2]oxadiazole - 5 - sulfonic acid and its salts | 1.4¢ per lb. +16.6% ad val. | 7¢ per lb. +66.5% ad val. |
| 406.28 | 2 - Mercaptobenzothiazole, sodium salt (2 - Benzothiazolethiol, sodium salt) | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 406.32 | 2 - Pyridinecarboxaldehyde; and Vinylcarbazole, mono | 1.5¢ per lb. +10% ad val. | 7¢ per lb. +40% ad val. |
| | Other: | | |
| 406.36 | 4 - Aminoantipyrine;<br>2 - Amino - 6 - methoxy - benzothiazole;<br>2 - Amino - 6 - methyl - benzothiazole;<br>Aminomethylphenylpyrazole (Phenylmethylaminopyrazole);<br>5 - Amino - 3 - phenyl - 1,2,4 - thiadiazole (3 - phenyl - 5 - amino - 1,2,4 - thiadiazole);<br>3 - Amino - 1 - (2,4,6 - trichloro - phenyl) - 5 - pyrazolone;<br>p - Chloro - 2 - benzylpyridine;<br>4 - Chloro - 3 - (3 - methyl - 5 - | | |

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| | oxo - 2 - pyrazolin - 1 - yl) - benzenesulfonic acid; | | |
| | 4 - Chloro - 1 - methylpiperidine hydrochloride; | | |
| | 1 - (m - Chlorophenyl) - 3 - methyl - 2 - pyrazolin - 5 - one; | | |
| | 1 - (2',5' - Dichlorophenyl) - 3 - methyl - 2 - pyrazolin - 5 - one; | | |
| | 2,3 - Dichloro - 6 - quinoxaline - carbonyl chloride; | | |
| | 1,4 - Dimethyl - 6 - hydroxy - 3 - cyanpyridone - 2; | | |
| | 6 - Ethoxy - 2 - benzothiazolethiol; | | |
| | o - Ethylpyrazolone; | | |
| | 2 - Hydroxy - 3 - carbazolecarboxylic acid; | | |
| | 2 - Hydroxy - 3 - carbazole - carboxylic acid, sodium salt; | | |
| | Iminodibenzyl (10,11 - dihydro - 5H - dibenz[b,f]azepine; | | |
| | 5 - Imino - 3 - methyl - 1 - (m - sulfophenyl)pyrazole; | | |
| | 5 - Imino - 3 - methyl - 1 - phenyl - pyrazole; | | |
| | Iminopyrazole - 3 - sulfonic acid; | | |
| | Indoline; | | |
| | Isoquinoline; | | |
| | 3 - Methylbenzo[f]quinoline; | | |
| | 3 - Methylbenzothiazole - 2 - hydrazone; | | |
| | 2 - Methylindoline; | | |
| | 1 - methyl - 2 - phenylindole; | | |
| | Methylpyrazine; | | |
| | 8 - Methylquinoline; | | |
| | 2 - Phenylbenzimidazole; | | |
| | p - Phenylimidazole; | | |
| | 2 - Phenylimidazole; | | |
| | 2 - Phenylindole; | | |
| | 4 - Phenylpropylpyridine; | | |
| | p - Phenylpyridylacetic acid, methyl ester; | | |
| | Picolinic acid; | | |
| | Primuline base; | | |
| | Pyrazole (3 - carboxy - 1 - 4 - sulphophenylpyrazole - 5 - one); | | |
| | 2,5 - Pyridinedicarboxylic acid; | | |
| | 3 - Quinuclidinol; | | |
| | Tetramethylpyrazine; | | |
| | 1,9 - Thiaathrenedicarboxylic acid; | | |
| | Thioxanthen - 9 - one (Thioxanthone); | | |
| | 1 - (2,4,6 - Trichlorophenyl) - 3 - aminopyrazolone; | | |
| | 2 - (Trifluoromethyl) - phenothiazine; | | |
| | 2,3,5 - Triphenyltetrazolium chloride; | | |
| | DL - Tryptophan; and | | |
| | Xanthen - 9 - one | 1.7¢ per lb. +12.4% ad val. | 7¢ per lb. +39.5% ad val. |
| 406.40 | Other | 1.7¢ per lb. +16.2% ad val. | 7¢ per lb. +52% ad val. |
| | Sulfonamides, sultones, sultams, and other organic compounds: | | |

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| 406.44 | Copper phthalocyanine ([Phthalocyanato(2 -)] copper) | 1.7¢ per lb. +20.9% ad val. | 7¢ per lb. +67% ad val. |
| | Sulfonamides: | | |
| 406.48 | 4 - Amino - 6 - chloro - m - benzenedisulfonamide; 2 - Amino - N - ethylbenzene - sulfonanilide; 5 - Amino - α,α,α - trifluoro - toluene - 2,4 - disulfonamide; Benzenesulfonamide; Benzenesulfonyl hydraside; 2 - Chloro - 4 - amino - 5 - hydroxybenzenesulfonamide; 2,5 - Dimethoxysulfanilide; and Metanilamide | 1.7¢ per lb. +12.8% ad val. | 7¢ per lb. +41% ad val. |
| 406.52 | o - Toluenesulfonamide | 1.4¢ per lb. +14.4% ad val. | 7¢ per lb. +57.5% ad val. |
| 406.56 | Other | 1.7¢ per lb. +18% ad val. | 7¢ per lb. +57.5% ad val. |
| 406.61 | Other | 1.7¢ per lb. +14.5% ad val. | 7¢ per lb. +46.5% ad val. |
| | All other products, by whatever name known, not provided for in subpart A or C of this part, including acyclic organic chemical products, which are obtained, derived, or manufactured in whole or in part from any of the cyclic products having a benzenoid, quinoid, or modified benzenoid structure provided for in the foregoing provisions of this subpart or in subpart A of this part: | | |
| 406.64 | Acetone | 1.7¢ per lb. +18.7% ad val. | 7¢ per lb. +60% ad val. |
| 406.68 | Adipic acid | 1.7¢ per lb. +19.8% ad val. | 7¢ per lb. +63% ad val. |
| 406.72 | Caprolactam monomer | 1.5¢ per lb. +10% ad val. | 7¢ per lb. +40% ad val. |
| 406.76 | Cyclohexane | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 406.81 | Cyclohexanone | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 406.84 | Fumaric acid | 1.7¢ per lb. +27.2% ad val. | 7¢ per lb. +87% ad val. |
| 406.86 | Hexamethylene adipamide | 1.5¢ per lb. +11.5% ad val. | 7¢ per lb. +46% ad val. |
| 406.92 | Hexamethylenediamine | 1.7¢ per lb. +20.8% ad val. | 7¢ per lb. +66.5% ad val. |
| 406.96 | Maleic anhydride | 1.7¢ per lb. +15.6% ad val. | 7¢ per lb. +50% ad val. |
| 407.00 | Methylcyclohexanone | 1.5¢ per lb. +10% ad val. | 7¢ per lb. +40% ad val. |

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| 407.05 | Other | 1.7¢ per lb. +16.8% ad val. | 7¢ per lb. +53.5% ad val. |
| | Mixtures in whole or in part of any of the products provided for in this subpart: | | |
| 407.09 | Solvents which contain over 25 percent by weight of any of the products provided for in this subpart | 1.7¢ per lb. +13.6% ad val., but not less than the highest rate applicable to any component material | 7¢ per lb. +43.5% ad val., but not less than the highest rate applicable to any component material |
| 407.15 | Other | 1.7¢ per lb. +13.6% ad val., but not less than the highest rate applicable to any component material | 7¢ per lb. +43.5% ad val., but not less than the highest rate applicable to any component material |
| | Subpart C.—Finished Organic Chemical Products | | |
| | Subpart C headnotes: | | |
| | 1. The provisions of this subpart providing for products obtained, derived, or manufactured in whole or in part from products described in subpart A or B of this part shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in the said subpart A or B. | | |
| | 2. The term "pesticides" in items 408.16 to 408.36, inclusive, means products, such as insecticides, rodenticides, fungicides, herbicides, fumigants, and seed disinfectants, chiefly used to destroy undesired animal or plant life. | | |
| | 3. The term "plastics materials" in items 408.44 to 409.18, inclusive, embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which plasticizers, fillers, colors, or extenders may have been added. The term includes, but is not limited to, phenolic and other tar acid resins, styrene resins, alkyd and polyester resins based on phthalic anhydride, coumarone-indene resins, urethane, epoxy, toluene sulfonamide, maleic, fumaric, aniline, and polyamide resins, and other synthetic resins. The plastics materials may be in solid, semisolid, or liquid condition, such as flakes, powders, pellets, granules, solutions, emulsions, and other basic forms not further processed. | | |
| | 4. For the purpose of the classification of merchandise provided for under items 408.44 to 409.18, inclusive, the following provisions shall apply: | | |
| | (a) The term "thermoplastic resins" means those | | |

materials in unfinished forms which in their final state as finished articles are capable of being repeatedly softened by increase of temperature and hardened by decrease of temperature.

(b) The term "thermosetting resins" (or thermosets) means those materials in unfinished forms which in their final state as finished articles are substantially infusible. Thermosetting resins are often liquids at some stage in their manufacture or processing and are cured by heat, catalysis, or other chemical means. After being fully cured, thermosets cannot be resoftened by heat.

(c) Copolymers and terpolymers not specially provided for shall be classified as if they consisted entirely of that monomer which is present in the largest amount by weight on a resin content basis (i.e., excluding the weight of plasticizers, liquid diluents, fillers, or other additives). Any polymer consisting of two or more monomers which are present in equal amounts shall be classified as if it consisted entirely of that monomer whose polymer is listed first under the thermoplastic or thermosetting resins, as appropriate.

5. The term "paints and enamel paints" in this subpart covers dispersions of pigments or pigment-like materials with a liquid (vehicle) which are suitable for application to surfaces as a thin layer, and which dry (harden) to an opaque, solid film. The vehicle of paints consists of drying oils or resins which bind the pigment particles together in the film; the vehicle of enamel paints is principally varnish. Paints and enamel paints may also contain thinners, driers, plasticizers, or other agents.

6. The term "varnishes" in this subpart covers liquid surface-coating products which contain no pigments or pigment-like materials, and which dry (harden) to a transparent or translucent film. Shellac varnishes are solutions of shellac or any other form of lac in a volatile solvent such as ethyl alcohol. Oleoresinous varnishes consist of resins dissolved in or reacted with a drying oil, to which thinners, driers, and plasticisers may be added. Cellulose-derivative varnishes (lacquers) are solutions of cellulose nitrate or other cellulose derivatives in a volatile solvent.

7. The term "stains" in this subpart covers liquids containing transparent or semi-transparent pigments, dyes, or chemicals, chiefly used to deepen or otherwise alter the color of wood, but which will not obscure its grain, texture, or markings.

8. For the purposes of this subpart—

(a) The term "surface-active agents" means synthetic organic compounds, or mixtures thereof, which function as surface tension modifiers and are chiefly used for any one or combination of the following purposes: as detergents, wetting agents, emulsifiers, dispersants, or foaming agents.

(b) The term "synthetic detergents" embraces formulated materials which are used chiefly for household, laundry, and industrial cleaning purposes, and which consist of one or more surface-active agents as the active ingredients in combination with colors, brighteners, perfumes, inert diluents, builders, and extenders such as inorganic salts, polyphosphates, polysilicates or sodium carboxymethylcellulose.

9. The term "plasticisers" in item 409.34 means substances which may be incorporated into a material (usually a plastic, resin material, or an elastomer) to

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| | increase its softness, flexibility, workability, or distensibility.<br>10. The term "drugs" in this subpart means those substances having therapeutic or medicinal properties and chiefly used as medicines or as ingredients in medicines.<br>11. For the purposes of the provisions of this subpart relating to "colors, dyes, stains, and related products" (except products provided for in items 410.36 to 410.44, inclusive)—<br>(a) the specific duties shall be based on standards of strength which shall be established by the Secretary of the Treasury, and upon all importations of such articles which exceed such standards of strength the specific duty shall be computed on the weight which the article would have if it were diluted to the standard strength, but in no case shall any such articles of whatever strength be subject to a less specific duty than that provided in the respective items of this subpart;<br>(b) it shall be unlawful to import or bring into the United States any such product unless the invoice shall bear a plain, conspicuous, and truly descriptive statement of the identity and percentage, exclusive of diluents, of such product;<br>(c) it shall be unlawful to import or bring into the United States any such product, if the immediate container or the invoice bears any statement, design, or device regarding the product or the ingredients or substances contained therein which is false, fraudulent, or misleading in any particular; and<br>(d) in the enforcement of the foregoing provisions of this headnote the Secretary of the Treasury shall adopt a standard of strength for each dye or other product which shall conform as nearly as practicable to the commercial strength in ordinary use in the United States prior to July 1, 1914. If a dye or other product has been introduced into commercial use since said date then the standard of strength for such dye or other product shall conform as nearly as practicable to the commercial strength in ordinary use. If a dye or other product was or is ordinarily used in more than one commercial strength, then the lowest commercial strength shall be adopted as the standard of strength for such dye or other product.<br>12. Any product described in two or more of the items under items 411.32 to 412.68, inclusive, is to be classified in the first applicable item. | | |
| | Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part:<br>Explosives:<br>Trinitrotoluene: | | |
| 408.00 | Valued not over 15 cents per pound | 1.7¢ per lb. +11% ad val. | 7¢ per lb. +45% ad val. |
| 408.04 | Valued over 15 cents per pound | Free | 7¢ per lb. +45% ad val. |
| 408.08 | Other | 1.7¢ per lb. +11% ad val. | 7¢ per lb. +45% ad val. |
| 408.12 | Ink powders | 1.7¢ per lb. +11% ad val. | 7¢ per lb. +45% ad val. |

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| | Pesticides: | | |
| | Not artificially mixed: | | |
| 408.16 | Fungicides | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| | Herbicides (including plant growth regulators): | | |
| 408.21 | S - (4 - Chlorobenzyl) - N,N - diethylthiocarbamate (Benthiocarb); 2 - (4 - Chloro - 2 - methyl - phenoxy) propionic acid and its salts; p - Chlorophenoxyacetic acid; 3-(p - Chlorophenyl) - 1,1 - dimethylurea (Monuron); 3,5 - Dibromo - 4 - hydroxy - benzonitrile (Bromoxynil); 2 - (2,4 - Dichlorophenoxy) - propionic acid; 2, 2 - Dimethyl - 1,3 - benzodioxol - 4 - yl methylcarbamate (Bendiocarb); 1,1 - Dimethyl - 3 - (α,α,α - tri - fluoro - m - tolyl)urea (Fluometuron); o - Diquat dibromide (1,1' - Ethylene - 2,2' - dipyridylium dibromide); 3 - Ethoxycarbonylaminophenyl - N - phenylcarbamate (Desmedipham); 2 - Ethoxy - 2,3 - dihydro - 3,3 - dimethyl - 5 - benzofuranyl - methanesulfonate; 3 - Isopropyl - 1H - 2,1,3 - benzothiadiazin - 4 (3H) - one - 2,2 - dioxide (Bentazon); Isopropyl - N - (3 - chlorophenyl) carbamate (CIPC); Methyl - 4 - aminobenzenesulfonyl - carbamate (Asulam); and | | |
| | o - Paraquat dichloride | 1.7¢ per lb. +12.6% ad val. | 7¢ per lb. +40.5% ad val. |
| 408.22 | Other | 1.7¢ per lb. +15.1% ad val. | 7¢ per lb. +48.5% ad val. |
| | Insecticides: | | |
| 408.24 | 1,2 - Benzisothiazolin - 3 - one; N' - (4 - Chloro - o - tolyl) - N,N - dimethylformamidine; 1,1 - Dichloro - 2,2 - bis(p - ethyl - phenyl) ethane; 0,0 - Diethyl - S - [(6 - chloro - 2 - oxo - benzoxazolin - 3 - yl) methyl]phosphorodithioate (Phosalone); and | | |
| | 0,0 - Dimethyl - O - (4 - nitro - m - tolyl)phosphorothioate (Fenitrothion) | 1.7¢ per lb. +12.8% ad val. | 7¢ per lb. +41% ad val. |
| 408.28 | Other | 1.7¢ per lb. +20.1% ad val. | 7¢ per lb. +64.5% ad val. |

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| 406.32 | Other | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +40% ad val. |
| 406.36 | Other | 1.7¢ per lb. +9.7% ad val. | 7¢ per lb. +31% ad val. |
| 406.41 | Photographic chemicals | 3¢ per lb. +21% ad val. | 7¢ per lb. +50% ad val. |
| | Plastics materials: | | |
| 406.44 | Concentrated dispersions of pigments in plastics materials | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| 406.48 | Paints and enamel paints | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| 406.52 | Varnishes and lacquers | 1.4¢ per lb. +11.4% ad val. | 7¢ per lb. +57% ad val. |
| | Other: | | |
| | Thermoplastic resins: | | |
| 406.54 | Petroleum hydrocarbon and coumarone - indene resins | 1.4¢ per lb. +9.8% ad val. | 7¢ per lb. +49% ad val. |
| 406.61 | Polyamide resins, nylon type | 1.4¢ per lb. +10.3% ad val. | 7¢ per lb. +51.5% ad val. |
| 406.64 | Polycarbonate resins | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| 406.68 | Polyester resins, saturated | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| 406.72 | Acrylonitrile - butadiene - styrene (ABS) resins | 1.4¢ per lb. +9.4% ad val. | 7¢ per lb. +47% ad val. |
| 406.76 | Methyl methacrylate - butadiene - styrene (MBS) resins | 1.4¢ per lb. +13.5% ad val. | 7¢ per lb. +67.5% ad val. |
| 406.81 | Styrene - acrylonitrile (SAN) resins | 1.4¢ per lb. +9.1% ad val. | 7¢ per lb. +45.5% ad val. |
| 406.84 | Polystyrene resins and styrene copolymers, terpolymers (except ABS, MBS, and SAN resins) | 1.4¢ per lb. +9.2% ad val. | 7¢ per lb. +46% ad val. |
| 406.88 | Other | 1.4¢ per lb. +9.8% ad val. | 7¢ per lb. +49% ad val. |
| | Thermosetting resins: | | |
| 406.92 | Alkyd resins | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| 406.96 | Allyl resins (e.g., diallyl phthalate) | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| 409.02 | Epoxy resins | 1.4¢ per lb. +9.4% ad val. | 7¢ per lb. +47% ad val. |

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| 409.06 | Phenolic resins | 1.4¢ per lb. +9.6% ad val. | 7¢ per lb. +48% ad val. |
| 409.10 | Polyester resins, unsaturated | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| 409.14 | Polyurethane resins | 1.4¢ per lb. +10.3% ad val. | 7¢ per lb. +51.5% ad val. |
| 409.18 | Other | 1.4¢ per lb. +9% ad val. | 7¢ per lb. +45% ad val. |
| | Products chiefly used as assistants in preparing or finishing textiles: | | |
| 409.22 | Surface-active agents and synthetic detergents | 1.4¢ per lb. +10.7% ad val. | 7¢ per lb. +53.5% ad val. |
| 409.26 | Other | 1.4¢ per lb. +9.9% ad val. | 7¢ per lb. +49.5% ad val. |
| 409.30 | Products (except those in items 409.22 and 409.26) chiefly used for any one or combination of the following purposes: As detergents, wetting agents, emulsifiers, dispersants, or foaming agents | 1.7¢ per lb. +13.9% ad val. | 7¢ per lb. +44.5% ad val. |
| 409.34 | Products chiefly used as plasticisers | 1.7¢ per lb. +17.7% ad val. | 7¢ per lb. +57% ad val. |
| 409.38 | Sodium benzoate | 1.5¢ per lb. +15.3% ad val. | 7¢ per lb. +65.5% ad val. |
| 409.42 | Synthetic tanning materials | 3.5¢ per lb. +24.4% ad val. | 7¢ per lb. +48.5% ad val. |
| | Colors, dyes, stains, and related products: | | |
| 409.46 | Sulfur black, "Colour Index Nos. 53185, 53190, and 53195" | 1.5¢ per lb. +14% ad val. | 3¢ per lb. +28% ad val. |
| 409.50 | Vat blue 1 (synthetic indigo), "Colour Index No. 73000" | 1.5¢ per lb. +14.4% ad val. | 3¢ per lb. +29% ad val. |
| 409.54 | Acid blue 45, 106;<br>Acid yellow 116;<br>Basic blue 3;<br>Basic red 14;<br>Basic yellow 1, 11, 13;<br>Direct blue 86;<br>Direct red 83;<br>Direct yellow 28;<br>Disperse red 4;<br>Fluorescent brightening agent 32;<br>Solvent orange 11;<br>Solvent yellow 25;<br>Vat brown 3;<br>Vat orange 2, 7; and<br>Vat violet 9, 13;<br>all the foregoing obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part | 22.6% ad val. | 7¢ per lb. +63.5% ad val. |

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| 409.58 | Acid black 31, 50, 94, 129;<br>Acid blue 54, 127, 129, 143;<br>Acid brown 44, 46, 48, 56, 188, 189;<br>Acid green 40;<br>Acid red 130, 145, 174, 211;<br>Acid violet 19, 31, 41, 48;<br>Acid yellow 3, 75;<br>Basic orange 22;<br>Basic red 13;<br>Direct black 62, 91;<br>Direct blue 92, 106, 108, 109, 160, 172;<br>Direct brown 103, 115, 116;<br>Direct green 5, 29, 31;<br>Direct orange 37;<br>Disperse blue 30;<br>Fluorescent brightening agent 18, 24;<br>Ingrain blue 2;<br>Mordant black 8;<br>Mordant green 47;<br>Mordant red 17, 27;<br>Reactive black 1;<br>Reactive blue 1, 2, 4;<br>Reactive orange 1;<br>Reactive red 1, 2, 3, 5, 6;<br>Reactive yellow 1;<br>Vat blue 2;<br>Vat red 44;<br>Vat solubilized orange 3; and<br>Vat yellow 4, 20;<br>all the foregoing obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part..... | 17.7% ad val. | 7¢ per lb. + 50% ad val. |
| | Colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part:<br>Acid dyes: | | |
| 409.62 | Acid black 61, 63, 76, 83, 117, 127, 131, 132, 139, 164, 170, 183, 194;<br>Acid blue 47, 80, 61, 66, 72, 81, 90, 96, 102, 112, 123, 126, 127:1, 130, 133, 140, 142, 147, 151, 173, 182, 185, 193, 204, 205, 208, 209, 221, 225, 229, 239, 242, 247, 250, 254, 260, 261, 264, 266, 268, 288, 290, 296, 317;<br>Acid brown 10, 11, 30, 33, 45, 50, 68, 83, 100, 101, 103, 104, 105, 106, 126, 127, 147, 158, 160, 161, 163, 165, 180, 191, 195, 224, 226, 227, 235, 237, 239, 248, 266, 267, 270, 276, 283, 283, 289, 290, 291, 296, 304, 311, 314, 315, 321, 322, 324, 325, 330, 331, 355, 358, 359, 360, 361, 362;<br>Acid green 26, 28, 41, 43, 60, 68, 70, 71, 73, 80, 82, 84, 92, 93, 94, 108;<br>Acid orange 3, 19, 28, 33, 43, 47, 61, 86, 89, 94, 102, 126, 142;<br>Acid red 37, 42, 48, 57, 58, 92, 111, 118, 127, 131, 138, 143, 155, 161, 199, 216, 226, 227, 228, 249, 252, 257, 259, 260, 261, 263, 274, 281, | | |

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| | 282, 283, 301, 308, 310, 315, 331, 332, 336, 357, 361, 363, 392; Acid violet 9, 34, 36, 47, 66, 75, 80, 90, 103, 109, 111, 121; Acid yellow 7, 64, 96, 111, 127, 136, 155, 167, 183, 184, 194, 218, 223; Copper phthalocyanine - 3,3',4,4' - tetrasulfonic acid; and Copper phthalocyanine - 4,4',4'',4''' - tetrasulfonic acid | 23% ad val. | 7¢ per lb. +52% ad val. |
| 409.66 | Other | 30.7% ad val. | 7¢ per lb. +69.5% ad val. |
| | Basic dyes: | | |
| 409.70 | Basic black 7; Basic blue 41, 45, 48, 55, 62, 66, 71, 78, 80, 81, 141; Basic green 6, 8; Basic orange 30, 35, 36, 37, 43, 44; Basic red 23, 28, 29, 43, 44, 46, 58, 100; Basic violet 2, 22, 25, 37, 38; and Basic yellow 19, 23, 24, 25, 39, 40, 45, 54, 56, 63, 70 | 22.6% ad val. | 7¢ per lb. +51% ad val. |
| 409.74 | Other | 30.9% ad val. | 7¢ per lb. +70% ad val. |
| | Direct dyes: | | |
| 409.78 | Direct black 51, 69, 112, 118, 122; Direct blue 74, 77, 90, 137, 156, 158, 158:1, 207, 211, 225, 244, 267; Direct brown 97, 113, 157, 169, 170, 200, 212, 214; Direct green 33, 59, 67, 68; Direct orange 17, 60, 105, 106, 107, 118; Direct red 9, 89, 92, 95, 111, 127, 173, 207; Direct violet 47, 93; and Direct yellow 39, 68, 93, 95, 96, 98, 109, 110, 133 | 23.8% ad val. | 7¢ per lb. +53.5% ad val. |
| 409.82 | Other | 28.6% ad val. | 7¢ per lb. +64.5% ad val. |
| | Disperse dyes: | | |
| 409.86 | Disperse blue 19, 26, 55, 56, 58, 72, 79, 83, 84, 93, 95, 122, 125, 128, 154, 165, 180, 183, 185, 200, 284, 285, 288, 295, 296; Disperse brown 19; Disperse green 9; Disperse orange 7, 13, 20, 31, 47, 48, 56, 63, 70, 80, 96, 127, 137; Disperse red 44, 72, 73, 90, 93, 107, 118, 121, 122, 131, 133, 134, 151, 184, 202, 203, 224, 278, 282, 310; Disperse violet 23, 63; and | | |

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| | Disperse yellow 13, 63, 65, 82, 91, 107, 119, 122, 124, 126, 139, 184 | 22.5% ad val. | 7¢ per lb. +51% ad val. |
| 409.90 | Other | 27.8% ad val. | 7¢ per lb. +62.5% ad val. |
| 409.94 | Fluorescent brighteners | 19% ad val. | 7¢ per lb. +43% ad val. |
| | Solvent dyes: | | |
| 409.96 | Solvent black 2, 3, 27, 28, 34; Solvent blue 49, 51, 53, 67, 97; Solvent brown 1, 28, 42, 44; Solvent green 4, 5, 7, 19, 28, 213; Solvent orange 45, 54, 63, 67; Solvent red 18, 19, 23, 27, 35, 92, 110, 118, 119, 124, 125, 130, 131, 132, 160; Solvent violet 2, 23; and Solvent yellow 1, 32, 48, 64, 89, 93, 98, 160 | 19.9% ad val. | 7¢ per lb. +45% ad val. |
| 410.00 | Other | 28% ad val. | 7¢ per lb. +63% ad val. |
| | Reactive dyes: | | |
| 410.04 | Reactive black 4, 10, 13, 21, 23, 26, 34, 35, 41; Reactive blue 7, 8, 10, 13, 18, 22, 23, 24, 26, 29, 34, 39, 40, 41, 42, 43, 44, 50, 51, 52, 65, 66, 67, 69, 74, 75, 77, 78, 79, 82, 94, 103, 104, 114, 116, 118, 136, 140, 156, 157, 160; Reactive brown 2, 5, 12, 18, 19, 23; Reactive green 5, 6, 8, 12, 15, 16; Reactive orange 5, 9, 10, 11, 15, 20, 29, 33, 34, 35, 42, 44, 45, 62, 64, 67, 69, 70, 71, 82, 84; Reactive red 4, 7, 8, 12, 13, 16, 17, 19, 21, 29, 40, 42, 45, 55, 56, 66, 78, 82, 83, 84, 86, 99, 104, 116, 119, 121, 122, 123, 124, 132, 134, 151, 152, 159; Reactive violet 3, 12, 23, 24; and Reactive yellow 4, 6, 11, 12, 15, 25, 27, 29, 35, 41, 52, 57, 58, 64, 81, 82, 85, 87, 110 | 20.5% ad val. | 7¢ per lb. +46.5% ad val. |
| 410.08 | Other | 27.8% ad val. | 7¢ per lb. +62.5% ad val. |
| | Vat dyes: | | |
| 410.12 | Solubilized vat blue 5; Solubilized vat orange 1; Solubilized vat yellow 7, 45, 47; Vat black 19, 30, 31; Vat blue 19, 21, 66; Vat brown 33, 57; Vat green 28, 48; Vat orange 5, 13; Vat red 15, 41; and | | |

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| | Vat yellow 46 | 20.9% ad val. | 7¢ per lb. +47.5% ad val. |
| 410.16 | Other | 32.9% ad val. | 7¢ per lb. +74.5% ad val. |
| 410.20 | Other | 21.9% ad | 7¢ per lb. +49.5% ad val. |
| 410.24 | Natural alizarin and natural indigo; colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from natural alizarin or natural indigo; color acids, color bases, indoxyl, indoxyl compounds, and leuco-compounds (whether colorless or not), obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A or B of this part | 2.8¢ per lb. +28% ad val. | 7¢ per lb. +70% ad val. |
| | Color lakes and toners, obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A or B of this part: | | |
| 410.28 | Pigment black 1;<br>Pigment blue 16, 18;<br>Pigment brown 22, 23, 25;<br>Pigment green 8;<br>Pigment orange 31, 34, 36, 51;<br>Pigment red 9, 14, 34, 48:3, 52, 112, 139, 144, 146, 151, 166, 169, 170, 171, 175, 176, 177, 178, 180, 185, 188, 192, 199, 208, 209, 220, 221; and<br>Pigment yellow 49, 81, 97, 101, 109, 110, 117, 127 | 20.4% ad val. | 7¢ per lb. +46% ad val. |
| 410.32 | Other | 31.3% ad val. | 7¢ per lb. +70.5% ad val. |
| 410.36 | Fast color bases | 1.7¢ per lb. +13.3% ad val. | 7¢ per lb. +53% ad val. |
| 410.40 | Fast color salts | 1.7¢ per lb. +13.6% ad val. | 7¢ per lb. +54.5% ad val. |
| 410.44 | Naphthol AS and derivatives | 1.7¢ per lb +15% ad val. | 7¢ per lb. +60% ad val. |
| | Products suitable for medicinal use, and drugs: | | |
| | Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part: | | |
| | Products suitable for medicinal use: | | |
| 410.48 | Acetanilide | 1.7¢ per lb. +25% ad val. | 7¢ per lb. +45% ad val. |
| 410.52 | Benzaldehyde | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +45% ad val. |
| 410.56 | Benzoic acid | 1.7¢ per lb. +19.2% ad val. | 7¢ per lb. +69.5% ad val. |

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| 410.60 | 2 - Naphthol (Beta - naphthol) | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +45% ad val. |
| 410.64 | Resorcinol | 1.7¢ per lb. +9.4% ad val. | 7¢ per lb. +34% ad val. |
| 410.66 | Salicylic acid and its salts | 1.7¢ per lb. +20% ad val. | 7¢ per lb. +72% ad val. |
| | Drugs: | | |
| 410.68 | Acetphenetidine (Phenacetin) | 1.4¢ per lb. +12.1% ad val. | 7¢ per lb. +54.5% ad val. |
| 410.72 | Acetylsalicylic acid (Aspirin) | 1.7¢ per lb. +22.7% ad val. | 7¢ per lb. +82% ad val. |
| 410.76 | Antipyrine | 1.7¢ per lb. +13.7% ad val. | 7¢ per lb. +49.5% ad val. |
| 410.80 | 5 - Chloro - 7 - iodo - 8 - quinolinol (Iodochlorhydroxyquin) and 2 - [1 - (p - chlorophenyl) - 3 - dimethyl - aminopropyl]pyridine maleate (Chlorpheniramine maleate) | 1.4¢ per lb. +16.3% ad val. | 7¢ per lb. +73.5% ad val. |
| 410.84 | Diethylaminoacetoxylidide (Lidocaine) | 1.7¢ per lb. +24.8% ad val. | 7¢ per lb. +101.5% ad val. |
| 410.88 | 5 - Ethyl - 5 - phenylhexahydro-pyrimidine - 4,6 - dione (Primidone) | 1.2¢ per lb. +8.5% ad val. | 7¢ per lb. +45% ad val. |
| | Hydantoin derivatives: | | |
| 410.92 | Methylphenethylhydantoin (Mephenytoin) | 1.4¢ per lb. +12.6% ad val. | 7¢ per lb. +63% ad val. |
| 410.96 | Other | 1.4¢ per lb. +12.6% ad val. | 7¢ per lb. +63% ad val. |
| | Imidazoline derivatives: | | |
| 411.00 | 2 - Benzyl - 4,5 - imidazoline hydrochloride (Tolazoline hydrochloride) | 1.4¢ per lb. +11.7% ad val. | 7¢ per lb. +58.5% ad val. |
| 411.04 | Phenylbenzylaminoethylimidazoline hydrochloride | 1.4¢ per lb. +10.2% ad val. | 7¢ per lb. +51% ad val. |
| 411.08 | Other | 1.4¢ per lb. +10.2% ad val. | 7¢ per lb. +51% ad val. |
| 411.12 | Phenolphthalein | 1.7¢ per lb. +14.8% ad val. | 7¢ per lb. +53% ad val. |
| 411.16 | Phenylephrine hydrochloride | 1.4¢ per lb. +13% ad val. | 7¢ per lb. +58.5% ad val. |
| 411.20 | Salol (Phenyl salicylate) | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +45% ad val. |
| 411.24 | Sulfamethazine | 1.4¢ per lb. +17.8% ad val. | 7¢ per lb. +80% ad val. |

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| 411.28 | Sulfadiazine, sulfaguanidine, sulfamerazine, sulfapyridine, and salicylazosulfapyridine (Sulfasalazine) | 1.4¢ per lb. +28.5% ad val. | 7¢ per lb. +128.5% ad val. |
| | Other: | | |
| | Alkaloids and their salts and other derivatives: | | |
| 411.32 | Ephedrine, pseudoephedrine, racephedrine, and their salts | 1.7¢ per lb. +16.4% ad val. | 7¢ per lb. +59% ad val |
| | Papaverine and its salts: | | |
| 411.36 | Ethaverine hydrochloride | 1.7¢ per lb. +13.5% ad val. | 7¢ per lb. +48.5% ad val. |
| 411.40 | Other | 1.7¢ per lb. +28.9% ad val | 7¢ per lb. +104% ad val. |
| | Other: | | |
| 411.44 | Arecoline, hydrobromide; Deserpidine; Ergonovine maleate; Lobeline sulfate; Meperidine hydrochloride; Nicotinyl alcohol tartrate; and Quinacrine hydrochloride | 1.7¢ per lb. +13.9% ad val. | 7¢ per lb. +50% ad val. |
| 411.48 | Other | 1.7¢ per lb. +24.5% ad val. | 7¢ per lb. +88% ad val. |
| | Antihistamines, including those chiefly used as antinauseants: | | |
| 411.52 | Diphenhydramine; Promethazine hydrochloride; and Triprolidine hydrochloride | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +45% ad val. |
| 411.56 | Other | 1.7¢ per lb. +22.8% ad val. | 7¢ per lb. +82% ad val. |
| | Anti-infective agents: | | |
| | Antibiotics: | | |
| 411.60 | Ampicillin and its salts | 1.7¢ per lb. +13.5% ad val. | 7¢ per lb. +48.5% ad val. |
| 411.64 | Penicillin G salts | 1.7¢ per lb. +13.6% ad val. | 7¢ per lb. +49% ad val. |
| | Penicillin, not specially provided for: | | |
| 411.68 | Carfecillin, sodium; Cloxacillin, sodium; Dicloxacillin, sodium; Flucloxacillin (floxacillin); and | | |

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| | Oxacillin, sodium | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +45% ad val. |
| 411.72 | Other | 1.7¢ per lb. +15.7% ad val. | 7¢ per lb. +56.5% ad val. |
| 411.76 | Other | 1.7¢ per lb. +12.5% ad val. | 7¢ per lb. +45% ad val. |
| | Anti-infective sulfonamides: | | |
| 411.80 | Sulfathiazole and sulfathiazole sodium | 1.7¢ per lb. +36.9% ad val. | 7¢ per lb. +133% ad val. |
| 411.84 | Other | 1.7¢ per lb. +26.6% ad val. | 7¢ per lb. +96% ad val. |
| | Anti-infective agents, not specially provided for: | | |
| 411.90 | Acriflavine; Acriflavine hydrochloride; Bunamidine hydrochloride; Carbadox; Clopidol; Crotamiton; Decoquinate; Diiodohydroxyquin; Ethionamide; Nicarbazin; Niclosamide; Oxyquinoline sulfate; Pentamidine; Phenylmercuric nitrate; Pyrazinamide; Stibophen; Thimerosal; Thymol iodide; Tolnaftate; and Trimethoprim | 1.7¢ per lb. +12.8% ad val. | 7¢ per lb. +46% ad val. |
| 411.94 | Other | 1.7¢ per lb. +18.7% ad val. | 7¢ per lb. +67.5% ad val. |
| | Autonomic drugs, except alkaloids and their derivatives: | | |
| 411.98 | Cromolyn, sodium; Furosemide; Glipixide; Isoetharine hydrochloride; Isoxsuprine hydrochloride; Nylidrin hydrochloride; Procyclidine; Salbutamol (Albuterol); and Terbutaline sulfate | 1.7¢ per lb. +13% ad val. | 7¢ per lb. +47% ad val. |
| 412.02 | Other | 1.7¢ per lb. +19.9% ad val. | 7¢ per lb. +71.5% ad val. |

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| | Cardiovascular drugs, except alkaloids and their derivatives: | | |
| 412.06 | Hydralazine hydrochloride; Sulfinpyrazone; and Warfarin, sodium | 1.7¢ per lb. +12.1% ad val. | 7¢ per lb. +47.5% ad val. |
| 412.10 | Other | 1.7¢ per lb. +18% ad val. | 7¢ per lb. +65% ad val. |
| 412.14 | Dermatological agents and local anesthetics | 1.7¢ per lb. +14.3% ad val. | 7¢ per lb. +51.5% ad val. |
| | Drugs primarily affecting the central nervous system, except alkaloids and their derivatives: | | |
| | Analgesics, antipyretics, and nonhormonal anti-inflammatory agents: | | |
| 412.18 | Propoxyphene hydrochloride | 1.7¢ per lb. +33.3% ad val. | 7¢ per lb. +119.5% ad val. |
| 412.22 | Other | 1.7¢ per lb. +13.3% ad val. | 7¢ per lb. +47.5% ad val. |
| 412.26 | Anticonvulsants, hypnotics, and sedatives | 1.7¢ per lb. +13.5% ad val. | 7¢ per lb. +48.5% ad val. |
| | Antidepressants, tranquilizers, and other psychotherapeutic agents: | | |
| 412.30 | Amitriptyline; Butaperazine maleate; Clozapine; Droperidol; Fluphenazine decanoate; Fluphenazine enanthate; Imipramine hydrochloride; Mesoridazine besylate; Piperacetazine; Prochlorperazine maleate; Promazine hydrochloride; and Trifluoperazine hydrochloride | 1.7¢ per lb. +12.6% ad val. | 7¢ per lb. +45.5% ad val. |
| 412.34 | Other | 1.7¢ per lb. +41.5% ad val. | 7¢ per lb. +149.5% ad val. |
| 412.38 | Other | 1.7¢ per lb. +16.3% ad val. | 7¢ per lb. +58.5% ad val. |
| | Hormones, synthetic substitutes, and antagonists: | | |
| 412.42 | Desonide; Dienestrol; Epinephrine; Epinephrine hydro- | | |

| | | | |
|---|---|---|---|
| | chloride; Estradiol benzoate; Estradiol cyclopentylpropionate (Estriadol cypionate); Nandrolone phenpropionate; and L-Thyroxine (Levothyroxine) sodium | 1.7¢ per lb. +13.6% ad val. | 7¢ per lb. +49% ad val. |
| 412.48 | Other | 1.7¢ per lb. +21.7% ad val. | 7¢ per lb. +78.5% ad val. |
| | Vitamins, provitamins, and their analogs and derivatives used primarily for their vitamin activity: | | |
| 412.52 | Vitamin $B_2$ (Riboflavin and its salts and esters) | 1.7¢ per lb. +17.3% ad val. | 7¢ per lb. +62% ad val. |
| 412.56 | Vitamin $B_{12}$ (Cyanocobalamin and related compounds with vitamin $B_{12}$ activity) | 1.7¢ per lb. +40.4% ad val. | 7¢ per lb. +145.5% ad val. |
| 412.60 | Vitamin E (dl-α-Tocopherol and its esters) | 1.7¢ per lb. +17.6% ad val. | 7¢ per lb. +63.5% ad val. |
| 412.64 | Other | 1.7¢ per lb. +13.6% ad val. | 7¢ per lb. +49% ad val. |
| 412.68 | Other | 1.7¢ per lb. +13.6% ad val. | 7¢ per lb. +45% ad val. |
| | Drugs, from whatever source obtained, produced or manufactured: | | |
| 412.72 | Guaiacol and its derivatives | 1.7¢ per lb. +21.9% ad val. | 7¢ per lb. +79% ad val. |
| | Aromatic or odoriferous compounds including flavors, not marketable as cosmetics, perfumery, or toilet preparations, and not mixed, and not containing alcohol: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part: | | |
| 412.76 | p-Anisaldehyde | 3.5¢ per lb. +18.1% ad val. | 7¢ per lb. +36% ad val. |
| 412.80 | Benzyl acetate | 3.5¢ per lb. +52.1% ad val. | 7¢ per lb. +104.5% ad val. |
| 412.84 | Benzyl benzoate | 3.5¢ per lb. +42.1% ad val. | 7¢ per lb. +84% ad val. |
| 412.88 | Diphenyl oxide | 3.5¢ per lb. +21.1% ad val. | 7¢ per lb. +42.5% ad val. |
| 412.92 | Ethyl vanillin | 3.5¢ per lb. +40.1% ad val. | 7¢ per lb. +80% ad val. |

| | | | |
|---|---|---|---|
| 412.96 | Heliotropin | 1.7¢ per lb. +13.8% ad val. | 7¢ per lb. +56.5% ad val. |
| 413.00 | Methyl anthranilate | 3.5¢ per lb. +11.2% ad val. | 7¢ per lb. +22.5% ad val. |
| 413.04 | α-Methylbenzyl alcohol | 3.5¢ per lb. +25.4% ad val. | 7¢ per lb. +51% ad val. |
| 413.08 | Musk, artificial | 3.5¢ per lb. +11.4% ad val. | 7¢ per lb. +57% ad val. |
| 413.12 | α-Pentylcinnamaldehyde | 3.5¢ per lb. +22.5% ad val. | 7¢ per lb. +45% ad val. |
| 413.16 | Phenylacetaldehyde | 3.5¢ per lb. +20.2% ad val. | 7¢ per lb. +40.5% ad val. |
| 413.20 | Phenethyl alcohol | 3.5¢ per lb. +38.5% ad val. | 7¢ per lb. +77% ad val. |
| 413.24 | Saccharin | 1.5¢ per lb. +12.9% ad val. | 7¢ per lb. +61% ad val. |
| 413.28 | Other | 3.5¢ per lb. +29% ad val. | 7¢ per lb. +58% ad val. |
| | From whatever source obtained, derived, or manufactured: | | |
| 413.32 | Coumarin | 3.5¢ per lb. +24.1% ad val. | 7¢ per lb. +48% ad val. |
| 413.36 | Methyl salicylate | 3.5¢ per lb. +34.2% ad val. | 7¢ per lb. +68.5% ad val. |
| 413.40 | Vanillin | 1.5¢ per lb. +10.2% ad val. | 7¢ per lb. +48% ad val. |
| | Mixtures in whole or in part of any of the products provided for in this subpart: | | |
| 413.50 | Paints and enamel paints, stains, and varnishes | 3.5¢ per lb. +23% ad val. | 7¢ per lb. +46% ad val. |
| 413.51 | Other | 3.5¢ per lb. +23% ad val., but not less than the highest rate applicable to any component material. | 7¢ per lb. +46% ad val., but not less than the highest rate applicable to any component material. ". |

SEC. 224. TREATMENT OF CONVERTED RATES AS EXISTING RATES FOR PURPOSES OF TRADE AGREEMENT AUTHORITY.

For purposes of sections 101 and 601(7) of the Trade Act of 1974 (19 U.S.C. 2111 and 2481(7)), the rates of duty appearing in rate column numbered 1 of the amendments, if any, made under this subtitle shall be considered to be the rates of duty existing or in effect on January 1, 1975.

SEC. 225. MODIFICATION OF TARIFF TREATMENT OF CERTAIN CHEMICALS AND CHEMICAL PRODUCTS.

The President may proclaim a modification of the article descriptions in subparts B and C of part 1 of schedule 4 (as amended by section 223(d)) in order to transfer from any item within those subparts to any other item within those subparts (taking into account proper chemical nomenclature and customs classification principles) any individual chemicals or products with respect to which a negotiating partner in the Tokyo Round of the Multilateral Trade Negotiations submitted notice, before July 31, 1979, to the United States that the rate of duty in such subpart for such chemicals or products that would apply but for this section is, based on past import data for the chemical or product, inappropriate and non-representative; but the President may not make a modification under this section with respect to any such chemical or product unless the United States International Trade Commission determines before January 1, 1980, that—

(1) the chemical or product was not valued for customs purposes on the basis of American selling price upon entry into the United States during a period determined by the Comission to be representative, and

(2) a rate of duty provided for in such subparts, other than the rate of duty that would apply but for this section, is more appropriate and representative for such chemical or product.

## TITLE III—GOVERNMENT PROCUREMENT

### SEC. 301. GENERAL AUTHORITY TO MODIFY DISCRIMINATORY PURCHASING REQUIREMENTS.

(a) PRESIDENTIAL WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS.—The President may waive, in whole or in part, with respect to eligible products of any foreign country or instrumentality designated under subsection (b), and suppliers of such products, the application of any law, regulation, procedure, or practice regarding Government procurement that would, if applied to such products and suppliers, result in treatment less favorable than that accorded—

(1) to United States products and suppliers of such products; or

(2) to eligible products of another foreign country or instrumentality which is a party to the Agreement and suppliers of such products.

(b) DESIGNATION OF ELIGIBLE COUNTRIES AND INSTRUMENTALITIES.—The President may designate a foreign country or instrumentality for purposes of subsection (a) only if he determines that such country or instrumentality—

(1) is a country or instrumentality which (A) has become a party to the Agreement, and (B) will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products;

(2) is a country or instrumentality, other than a major industrial country, which (A) will otherwise assume the obligations of the Agreement, and (B) will provide such opportunities to such products and suppliers;

(3) is a country or instrumentality, other than a major industrial country, which will provide such opportunities to such products and suppliers; or

(4) is a least developed country.

(c) MODIFICATION OR WITHDRAWAL OF WAIVERS AND DESIGNATIONS.—The President may modify or withdraw any waiver granted pursuant to subsection (a) or designation made pursuant to subsection (b).

SEC. 302. AUTHORITY TO ENCOURAGE RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.

(a) AUTHORITY TO BAR PROCUREMENT FROM NON-DESIGNATED COUNTRIES.—With respect to procurement covered by the Agreement, the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products—

(1) shall prohibit the procurement, after the date on which any waiver under section 301(a) first takes effect, of products (A) which are products of a foreign country or instrumentality which is not designated pursuant to section 301(b), and (B) which would otherwise be eligible products; and

(2) may take such other actions within his authority as he deems necessary.

(b) DEFERRALS AND WAIVERS.—Notwithstanding subsection (a), but in furtherance of the objective of encouraging countries to become parties to the Agreement and provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products, the President may—

(1) delay, for a period not to exceed two years, the prohibition of procurement, required pursuant to subsection (a)(1), of products of a foreign country or in-

strumentality which is not designated pursuant to section 301(b), except that no such delay shall be granted with respect to the procurement of products of any major industrial country;

(2) authorize agency heads to waive, subject to interagency review and general policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)), such prohibition on a case-by-case basis when in the national interest; and

(3) authorize the Secretary of Defense to waive, subject to interagency review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)), such prohibition for products of any country or instrumentality which enters into a reciprocal procurement agreement with the Department of Defense.

(c) REPORT ON IMPACT OF RESTRICTIONS.—

(1) IMPACT ON THE ECONOMY.—On or before July 1, 1981, the President shall report to the Committee on Ways and Means and the Committee on Government Operations of the House of Representatives and to the Committee on Finance and the Committee on Governmental Affairs of the Senate on the effects on the United States economy (including effects

on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget) of the refusal of developed countries to allow the Agreement to cover the entities of the governments of such countries which are the principal purchasers of goods and equipment in appropriate product sectors.

(2) RECOMMENDATIONS FOR ATTAINING RECIPROCITY.—The report required by paragraph (1) shall include an evaluation of alternative means to obtain equity and reciprocity in such product sectors, including (A) prohibiting the procurement of products of such countries by United States entities not covered by the Agreement, and (B) modifying the application of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the Buy American Act. The report shall include an analysis of the effect of such alternative means on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget), and on successful negotiations on the expansion of the coverage of the Agreement pursuant to section 304 (a) and (b), other trade negotiating objectives, the relationship of the Federal Government to

State and local governments, and such other factors as the President deems appropriate.

(3) CONSULTATION.—In the preparation of the report required by paragraph (1) and the evaluation and analysis required by paragraph (2), the President shall consult with representatives of the public, industry, and labor, and make available pertinent, nonconfidential information obtained in the course of such preparation to the advisory committees established pursuant to section 135 of the Trade Act of 1974.

(d) PROPOSED ACTION.—

(1) PRESIDENTIAL REPORT.—On or before October 1, 1981, the President shall prepare and transmit to the congressional committees referred to in subsection (c)(1) a report which describes the actions he deems appropriate to establish reciprocity with major industrialized countries in the area of Government procurement.

(2) PROCEDURE.—

(A) PRESIDENTIAL DETERMINATION.—If the President determines that any changes in existing law or new statutory authority are required to authorize or to implement any action proposed in the report submitted under paragraph (1), he shall, on or after January 1, 1982, submit to the

Congress a bill to accomplish such changes or provide such new statutory authority. Prior to submitting such a bill, the President shall consult with the appropriate committees of the Congress having jurisdiction over legislation involving subject matters which would be affected by such action, and shall submit to such committees a proposed draft of such bill.

(B) CONGRESSIONAL CONSIDERATION.—The appropriate committee of each House of the Congress shall give a bill submitted pursuant to subparagraph (A) prompt consideration and shall make its best efforts to take final committee action on such bill in an expeditious manner.

**SEC. 303. WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS WITH RESPECT TO PURCHASES OF CIVIL AIRCRAFT.**

The President may waive the application of the provisions of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), popularly referred to as the Buy American Act, in the case of any procurement of civil aircraft and related articles of a country or instrumentality which is a party to the Agreement on Trade in Civil Aircraft. The President may modify or withdraw any waiver granted pursuant to this section.

**SEC. 304. EXPANSION OF THE COVERAGE OF THE AGREEMENT.**

(a) OVERALL NEGOTIATING OBJECTIVE.—The President shall seek in the renegotiations provided for in part IX, paragraph 6, of the Agreement more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to Government procurement, with the overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and nondiscriminatory world trade. In carrying out the provisions of this subsection, the President shall consider the assessment made in the report required under section 306(a).

(b) SECTOR NEGOTIATING OBJECTIVES.—The President shall seek, consistent with the overall objective set forth in subsection (a) and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for the export of United States products to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting that sector.

(c) INDEPENDENT VERIFICATION OBJECTIVE.—The President shall seek to establish in the renegotiation provided for in part IX, paragraph 6, of the Agreement a system for independent verification of information provided by parties to the Agreement to the Committee on Government Procurement pursuant to part VI, paragraph 9, of the Agreement.

(d) REPORTS ON NEGOTIATIONS.—

(1) REPORT IN THE EVENT OF INADEQUATE PROGRESS.—If, during the renegotiations of the Agreement, the President at any time determines that the renegotiations are not progressing satisfactorily and are not likely to result, within twelve months of the commencement thereof, in an expansion of the Agreement to cover purchases by the entities of the governments of developed countries which are the principal purchasers of goods and equipment in appropriate product sectors, he shall so report to the congressional committees referred to in section 302(c)(1). Taking into account the objectives set forth in subsections (a) and (b) of this section and the factors required to be analyzed under section 302(c), the President shall further report to such committees appropriate actions to seek reciprocity in such product sectors with such countries in the area of government procurement.

(2) LEGISLATIVE RECOMMENDATIONS.—Taking into account the factors required to be analyzed under section 302(c), the President may recommend to the Congress legislation (with respect to entities of the Government which are not covered by the Agreement) which may prohibit such entities from purchasing products of such countries.

(3) ANNUAL REPORTS.—Each annual report of the President under section 163(a) of the Trade Act of 1974 made after the date of enactment of this Act shall report the actions, if any, the President deemed appropriate to establish reciprocity in appropriate product sectors with major industrial countries in the area of government procurement.

(e) EXTENSION OF NONDISCRIMINATION AND NATIONAL TREATMENT.—Before exercising the waiver authority in section 301 for procurement not covered by the Agreement on the date of enactment of this Act, the President shall follow the consultation provisions of section 135 and chapter 6 of title I of the Trade Act of 1974 for private sector and congressional consultations.

SEC. 305. MONITORING AND ENFORCEMENT.

(a) MONITORING AND ENFORCEMENT STRUCTURE RECOMMENDATIONS.—In the preparation of the recommendations for the reorganization of trade functions, the Presi-

dent shall ensure that careful consideration is given to monitoring and enforcing the requirements of the Agreement and this title, with particular regard to the tendering procedures required by the Agreement or otherwise agreed to by a country or instrumentality likely to be designated pursuant to section 301(b).

(b) RULES OF ORIGIN.—

(1) ADVISORY RULINGS AND FINAL DETERMINATIONS.—For the purposes of this title, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 308(4)(B), an article is or would be a product of a foreign country or instrumentality designated pursuant to section 301(b).

(2) PENALTIES FOR FRAUDULENT CONDUCT.—In addition to any other provisions of law which may be applicable, section 1001 of title 18, United States Code, shall apply to fraudulent conduct with respect to the origin of products for purposes of qualifying for a waiver under section 301 or avoiding a prohibition under section 302.

(c) REPORT TO CONGRESS ON RULES OF ORIGIN.—

(1) DOMESTIC ADMINISTRATIVE PRACTICES.—As soon as practicable after the close of the two-year period beginning on the date on which any waiver

under section 301(a) first takes effect, the President shall prepare and transmit to Congress a report containing an evaluation of administrative practices under any provision of law which requires determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce. Such evaluation shall be accompanied by the President's recommendations for legislative and executive measures required to improve and simplify and to make more uniform and consistent such practices. Such evaluation and recommendations shall take into account the special problems affecting insular possessions of the United States with respect to such practices.

(2) FOREIGN ADMINISTRATIVE PRACTICES.—The report required under paragraph (1) shall contain an evaluation of the administrative practices under the laws of each major industrial country which require determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce, including an assessment of such practices on the exports of the United States.

SEC. 306. LABOR SURPLUS AREA STUDIES.

(a) EFFECT ON THE ECONOMY.—Prior to the renegotiations provided for in part IX, paragraph 6, of the Agreement, the President shall prepare and transmit to the Con-

gress a report which assesses the economic impact, including the impact on employment in various regions of the United States, of the waiver of the provisions of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the Buy American Act, in the procurement of products produced in labor surplus areas and of the waiver of procurement set-asides for labor surplus areas.

(b) EFFECT ON TARGETS.—On or before July 1, 1981, the President shall prepare and transmit to the Congress a report which assesses the effect of the waiver of the provisions of such title III in the procurement of products produced in labor surplus areas and the waiver of procurement set-asides for labor surplus areas on the fulfillment of the objectives of Executive Order 12073, issued August 16, 1978, relating to the encouragement of procurement in labor surplus areas, including an assessment of such waiver on the procurement targets set by the Administrator of the General Services Administration pursuant to such Executive order. On or before January 1, 1980, the President shall begin consultation with and provide interim reports to the congressional committees referred to in section 302(c)(1) concerning the report required by the preceding sentence.

SEC. 307. AVAILABILITY OF INFORMATION TO CONGRESSIONAL ADVISERS.

The Special Representative for Trade Negotiations shall make available to the Members of Congress designated as official advisers pursuant to section 161 of the Trade Act of 1974 information compiled by the Committee on Government Procurement under part VI, paragraph 9, of the Agreement.

SEC. 308. DEFINITIONS.

As used in this title—

(1) AGREEMENT.—The term "Agreement" means the Agreement on Government Procurement referred to in section 2(c) of this Act, as submitted to the Congress, but including rectifications, modifications, and amendments which are accepted by the United States.

(2) CIVIL AIRCRAFT.—The term "civil aircraft and related articles" means—

(A) all aircraft other than aircraft to be purchased for use by the Department of Defense or the United States Coast Guard;

(B) the engines (and parts and components for incorporation therein) of such aircraft;

(C) any other parts, components, and subassemblies for incorporation in such aircraft; and

(D) any ground flight simulators, and parts and components thereof, for use with respect to such aircraft,

whether to be purchased for use as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of such aircraft, and without regard to whether such aircraft or articles receive duty-free treatment pursuant to section 601(a)(2).

(3) DEVELOPED COUNTRIES.—The term "developed countries" means countries so designated by the President.

(4) ELIGIBLE PRODUCTS.—

(A) IN GENERAL.—The term "eligible product" means, with respect to any foreign country or instrumentality, a product or service of that country or instrumentality which is covered under the Agreement for procurement by the United States.

(B) RULE OF ORIGIN.—An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name,

character, or use distinct from that of the article or articles from which it was so transformed.

(5) INSTRUMENTALITY.—The term "instrumentality" shall not be construed to include an agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

(6) LEAST DEVELOPED COUNTRY.—The term "least developed country" means any country on the United Nations General Assembly list of least developed countries.

(7) MAJOR INDUSTRIAL COUNTRY.—The term "major industrial country" means any such country as defined in section 126 of the Trade Act of 1974 and any instrumentality of such a country.

SEC. 309. EFFECTIVE DATES.

The provisions of this title shall be effective on the date of enactment of this Act, except that—

(1) the authority of the President to grant waivers under section 303 shall be effective on January 1, 1980; and

(2) the authority of the President to grant waivers under section 301 shall be effective on January 1, 1981.

# TITLE IV—TECHNICAL BARRIERS TO TRADE (STANDARDS)

## Subtitle A—Obligations of the United States

### SEC. 401. CERTAIN STANDARDS-RELATED ACTIVITIES.

Nothing in this title may be construed as prohibiting any private person, Federal agency, or State agency from engaging in standards-related activities that do not create unnecessary obstacles to the foreign commerce of the United States. No standards-related activity of any private person, Federal agency, or State agency shall be deemed to constitute an unnecessary obstacle to the foreign commerce of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective including, but not limited to, the protection of legitimate health or safety, essential security, environmental, or consumer interests and if such activity does not operate to exclude imported products and which fully meet the objectives of such activity.

### SEC. 402. FEDERAL STANDARDS-RELATED ACTIVITIES.

No Federal agency may engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States, including, but not limited to, standards-related activities that violate any of the following requirements:

(1) NONDISCRIMINATORY TREATMENT.—Each Federal agency shall ensure, in applying standards-re-

lated activities with respect to any imported product, that such product is treated no less favorably than are like domestic or imported products, including, but not limited to, when applying tests or test methods, no less favorable treatment with respect to—

(A) the acceptance of the product for testing in comparable situations;

(B) the administration of the tests in comparable situations;

(C) the fees charged for tests;

(D) the release of test results to the exporter, importer, or agents;

(E) the siting of testing facilities and the selection of samples for testing; and

(F) the treatment of confidential information pertaining to the product.

(2) USE OF INTERNATIONAL STANDARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), each Federal agency, in developing standards, shall take into consideration international standards and shall, if appropriate, base the standards on international standards.

(B) APPLICATION OF REQUIREMENT.—For purposes of this paragraph, the following apply:

(i) INTERNATIONAL STANDARDS NOT APPROPRIATE.—The reasons for which the basing of a standard on an international standard may not be appropriate include, but are not limited to, the following:

(I) National security requirements.

(II) The prevention of deceptive practices.

(III) The protection of human health or safety, animal or plant life or health, or the environment.

(IV) Fundamental climatic or other geographical factors.

(V) Fundamental technological problems.

(ii) REGIONAL STANDARDS.—In developing standards, a Federal agency may, but is not required to, take into consideration any international standard promulgated by an international standards organization the membership of which is described in section 451(6)(A)(ii).

(3) PERFORMANCE CRITERIA.—Each Federal agency shall, if appropriate, develop standards based on performance criteria, such as those relating to the

intended use of a product and the level of performance that the product must achieve under defined conditions, rather than on design criteria, such as those relating to the physical form of the product or the types of material of which the product is made.

(4) CERTIFICATION ACCESS FOR FOREIGN SUPPLIERS.—Each Federal agency shall, with respect to any certification system used by it, permit access for obtaining certification under that system to foreign suppliers of a product on the same basis as access is permitted to suppliers of like products, whether of domestic or other foreign origin.

**SEC. 403. STATE AND PRIVATE STANDARDS-RELATED ACTIVITIES.**

(a) IN GENERAL.—It is the sense of the Congress that no State agency and no private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States.

(b) PRESIDENTIAL ACTION.—The President shall take such reasonable measures as may be available to promote the observance by State agencies and private persons, in carrying out standards-related activities, of requirements equivalent to those imposed on Federal agencies under section 402, and of procedures that provide for notification, participation, and publication with respect to such activities.

## Subtitle B—Functions of Federal Agencies

SEC. 411. FUNCTIONS OF SPECIAL REPRESENTATIVE.

(a) IN GENERAL.—The Special Representative shall coordinate the consideration of international trade policy issues that arise as a result of, and shall develop international trade policy as it relates to, the implementation of this title.

(b) NEGOTIATING FUNCTIONS.—The Special Representative has responsibility for coordinating United States discussions and negotiations with foreign countries for the purpose of establishing mutual arrangements with respect to standards-related activities. In carrying out this responsibility, the Special Representative shall inform and consult with any Federal agency having expertise in the matters under discussion and negotiation.

(c) CROSS REFERENCE.—

**For provisions of law regarding general authority of the Special Representatives with respect to trade agreements, see section 141 of the Trade Act of 1974 (19 U.S.C. 2171).**

SEC. 412. ESTABLISHMENT AND OPERATION OF TECHNICAL OFFICES.

(a) ESTABLISHMENT.—

(1) FOR NONAGRICULTURAL PRODUCTS.—The Secretary of Commerce shall establish and maintain within the Department of Commerce a technical office that shall carry out the functions prescribed under subsection (b) with respect to nonagricultural products.

(2) FOR AGRICULTURAL PRODUCTS.—The Secretary of Agriculture shall establish and maintain within the Department of Agriculture a technical office that shall carry out the functions prescribed under subsection (b) with respect to agricultural products.

(b) FUNCTIONS OF OFFICES.—The President shall prescribe for each technical office established under subsection (a) such functions as the President deems necessary or appropriate to implement this title.

SEC. 413. REPRESENTATION OF UNITED STATES INTERESTS BEFORE INTERNATIONAL STANDARDS ORGANIZATIONS.

(a) OVERSIGHT AND CONSULTATION.—The Secretary concerned shall—

(1) inform, and consult and coordinate with, the Special Representative with respect to international standards-related activities identified under paragraph (2);

(2) keep adequately informed regarding international standards-related activities and identify those that may substantially affect the commerce of the United States; and

(3) carry out such functions as are required under subsections (b) and (c).

(b) REPRESENTATION OF UNITED STATES INTERESTS BY PRIVATE PERSONS.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) ORGANIZATION MEMBER.—The term "organization member" means the private person who holds membership in a private international standards organization.

(B) PRIVATE INTERNATIONAL STANDARDS ORGANIZATION.—The term "private international standards organization" means any international standards organization before which the interests of the United States are represented by a private person who is officially recognized by that organization for such purpose.

(2) IN GENERAL.—Except as otherwise provided for in this subsection, the representation of United States interests before any private international standards organization shall be carried out by the organization member.

(3) INADEQUATE REPRESENTATION.—If the Secretary concerned, after inquiry instituted on his own motion or at the request of any private person, Federal agency, or State agency having an interest therein, has reason to believe that the participation by the organi-

zation member in the proceedings of a private international standards organization will not result in the adequate representation of United States interests that are, or may be, affected by the activities of such organization (particularly with regard to the potential impact of any such activity on the international trade of the United States), the Secretary concerned shall immediately notify the organization member concerned. During any such inquiry, the Secretary concerned may solicit and consider the advice of the appropriate representatives referred to in section 417.

(4) ACTION BY ORGANIZATION MEMBER.—If within the 90-day period after the date on which notification is received under paragraph (3) (or such shorter period as the Secretary concerned determines to be necessary in extraordinary circumstances), the organization member demonstrates to the Secretary concerned its willingness and ability to represent adequately United States interests before the private international standards organization, the Secretary concerned shall take no further action under this subsection.

(5) ACTION BY SECRETARY CONCERNED.—If—

(A) within the appropriate period referred to in paragraph (4), the organization member does

not respond to the Secretary concerned with respect to the notification, or does respond but does not demonstrate to the Secretary concerned the requisite willingness and ability to represent adequately United States interests; or

(B) there is no organization member of the private international standards organization;

the Secretary concerned shall make appropriate arrangements to provide for the adequate representation of United States interests. In cases where subparagraph (A) applies, such provision shall be made by the Secretary concerned through the appropriate organization member if the private international standards organization involved requires representation by that member.

(c) REPRESENTATION OF UNITED STATES INTERESTS BY FEDERAL AGENCIES.—With respect to any international standards organization before which the interests of the United States are represented by one or more Federal agencies that are officially recognized by that organization for such purpose, the Secretary concerned shall—

(1) encourage cooperation among interested Federal agencies with a view toward facilitating the development of a uniform position with respect to the

technical activities with which the organization is concerned;

(2) encourage such Federal agencies to seek information from, and to cooperate with, the affected domestic interests when undertaking such representation; and

(3) not preempt the responsibilities of any Federal agency that has jurisdiction with respect to the activities undertaken by such organization, unless requested to do so by such agency.

SEC. 414. STANDARDS INFORMATION CENTER.

(a) ESTABLISHMENT.—The Secretary of Commerce shall maintain within the Department of Commerce a standards information center.

(b) FUNCTIONS.—The standards information center shall—

(1) serve as the central national collection facility for information relating to standards, certification systems, and standards-related activities, whether such standards, systems, or activities are public or private, domestic or foreign, or international, regional, national, or local;

(2) make available to the public at such reasonable fee as the Secretary shall prescribe, copies of in-

formation required to be collected under paragraph (1) other than information to which paragraph (3) applies;

(3) use its best efforts to make available to the public, at such reasonable fees as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) that is of private origin, on a cooperative basis with the private individual or entity, foreign or domestic, who holds the copyright on the information;

(4) in case of such information that is of foreign origin, provide, at such reasonable fee as the Secretary shall prescribe, such translation services as may be necessary;

(5) serve as the inquiry point for requests for information regarding standards-related activities, whether adopted or proposed, within the United States, except that in carrying out this paragraph, the Secretary of Commerce shall refer all inquiries regarding agricultural products to the technical office established under section 412(a)(2) within the Department of Agriculture; and

(6) provide such other services as may be appropriate, including but not limited to, such services to the technical offices established under section 412 as may

be requested by those offices in carrying out their functions.

SEC. 415. CONTRACTS AND GRANTS.

(a) IN GENERAL.—For purposes of carrying out this title, and otherwise encouraging compliance with the Agreement, the Special Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make grants to, or enter into contracts with, any other Federal agency, any State agency, or any private person, to assist such agency or person to implement appropriate programs and activities, including, but not limited to, programs and activities—

(1) to increase awareness of proposed and adopted standards-related activities;

(2) to facilitate international trade through the appropriate international and domestic standards-related activities;

(3) to provide, if appropriate, and pursuant to section 413, adequate United States representation in international standards-related activities; and

(4) to encourage United States exports through increased awareness of foreign standards-related activities that may affect United States exports.

No contract entered into under this section shall be effective except to such extent, and in such amount, as is provided in advance in appropriation Acts.

(b) TERMS AND CONDITIONS.—Any contract entered into, or any grant made, under subsection (a) shall be subject to such terms and conditions as the Special Representative or Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States.

(c) LIMITATIONS.—Financial assistance extended under this section shall not exceed 75 percent of the total costs (as established by the Special Representative or Secretary concerned, as the case may be) of the program or activity for which assistance is made available. The non-Federal share of such costs shall be made in cash or kind, consistent with the maintenance of the program or activity concerned.

(d) AUDIT.—Each recipient of a grant or contract under this section shall make available to the Special Representative or the Secretary concerned, as the case may be, and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under such grant or contract.

SEC. 416. TECHNICAL ASSISTANCE.

The Special Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make available, on a reimbursable basis or otherwise, to any other Federal agency, State agency, or private person such assistance, including, but not limited to, employees, services, and facilities, as may be appropriate to assist such agency or person in carrying out standards-related activities in a manner consistent with this title.

SEC. 417. CONSULTATIONS WITH REPRESENTATIVES OF DOMESTIC INTERESTS.

In carrying out the functions for which responsible under this title, the Special Representative and the Secretary concerned shall solicit technical and policy advice from the committees, established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), that represent the interests concerned, and may solicit advice from appropriate State agencies and private persons.

## Subtitle C—Administrative and Judicial Proceedings Regarding Standards-Related Activities

### CHAPTER 1—REPRESENTATIONS ALLEGING UNITED STATES VIOLATIONS OF OBLIGATIONS

SEC. 421. RIGHT OF ACTION UNDER THIS CHAPTER.

Except as provided under this chapter, the provisions of this subtitle do not create any right of action under the laws of the United States with respect to allegations that any

standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement.

SEC. 422. REPRESENTATIONS.

Any—

(1) Party to the Agreement; or

(2) foreign country that is not a Party to the Agreement but is found by the Special Representative to extend rights and privileges to the United States that are substantially the same as those that would be so extended if that foreign country were a Party to the Agreement;

may make a representation to the Special Representative alleging that a standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement. Any such representation must be made in accordance with procedures that the Special Representative shall by regulation prescribe and must provide a reasonable indication that the standards-related activity concerned is having a significant trade effect. No person other than a Party to the Agreement or a foreign country described in paragraph (2) may make such a representation.

SEC. 423. ACTION AFTER RECEIPT OF REPRESENTATIONS.

(a) REVIEW.—Upon receipt of any representation made under section 422, the Special Representative shall review the issues concerned in consultation with—

(1) the agency or person alleged to be engaging in violations under the Agreement;

(2) the member agencies of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a));

(3) other appropriate Federal agencies; and

(4) appropriate representatives referred to in section 417.

(b) RESOLUTION.—The Special Representative shall undertake to resolve, on a mutually satisfactory basis, the issues set forth in the representation through consultation with the parties concerned.

SEC. 424. PROCEDURE AFTER FINDING BY INTERNATIONAL FORUM.

(a) IN GENERAL.—If an appropriate international forum finds that a standards-related activity being engaged in within the United States conflicts with the obligations of the United States under the Agreement, the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) shall review the finding and the matters related thereto with a view to recommending appropriate action.

(b) CROSS REFERENCE.—

**For provisions of law regarding remedies available to domestic persons alleging that standards activities engaged in by Parties to the Agreement (other than the United States) violate the obligations of the Agreement, see section 301 of the Trade Act of 1974 (19 U.S.C. 2411).**

## CHAPTER 2—OTHER PROCEEDINGS REGARDING CERTAIN STANDARDS-RELATED ACTIVITIES

### SEC. 441. FINDINGS OF RECIPROCITY REQUIRED IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—Except as provided under chapter 1, no Federal agency may consider a complaint or petition against any standards-related activity regarding an imported product, if that activity is engaged in within the United States and is covered by the Agreement, unless the Special Representative finds, and informs the agency concerned in writing, that—

(1) the country of origin of the imported product is a Party to the Agreement or a foreign country described in section 422(2); and

(2) the dispute settlement procedures provided under the Agreement are not appropriate.

(b) EXEMPTIONS.—This section does not apply with respect to causes of action arising under—

(1) the antitrust laws as defined in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); or

(2) statutes administered by the Secretary of Agriculture.

This section does not apply with respect to petitions and proceedings that are provided for under the practices of any Federal agency for the purpose of ensuring, in accordance with section 553 of title 5, United States Code, that interested persons are given an opportunity to participate in agency rulemaking or to seek the issuance, amendment, or repeal of a rule.

SEC. 442. NOT CAUSE FOR STAY IN CERTAIN CIRCUMSTANCES.

No standards-related activity being engaged in within the United States may be stayed in any judicial or administrative proceeding on the basis that such activity is currently being considered, pursuant to the Agreement, by an international forum.

## Subtitle D—Definitions and Miscellaneous Provisions

SEC. 451. DEFINITIONS.

As used in this title—

(1) AGREEMENT.—The term "Agreement" means the Agreement on Technical Barriers to Trade approved under section 2(a) of this Act.

(2) CERTIFICATION SYSTEM.—The term "certification system" means a system—

(A) for determining whether a product conforms with product standards applicable to that product; and

(B) if a product so conforms, for attesting, by means of a document, mark, or other appropriate evidence of conformity, to that conformity.

Such term also includes any modification of, or change to, any such system.

(3) FEDERAL AGENCY.—The term "Federal agency" means any of the following within the meaning of chapter 2 of part I of title 5, United States Code:

(A) Any executive department.

(B) Any military department.

(C) Any Government corporation.

(D) Any Government-controlled corporation.

(E) Any independent establishment.

(4) INTERNATIONAL CERTIFICATION SYSTEM.—The term "international certification system" means a certification system that is adopted by an international standards organization.

(5) INTERNATIONAL STANDARD.—The term "international standard" means any standard that is promulgated by an international standards organization.

(6) INTERNATIONAL STANDARDS ORGANIZATION.—The term "international standards organization" means any organization—

(A) the membership of which is open to representatives, whether public or private, of the United States and—

(i) all Parties to the Agreement, or

(ii) some but not all Parties of the Agreement; and

(B) that is engaged in international standards-related activities.

(7) INTERNATIONAL STANDARDS-RELATED ACTIVITY.—The term "international standards-related activity" means the negotiation, development, or promulgation of, or any amendment or change to, an international standard, or an international certification system, or both.

(8) PARTY TO THE AGREEMENT.—The term "Party to the Agreement" means any foreign country or instrumentality determined by the President to have assumed, and to be applying, the obligations of the Agreement with respect to the United States.

(9) PRIVATE PERSON.—The term "private person" means—

(A) any individual who is a citizen or national of the United States; and

(B) any corporation, partnership, association, or other legal entity organized or existing under the law of any State, whether for profit or not for profit.

(10) PRODUCT.—The term "product" means any natural or manufactured item.

(11) SECRETARY CONCERNED.—The term "Secretary concerned" means the Secretary of Commerce with respect to functions under this title relating to nonagricultural products, and the Secretary of Agriculture with respect to functions under this title relating to agricultural products.

(12) SPECIAL REPRESENTATIVE.—The term "Special Representative" means the Special Representative for Trade Negotiations.

(13) STANDARD.—The term "standard" means any of the following, and any amendment or change to any of the following:

(A) The specification of the characteristics of a product, including, but not limited to, levels of quality, performance, safety, or dimensions.

(B) Specifications relating to the terminology, symbols, testing and test methods, packag-

ing, or marking or labeling requirements applicable to a product.

(C) Administrative procedures related to the application of any specification referred to in paragraph (A) or (B).

(14) STANDARDS-RELATED ACTIVITY.—The term "standards-related activity" means the development, adoption, or application of any standard or any certification system.

(15) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and any other Commonwealth, territory, or possession of the United States.

(16) STATE AGENCY.—The term "State agency" means any department, agency, or other instrumentality of the government of any State or of any political subdivision of any State.

(17) UNITED STATES.—The term "United States", when used in a geographical context, means all States.

SEC. 452. EXEMPTIONS UNDER TITLE.

This title does not appy to—

(1) any standards activity engaged in by any Federal agency or State agency for the use (including, but

not limited to, use with respect to research and development, production, or consumption) of that agency or the use of another such agency; or

(2) any standards activity engaged in by any private person solely for use in the production or consumption of products by that person.

SEC. 453. REPORTS TO CONGRESS ON OPERATION OF AGREEMENT.

As soon as practicable after the close of the 3-year period beginning on the date on which this title takes effect, and as soon as practicable after the close of each succeeding 3-year period, the Special Representative shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement, both domestically and internationally, during the period.

SEC. 454. EFFECTIVE DATE.

This title shall take effect on January 1, 1980, if the Agreement enters into force with respect to the United States by that date.

## TITLE V—IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

SEC. 501. AMENDMENT OF TARIFF SCHEDULES.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule or other provision, the reference shall be considered to be

made to a schedule or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

SEC. 502. EFFECTIVE DATES OF CERTAIN TARIFF REDUCTIONS.

(a) GENERAL.—If the President determines that appropriate concessions have been received from foreign countries under trade agreements entered into before January 3, 1980, under title I of the Trade Act of 1974, then the amendments to the Tariff Schedules of the United States under sections 505, 506, 508, 509, 510, 511, 512, and 513 shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date proclaimed by the President.

(b) TERMINATION OR WITHDRAWAL.—For purposes of section 125 (19 U.S.C. 2135) of the Trade Act of 1974 the amendments made under sections 508, 511, 512, and 513 not including the rates of duty appearing in rate column numbered 2, if any, shall be considered to be trade agreement obligations entered into under the Trade Act of 1974, of benefit to foreign countries or instrumentalities.

(c) TARIFF REDUCTIONS.—For purposes of sections 101 and 601(7) of the Trade Act of 1974 (19 U.S.C. 2111, 2481), the rates of duty in the rate column numbered 1 or 2 as the result of the amendments, if any, made under sections

505, 506, 509, 510, 511, and 514 shall be considered to be the rates of duty existing or in effect on January 1, 1975.

SEC. 503. STAGING OF CERTAIN TARIFF REDUCTIONS.

(a) IN GENERAL.—The aggregate reduction in the rate of duty applicable to items described in this subsection in effect on any day pursuant to a trade agreement entered into under section 101 of the Trade Act of 1974 before January 3, 1980, may exceed the limitation in section 109(a) of such Act (19 U.S.C. 2119):

(1) Items amended under section 223(d) of this Act to the extent that they apply to articles which the President determines were not imported into the United States before January 1, 1978, and were not produced in the United States before May 1, 1978.

(2)(A) Items to the extent that they apply to articles which the President determines are not import sensitive and are the product of a least developed developing country as defined in the United Nations General Assembly list of "Least Developed Countries" and which are beneficiary developing countries under section 502 of the Trade Act of 1974.

(B) The President may at any time suspend the treatment accorded under subparagraph (A) in which case the aggregate reduction in effect for such products

shall be the reduction in effect for countries other than least developed developing countries.

(3) Item 628.57. Notwithstanding the first sentence of this subsection, the limitation in section 109(a) of the Trade Act of 1974 may be exceeded only to the extent necessary to permit an aggregate reduction of 4.8 percent ad valorem in the rate of duty in effect under such item during the first 1-year period after the effective date of the first reduction in the rate of duty proclaimed for such item.

(4) Items 132.50, 170.10, 170.15, 170.20, 177.62, 186.15, and 429.47.

(5) Items 306.31, 306.32, 306.33, and 306.34. Notwithstanding subsection (a), the limitation in section 109(a) of the Trade Act of 1974 may be exceeded only to the extent necessary to permit the total reduction proclaimed under section 101 of the Trade Act of 1974 relating to such item to take effect within 2 years after the effective date of the first reduction in the rate of duty proclaimed for such item.

(6) Items for which the President determines the effective date of the first reduction will be between June 30, 1980, and January 1, 1981, to the extent necessary to permit the second reduction to take effect on January 1, 1981.

(b) OPPORTUNITY FOR COMMENT.—Before making any determination under subsection (a) (1) and (2), the President shall provide interested parties an opportunity to comment and shall publish his final determinations in the Federal Register before July 1, 1980.

SEC. 504. SNAPBACK OF TEXTILE TARIFF REDUCTIONS.

The headnotes to Schedule 3 are amended by adding at the end thereof the following new headnote:

"8. In the case of each item in this schedule and schedule 7 on which the United States has agreed to reduce the rate of duty, pursuant to a trade agreement entered into under section 101 of the Trade Act of 1974 before January 3, 1980, on any cotton, wool, or manmade fiber textile product as defined in the Arrangement Regarding International Trade in Textiles, as extended on December 14, 1977 (the Arrangement), if the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, ceases to be in effect with respect to the United States before the total reduction in the rate of duty for such item under sections 101 and 109 of the Trade Act of 1974 has become effective, then the President shall proclaim the rate of duty in rate column numbered 1 for such item existing on January 1, 1975, to be the rate of duty effective, with respect to articles entered, or withdrawn from warehouse, for consumption,

within 30 days after such cessation and until the President proclaims the continuation of such reduction under the next sentence. If subsequently the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, is in effect with respect to the United States, then the President shall proclaim the continuation of the reduction of such rate of duty pursuant to such trade agreement. For purposes of section 109(c)(2) of the Trade Act of 1974, any time when a rate of duty existing on January 1, 1975, is in effect under this headnote shall be time when part of such reduction is not in effect by reason of legislation of the United States or action thereunder.".

**SEC. 505. GOAT AND SHEEP (EXCEPT LAMB) MEAT.**

Schedule 1, part 2, subpart B is amended by striking out item 106.20 and inserting in lieu thereof the following new items:

| | | | | | |
|---|---|---|---|---|---|
| " | 106.22 | Sheep (except lambs) | 2.5¢ per lb. | 5¢ per lb. | |
| | 106.25 | Goats | 2.5¢ per lb. | 5¢ per lb. | ". |

**SEC. 506. CERTAIN FRESH, CHILLED, OR FROZEN BEEF.**

Schedule 1, part 2, subpart B is amended by striking out item 107.60 and inserting in lieu thereof the following new items:

| | | | | | |
|---|---|---|---|---|---|
| " | | Valued over 30 cents per pound: | | | |
| | | Prepared, whether fresh, chilled or frozen, but not otherwise preserved: | | | |
| | 107.61 | Beef specially processed into fancy cuts, special shapes, or otherwise made ready for particular uses by the retail con- | | | |

| | | | | |
|---|---|---|---|---|
| | | sumer (but not ground or comminuted, diced or cut into sizes for stew meat or similar uses, or rolled or skewered), which meets the specifications in regulations issued by the U.S. Department of Agriculture for Prime or Choice beef, and which has been so certified prior to exportation by an official of the government of the exporting country, in accordance with regulations issued by the Secretary of the Treasury after consultation with the Secretary of Agriculture | 10% ad val. | 20% ad val. |
| | 107.62 | Other | 10% ad val. | 20% ad val. |
| | 107.63 | Other | 10% ad val. | 20% ad val. ". |

**SEC. 507. YELLOW DENT CORN.**

Notwithstanding section 101(b)(1) of the Trade Act of 1974 (19 U.S.C. 2111), the President may proclaim under section 101 of such Act a reduction to 5 cents per bushel of 56 pounds in the rate of duty applicable to yellow dent corn under rate column numbered 1 of the Tariff Schedules of the United States, currently classified under item 130.35.

**SEC. 508. CARROTS.**

Schedule 1, part 8, subpart A is amended as follows:

(1) Item 135.41 is amended by striking out the material appearing in rate columns numbered 1 and 2 and inserting in lieu thereof "1¢ per lb." and "8¢ per lb.", respectively.

(2) Item 135.42 is amended by striking out the material appearing in rate columns numbered 1 and 2 and inserting in lieu thereof "0.5¢ per lb." and "4¢ per lb.", respectively.

**SEC. 509. DINNERWARE.**

Schedule 5, part 2, subpart C is amended—

(1) by striking out "(items 533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, 533.68 and 533.69)" in headnote 2(a) and inserting in lieu thereof the following: "(items 533.22, 533.24, 533.62, and 533.64)";

(2) by striking out "or (c)" in headnote 2(a);

(3) by striking out "533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, or 533.68" in headnote 2(b) and inserting in lieu thereof the following: "533.22, 533.24, 533.62 or 533.64";

(4) by striking out "appraiser" in headnote 2(b) and inserting in lieu thereof "appropriate customs officer";

(5) by inserting a comma and "sold or offered for sale," after "12 teacups and their saucers" in headnote 2(b);

(6) by striking out headnote 2(c) and redesignating headnote 2(d) as 2(c); and

(7) by striking out items 533.11 through 533.77, including the superior heading to such items, and inserting in lieu thereof the following:

"

| | | | |
|---|---|---|---|
| | Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients: | | |
| 533.11 | Of coarse-grained earthenware, or of coarse-grained stoneware | 2.5% ad val. | 15% ad val. |
| 533.15 | Of fine-grained earthenware, whether or not decorated, having a reddish-colored body and | | |

| | | | |
|---|---|---|---|
| | a lustrous glaze which, on teapots, may be any color, but which, on other articles, must be mottled, streaked, or solidly colored brown to black with metallic oxide or salt | 6% ad val. | 25% ad val. |
| | Of fine-grained earthenware (except articles provided for in item 533.15) or of fine-grained stoneware: | | |
| 533.20 | Hotel or restaurant ware and other ware not household ware | 48.7% ad val. | 55% ad val. |
| | Household ware available in specified sets: | | |
| 533.22 | In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is not over $38 | 23.5% ad val. | 55% ad val. |
| 533.24 | In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $38 | 11.4% ad val. | 55% ad val. |
| | Household ware not available in specified sets: | | |
| 533.29 | Steins with permanently attached pewter lids | 13.6% ad val. | 55% ad val. |
| 533.30 | Mugs and other steins | 13.6% ad val. | 55% ad val. |
| 533.32 | Candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers, and salt and pepper shaker sets | 13.6% ad val. | 55% ad val. |
| 533.34 | Cups valued over $5.25 per dozen; saucers valued over $3 per dozen; soups, oatmeals and cereals valued over $6 per dozen; plates not over 9 inches in maximum diameter and valued over $6 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over $8.50 per dozen; platters or chop dishes valued over $35 per dozen; sugars valued over $21 per dozen; creamers valued over $15 per dozen; and beverage servers valued over $42 per dozen | 11.6% ad val. | 55% ad val. |
| 533.39 | Other articles | 23.5% ad val. | 55% ad val. |
| | Of chinaware or of subporcelain: | | |
| 533.52 | Hotel or restaurant ware and other ware not household ware | 48.7% ad val. | 75% ad val. |
| | Household ware: | | |
| 533.54 | Of bone chinaware | 17.5% ad val. | 75% ad val. |
| | Of nonbone chinaware or of subporcelain: | | |
| | Available in specified sets: | | |
| 533.62 | In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is not over $56 | 38.6% ad val. | 75% ad val. |
| 533.64 | In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $56 | 18.4% ad val. | 75% ad val. |
| | Not available in specified sets: | | |
| 533.72 | Steins with permanently attached pewter lids | 23.5% ad val. | 70% ad val. |
| 533.74 | Mugs and other steins | 23.5% ad val. | 70% ad val. |

| | | | |
|---|---|---|---|
| 533.76 | Candy boxes, decanters, punchbowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers, and salt and pepper shaker sets | 22.5% ad val. | 70% ad val. |
| 533.78 | Cups valued over $8 per dozen; saucers valued over $5.25 per dozen; soups, oatmeals and cereals valued over $9.30 per dozen; plates not over 9 inches in maximum diameter and valued over $8.50 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over $11.50 per dozen; platters or chop dishes valued over $40 per dozen; sugars valued over $23 per dozen; creamers valued over $20 per dozen; and beverage servers valued over $50 per dozen | 18% ad val. | 75% ad val. |
| 533.79 | Other articles | 26.1% ad val. | 75% ad val. |

".

**SEC. 510. TARIFF TREATMENT OF WATCHES.**

Schedule 7, part 2, subpart E is amended—

(1) by striking out subsection (a) in headnote 3 and redesignating subsections (b), (c), (d), (e), and (f) as (a), (b), (c), (d), and (e), respectively,

(2) by striking out "items 717.--, 718.--, and 719.--." in headnote 3(b) (as redesignated by paragraph (1)) and inserting in lieu thereof "item 719.--.",

(3) by striking out the last two sentences in headnote 3(b) (as redesignated by paragraph (1)) and inserting in lieu thereof the following: "For citation purposes, the two blanks on the end of such item number shall be filled in with the last two digits of the item

number for the applicable base rate. Thus, 'item 719.31' would be the citation for a watch movement, 0.7 inch wide, having 17 jewels, which is adjusted or self-winding or constructed or designed to operate for a period in excess of 47 hours without rewinding.",

(4) by striking out "in Arabic numerals and" in clauses (iii) and (iv) of headnote 4(a),

(5) by amending headnote 4(e) to read as follows: "(e) Dials shall be marked to show the name of the country of manufacture.",

(6) by amending items 716.10 through 716.26 to read as follows:

| | | | |
|---|---|---|---|
| 716.10 | Not over 0.6 inch in width | 90¢ each | $1.50 each |
| 716.11 | Over 0.6 but not over 0.8 inch in width | 75¢ each | $1.50 each |
| 716.12 | Over 0.8 but not over 0.9 inch in width | 75¢ each | $1.50 each |
| 716.13 | Over 0.9 but not over 1 inch in width | 75¢ each | $1.50 each |
| 716.14 | Over 1 but not over 1.2 inches in width | 75¢ each | $1.50 each |
| 716.15 | Over 1.2 but not over 1.5 inches in width | 75¢ each | $1.50 each |
| 716.16 | Over 1.5 but not over 1.77 inches in width | 75¢ each | $1.50 each |
| | Having over 1 jewel but not over 7 jewels: | | |
| 716.20 | Not over 0.6 inch in width | $1.80 each | $2.50 each |
| 716.21 | Over 0.6 but not over 0.8 inch in width | $1.35 each | $2.50 each |
| 716.22 | Over 0.8 but not over 0.9 inch in width | $1.35 each | $2.50 each |
| 716.23 | Over 0.9 but not over 1 inch in width | $1.20 each | $2.50 each |
| 716.24 | Over 1 but not over 1.2 inches in width | 90¢ each | $2.50 each |
| 716.25 | Over 1.2 but not over 1.5 inches in width | 90¢ each | $2.50 each |
| 716.26 | Over 1.5 but not over 1.77 inches in width | 90¢ each | $2.50 each |

";

(7) by striking out the material appearing in rate column numbered 2 under items 716.30 through

716.36 and inserting in lieu thereof the following: "$2.50 each +15 cents for each jewel over 7",

(8) by striking out item 719.-- and inserting in lieu thereof the following:

| | | | | | |
|---|---|---|---|---|---|
| " | 719.--(see headnote 3(b)) | Adjusted or self-winding, whether or not adjusted (or if a self-winding device can be incorporated therein), or constructed or designed to operate for a period in excess of 47 hours without rewinding..... | Column 1 base rate +50¢ each if self-winding +50¢ for each adjustment | Column 2 base rate +$1 each if self-winding +$1 for each adjustment | "; |

and

(9) by striking out the material appearing in rate column numbered 1 in item 720.75 and inserting in lieu thereof "22.5% ad val.".

**SEC. 511. BROOMS.**

Subpart A of part 8 of schedule 7 is amended—

(1) by striking out the superior heading for items 750.26 and 750.27 and inserting in lieu thereof "Valued not over 45¢ each", and

(2) by striking out the item description for item 750.28 and inserting in lieu thereof "Valued over 45¢ each".

**SEC. 512. AGRICULTURAL AND HORTICULTURAL MACHINERY, EQUIPMENT, IMPLEMENTS, AND PARTS.**

Schedule 8, part 7 is amended—

(1) by adding the following new headnote:

"2. The provisions of items 870.40 and 870.45 do not apply to—

"(i) articles of textile materials; articles provided for in schedule 5; articles of leather or of fur on the skin;

"(ii) articles provided for in schedule 6, part 2, part 3 (subparts A through F except items 652.12 through 652.38, inclusive, 652.84, 652.88, 653.00, and 653.01), part 5 (except item 688.40), or part 6, but interchangeable agricultural and horticultural implements are classifiable in item 870.40 even if mounted at the time of importation on a tractor provided for in part 6B of schedule 6;

"(iii) ball or roller bearings, including such bearings with integral shafts, and parts thereof, provided for in items 680.33 through 680.35, inclusive; or

"(iv) articles provided for in item 666.00."; and

(2) by inserting, in numerical sequence, the following new items:

| | | | | |
|---|---|---|---|---|
| " | 870.40 | Machinery, equipment, and implements to be used for agricultural or horticultural purposes..... | Free | The column 2 rate applicable in the absence of this item |

| | | | |
|---|---|---|---|
| 870.45 | Parts of articles provided for in item 666.00, whether or not covered by a specific provision within the meaning of general interpretative rule 10(ij)..... | Free | The column 2 rate applicable in the absence of this item |

".

SEC. 513. WOOL.

Subpart B, part 1 of the Appendix is amended by striking out "On or before 6/30/80" in the effective period column applicable to items 905.10 and 905.11 and inserting in lieu thereof "On or before 6/30/85".

SEC. 514. CONVERSION TO AD VALOREM EQUIVALENTS OF CERTAIN COLUMN 2 TARIFF RATES.

(a) GENERAL.—The rates of duty appearing in rate column numbered 2 under the items listed below are amended to the rates of duty appearing below next to each such item, respectively:

| Item: | Rate of duty: |
|---|---|
| 110.65 | 1% ad val. |
| 111.52 | 6% ad val. |
| 111.56 | 1% ad val. |
| 112.03 | 2.5% ad val. |
| 112.12 | 2% ad val. |
| 112.24 | 4% ad val. |
| 113.15 | 2% ad val. |
| 114.34 | 7.5% ad val. |
| 114.36 | 12.5% ad val. |
| 114.55 | 13% ad val. |
| 141.60 | 38.5% ad val. |
| 176.47 | 22.5% ad val. |
| 178.10 | 12.5% ad val. |
| 252.13 | 21% ad val. |
| 252.15 | 22% ad val. |
| 252.20 | 24.5% ad val. |
| 252.25 | 38% ad val. |
| 252.27 | 30.5% ad val. |
| 252.30 | 24% ad val. |
| 252.40 | 25% ad val. |
| 252.42 | 20.5% ad val. |
| 252.45 | 15.5% ad val. |
| 252.59 | 24% ad val. |

| Item: | Rate of duty: |
|---|---|
| 252.61 | 20% ad val. |
| 252.63 | 18% ad val. |
| 252.67 | 11.5% ad val. |
| 252.70 | 29% ad val. |
| 252.73 | 22% ad val. |
| 252.75 | 28% ad val. |
| 252.77 | 28% ad val. |
| 253.05 | 17.5% ad val. |
| 253.10 | 27% ad val. |
| 253.15 | 36% ad val. |
| 253.20 | 36% ad val. |
| 253.25 | 19% ad val. |
| 253.35 | 22.5% ad val. |
| 253.40 | 24% ad val. |
| 253.45 | 22.5% ad val. |
| 254.09 | 42% ad val. |
| 254.15 | 38% ad val. |
| 254.18 | 30.5% ad val. |
| 254.20 | 24% ad val. |
| 254.30 | 15% ad val. |
| 254.35 | 31% ad val. |
| 254.40 | 24% ad val. |
| 254.42 | 20% ad val. |
| 254.44 | 18% ad val. |
| 254.46 | 37% ad val. |
| 254.48 | 34% ad val. |
| 254.50 | 35% ad val. |
| 254.54 | 17.5% ad val. |
| 254.56 | 35% ad val. |
| 254.58 | 62.5% ad val. |
| 254.63 | 30% ad val. |
| 254.65 | 20% ad val. |
| 254.70 | 18.5% ad val. |
| 254.75 | 14% ad val. |
| 254.80 | 25% ad val. |
| 254.85 | 20% ad val. |
| 254.90 | 24.5% ad val. |
| 254.95 | 11.5% ad val. |
| 256.20 | 33% ad val. |
| 256.25 | 33% ad val. |
| 256.48 | 21.5% ad val. |
| 256.65 | 25.5% ad val. |
| 256.67 | 43% ad val. |
| 256.80 | 19.5% ad val. |
| 256.85 | 26.5% ad val. |
| 303.20 | 25.5% ad val. |
| 307.62 | 55.5% ad val. |
| 307.64 | 55.5% ad val. |
| 309.10 | 65.5% ad val. |
| 309.25 | 72.5% ad val. |
| 309.70 | 56.5% ad val. |
| 309.80 | 76.5% ad val. |
| 309.90 | 51.5% ad val. |
| 310.06 | 79% ad val. |

| Item: | Rate of duty: |
|---|---|
| 310.21 | 83.5% ad val. |
| 310.40 | 54% ad val. |
| 310.50 | 61.5% ad val. |
| 310.60 | 81% ad val. |
| 310.80 | 80% ad val. |
| 312.30 | 36.5% ad val. |
| 315.35 | 19.5% ad val. |
| 315.40 | 20% ad val. |
| 315.45 | 17% ad val. |
| 316.60 | 76.5% ad val. |
| 335.50 | 11.5% ad val. |
| 335.55 | 90% ad val. |
| 335.60 | 78% ad val. |
| 336.20 | 63% ad val. |
| 336.25 | 62% ad val. |
| 336.30 | 95% ad val. |
| 336.40 | 63.5% ad val. |
| 336.50 | 138.5% ad val. |
| 336.60 | 68.5% ad val. |
| 338.10 | 107% ad val. |
| 338.15 | 80.5% ad val. |
| 338.30 | 81% ad val. |
| 339.05 | 63.5% ad val. |
| 345.30 | 65.5% ad val. |
| 345.50 | 113.5% ad val. |
| 346.52 | 61.5% ad val. |
| 346.60 | 79.5% ad val. |
| 346.82 | 58% ad val. |
| 346.90 | 79.5% ad val. |
| 347.40 | 59% ad val. |
| 347.55 | 68.5% ad val. |
| 347.60 | 76.5% ad val. |
| 347.65 | 78% ad val. |
| 347.70 | 84% ad val. |
| 355.25 | 74% ad val. |
| 355.45 | 82% ad val. |
| 355.60 | 70% ad val. |
| 355.70 | 54% ad val. |
| 355.82 | 84.5% ad val. |
| 356.30 | 65% ad val. |
| 356.40 | 74.5% ad val. |
| 357.15 | 68.5% ad val. |
| 357.20 | 63% ad val. |
| 357.35 | 63% ad val. |
| 357.45 | 62% ad val. |
| 357.90 | 21.5% ad val. |
| 357.95 | 88.5% ad val. |
| 358.08 | 66% ad val. |
| 358.14 | 74% ad val. |
| 358.30 | 64.5% ad val. |
| 358.50 | 68.5% ad val. |
| 359.30 | 57% ad val. |
| 359.50 | 83.5% ad val. |
| 363.10 | 48.5% ad val. |

| Item: | Rate of duty: |
|---|---|
| 363.85 | 77.5% ad val. |
| 364.22 | 64.5% ad val. |
| 364.30 | 74% ad val. |
| 367.05 | 60% ad val. |
| 367.10 | 52.5% ad val. |
| 367.15 | 65.5% ad val. |
| 367.25 | 48.5% ad val. |
| 367.50 | 74.5% ad val. |
| 367.55 | 78% ad val. |
| 367.60 | 72.5% ad val. |
| 370.04 | 75% ad val. |
| 370.08 | 53.5% ad val. |
| 370.12 | 49% ad val. |
| 370.16 | 54% ad val. |
| 370.17 | 50% ad val. |
| 370.19 | 45% ad val. |
| 370.21 | 59.5% ad val. |
| 370.22 | 46% ad val. |
| 370.28 | 38% ad val. |
| 370.32 | 48% ad val. |
| 370.40 | 49% ad val. |
| 370.44 | 60% ad val. |
| 370.52 | 45% ad val. |
| 370.56 | 55.5% ad val. |
| 370.64 | 58% ad val. |
| 370.68 | 67.5% ad val. |
| 370.76 | 51.5% ad val. |
| 370.88 | 68.5% ad val. |
| 372.25 | 83.5% ad val. |
| 372.30 | 63.5% ad val. |
| 372.35 | 54% ad val. |
| 372.40 | 65.5% ad val. |
| 372.45 | 55% ad val. |
| 372.70 | 68.5% ad val. |
| 372.75 | 73% ad val. |
| 373.15 | 52% ad val. |
| 373.25 | 71.5% ad val. |
| 374.50 | 53.5% ad val. |
| 374.60 | 72% ad val. |
| 376.08 | 67.5% ad val. |
| 376.16 | 83.5% ad val. |
| 378.35 | 55.5% ad val. |
| 378.40 | 54% ad val. |
| 378.45 | 52% ad val. |
| 378.60 | 72% ad val. |
| 378.65 | 71% ad val. |
| 380.57 | 63% ad val. |
| 380.59 | 52% ad val. |
| 380.61 | 54.5% ad val. |
| 380.63 | 58% ad val. |
| 380.66 | 58.5% ad val. |
| 380.81 | 72% ad val. |
| 380.84 | 76% ad val. |
| 382.48 | 78.5% ad val. |

| Item: | Rate of duty: |
|---|---|
| 382.54 | 63% ad val. |
| 382.56 | 52% ad val. |
| 382.58 | 54.5% ad val. |
| 382.60 | 58% ad val. |
| 382.63 | 58.5% ad val. |
| 382.78 | 72% ad val. |
| 382.81 | 76% ad val. |
| 385.53 | 103% ad val. |
| 385.61 | 71.5% ad val. |
| 385.85 | 71% ad val. |
| 388.10 | 70.5% ad val. |
| 388.20 | 56.5% ad val. |
| 388.30 | 60.5% ad val. |
| 389.40 | 72% ad val. |
| 389.50 | 74% ad val. |
| 389.61 | 71.5% ad val. |
| 389.62 | 78.5% ad val. |
| 416.10 | 8.5% ad val. |
| 416.30 | 10% ad val. |
| 416.40 | 55% ad val. |
| 417.10 | 9.5% ad val. |
| 417.16 | 10% ad val. |
| 417.22 | 28% ad val. |
| 417.24 | 16% ad val. |
| 417.26 | 18% ad val. |
| 417.28 | 29% ad val. |
| 417.30 | 15% ad val. |
| 417.32 | 4% ad val. |
| 417.34 | 8.5% ad val. |
| 417.40 | 49.5% ad val. |
| 417.52 | 29% ad val. |
| 417.54 | 25.5% ad val. |
| 417.70 | 28.5% ad val. |
| 417.72 | 7.5% ad val. |
| 417.74 | 10.5% ad val. |
| 417.76 | 19% ad val. |
| 417.78 | 6% ad val. |
| 418.14 | 10% ad val. |
| 418.24 | 2% ad val. |
| 418.26 | 24.5% ad val. |
| 418.30 | 43.5% ad val. |
| 418.62 | 6.5% ad val. |
| 418.72 | 29% ad val. |
| 418.74 | 31% ad val. |
| 418.76 | 5% ad val. |
| 418.78 | 32.5% ad val. |
| 419.00 | 6% ad val. |
| 419.02 | 10% ad val. |
| 419.24 | 3% ad val. |
| 419.28 | 5% ad val. |
| 419.34 | 20% ad val. |
| 419.60 | 20.5% ad val. |
| 419.80 | 18% ad val. |
| 419.82 | 25.5% ad val. |

| Item: | Rate of duty: |
|---|---|
| 420.04 | 6% ad val. |
| 420.06 | 9% ad val. |
| 420.08 | 3.5% ad val. |
| 420.20 | 7.5% ad val. |
| 420.22 | 23% ad val. |
| 420.24 | 7% ad val. |
| 420.26 | 3% ad val. |
| 420.28 | 23% ad val. |
| 420.32 | 50.5% ad val. |
| 420.84 | 8.5% ad val. |
| 420.88 | 13% ad val. |
| 420.94 | 26% ad val. |
| 420.98 | 8.5% ad val. |
| 421.04 | 8.5% ad val. |
| 421.10 | 25.5% ad val. |
| 421.14 | 54% ad val. |
| 421.16 | 6% ad val. |
| 421.18 | 11.5% ad val. |
| 421.34 | 3% ad val. |
| 421.36 | 62.5% ad val. |
| 421.46 | 4% ad val. |
| 421.52 | 7.5% ad val. |
| 421.54 | 4.5% ad val. |
| 421.56 | 46.5% ad val. |
| 422.40 | 55.5% ad val. |
| 422.42 | 45.5% ad val. |
| 422.72 | 5% ad val. |
| 422.76 | 8% ad val. |
| 423.88 | 18% ad val. |
| 423.92 | 45.5% ad val. |
| 425.00 | 56.5% ad val. |
| 425.02 | 35% ad val. |
| 425.12 | 50.5% ad val. |
| 425.14 | 39% ad val. |
| 425.18 | 58% ad val. |
| 425.38 | 40% ad val. |
| 425.52 | 30.5% ad val. |
| 425.70 | 16% ad val. |
| 425.72 | 17.5% ad val. |
| 425.74 | 39.5% ad val. |
| 425.76 | 22.5% ad val. |
| 425.78 | 2% ad val. |
| 425.86 | 34.5% ad val. |
| 425.88 | 2% ad val. |
| 425.94 | 17% ad val. |
| 426.00 | 22% ad val. |
| 426.12 | 7% ad val. |
| 426.14 | 5% ad val. |
| 426.32 | 32% ad val. |
| 426.34 | 29% ad val. |
| 426.36 | 3% ad val. |
| 426.42 | 7.5% ad val. |
| 426.56 | 28% ad val. |
| 426.72 | 4% ad val. |

| Item: | Rate of duty: |
|---|---|
| 426.76 | 11% ad val. |
| 426.77 | 21% ad val. |
| 426.78 | 22.5% ad val. |
| 426.82 | 11.5% ad val. |
| 426.94 | 42% ad val. |
| 426.98 | 27.5% ad val. |
| 427.40 | 71% ad val. |
| 427.42 | 32.5% ad val. |
| 427.44 | 61.5% ad val. |
| 427.46 | 60% ad val. |
| 427.54 | 40% ad val. |
| 427.56 | 32.5% ad val. |
| 427.58 | 37% ad val. |
| 427.70 | 45% ad val. |
| 427.72 | 37.5% ad val. |
| 427.74 | 50.5% ad val. |
| 427.82 | 41.5% ad val. |
| 427.88 | 20% ad val. |
| 427.94 | 20.5% ad val. |
| 427.97 | 46% ad val. |
| 428.04 | 37% ad val. |
| 428.06 | 66% ad val. |
| 428.20 | 35% ad val. |
| 428.22 | 39% ad val. |
| 428.24 | 39% ad val. |
| 428.26 | 33.5% ad val. |
| 428.30 | 51% ad val. |
| 428.34 | 63% ad val. |
| 428.46 | 54.5% ad val. |
| 428.52 | 40% ad val. |
| 428.58 | 20.5% ad val. |
| 428.68 | 52% ad val. |
| 428.80 | 46% ad val. |
| 428.84 | 49% ad val. |
| 428.86 | 55% ad val. |
| 428.88 | 31% ad val. |
| 428.94 | 88.5% ad val. |
| 428.96 | 37% ad val. |
| 429.00 | 36.5% ad val. |
| 429.22 | 8.5% ad val. |
| 429.24 | 32% ad val. |
| 429.26 | 125% ad val. |
| 429.44 | 76% ad val. |
| 429.46 | 35% ad val. |
| 429.47 | 114.5% ad val. |
| 437.02 | 59% ad val. |
| 437.68 | 8% ad val. |
| 437.69 | 5% ad val. |
| 445.05 | 37% ad val. |
| 445.10 | 35.5% ad val. |
| 445.15 | 34% ad val. |
| 445.20 | 73.5% ad val. |
| 445.25 | 34.5% ad val. |
| 445.30 | 43% ad val. |

| Item: | Rate of duty: |
|---|---|
| 445.35 | 41.5% ad val. |
| 445.40 | 37.5% ad val. |
| 445.45 | 43.5% ad val. |
| 445.50 | 33.5% ad val. |
| 465.87 | 66% ad val. |
| 472.22 | 13% ad val. |
| 472.30 | 11% ad val. |
| 472.44 | 8.5% ad val. |
| 473.24 | 39.5% ad val. |
| 473.28 | 12% ad val. |
| 473.46 | 5.5% ad val. |
| 473.48 | 12% ad val. |
| 473.52 | 12% ad val. |
| 473.54 | 12.5% ad val. |
| 473.56 | 12.5% ad val. |
| 473.60 | 4.5% ad val. |
| 473.66 | 6% ad val. |
| 473.72 | 11% ad val. |
| 473.74 | 22.5% ad val. |
| 473.76 | 5.5% ad val. |
| 473.78 | 4.5% ad val. |
| 473.80 | 11% ad val. |
| 473.84 | 7.5% ad val. |
| 490.30 | 28% ad val. |
| 490.32 | 29.5% ad val. |
| 490.42 | 34.5% ad val. |
| 490.44 | 50% ad val. |
| 490.46 | 27.5% ad val. |
| 490.65 | 39.5% ad val. |
| 490.90 | 27% ad val. |
| 493.18 | 33.5% ad val. |
| 493.22 | 11% ad val. |
| 522.24 | 13.5% ad val. |
| 534.84 | 51.5% ad val. |
| 534.87 | 50.5% ad val. |
| 607.01 | 1% ad val. |
| 607.02 | 1% ad val. |
| 607.03 | 1% ad val. |
| 607.04 | 1% ad val. |
| 607.12 | 0.5% ad val. + additional duties |
| 607.18 | 0.5% ad val. + additional duties |
| 607.20 | 0.5% ad val. |
| 607.21 | 0.5% ad val. + additional duties |
| 607.31 | 7.5% ad val. |
| 607.35 | 22% ad val. |
| 607.36 | 6.5% ad val. |
| 607.37 | 10.5% ad val. |
| 607.40 | 31.5% ad val. |
| 607.51 | 11.5% ad val. |
| 607.52 | 9% ad val. |
| 607.53 | 40% ad val. |
| 607.57 | 23% ad val. |
| 607.65 | 35% ad val. |
| 608.06 | 1% ad val. |

| Item: | Rate of duty: |
|---|---|
| 608.10 | 3% ad val. |
| 608.30 | 7% ad val. |
| 608.32 | 10.5% ad val. + additional duties |
| 608.60 | 23% ad val. |
| 608.70 | 4.5% ad val. |
| 608.71 | 5.5% ad val. |
| 608.73 | 29.5% ad val. |
| 608.75 | 6% ad val. |
| 608.76 | 11% ad val. + additional duties |
| 608.78 | 10% ad val. + additional duties |
| 608.92 | 6% ad val. |
| 608.93 | 6% ad val. |
| 608.95 | 21.5% ad val. |
| 609.25 | 25.5% ad val. |
| 609.26 | 26% ad val. |
| 609.27 | 26% ad val. |
| 609.35 | 34% ad val. + additional duties |
| 609.36 | 34% ad val. + additional duties |
| 609.37 | 12.5% ad val. + additional duties |
| 609.41 | 7% ad val. |
| 609.72 | 26% ad val. |
| 609.76 | 33% ad val. + additional duties |
| 609.80 | 2% ad val. |
| 609.82 | 9% ad val. + additional duties |
| 609.96 | 2% ad val. |
| 609.98 | 8% ad val. + additional duties |
| 610.20 | 1% ad val. |
| 610.21 | 9% ad val. + additional duties |
| 610.25 | 2% ad val. |
| 610.26 | 8% ad val. + additional duties |
| 610.30 | 13% ad val. |
| 610.31 | 6.5% ad val. |
| 610.32 | 5.5% ad val. |
| 610.35 | 10% ad val. + additional duties |
| 610.36 | 9.5% ad val. + additional duties |
| 610.37 | 10% ad val. + additional duties |
| 610.39 | 1% ad val. |
| 610.40 | 8.5% ad val. + additional duties |
| 612.02 | 6% ad val. |
| 612.03 | 6% ad val. |
| 612.05 | 24% ad val. |
| 612.06 | 6% ad val. |
| 612.08 | 24% ad val. |
| 612.10 | 6% ad val. |
| 612.15 | 12% ad val. |
| 612.17 | 38% ad val. |
| 612.20 | 28% ad val. |
| 612.30 | 38% ad val. |
| 612.31 | 7.5% ad val. |
| 612.32 | 48% ad val. |
| 612.34 | 38% ad val. |
| 612.35 | 32% ad val. |
| 612.36 | 48% ad val. |
| 612.38 | 38% ad val. |

| Item: | Rate of duty: |
|---|---|
| 612.39 | 9% ad val. |
| 612.40 | 38% ad val. |
| 612.41 | 48% ad val. |
| 612.43 | 38% ad val. |
| 612.44 | 9% ad val. |
| 612.45 | 49% ad val. |
| 612.50 | 48% ad val. |
| 612.52 | 49% ad val. |
| 612.55 | 12% ad val. |
| 612.56 | 49% ad val. |
| 612.60 | 7% ad val. |
| 612.61 | 32% ad val. |
| 612.62 | 9% ad val. |
| 612.63 | 48% ad val. |
| 612.64 | 9% ad val. |
| 612.70 | 32% ad val. |
| 612.71 | 32% ad val. |
| 612.72 | 28% ad val. |
| 612.73 | 28% ad val. |
| 612.80 | 48% ad val. |
| 612.81 | 17% ad val. |
| 612.82 | 49% ad val. |
| 613.02 | 13% ad val. |
| 613.03 | 13% ad val. |
| 613.04 | 47% ad val. |
| 613.06 | 45.5% ad val. |
| 613.08 | 49% ad val. |
| 613.10 | 10% ad val. |
| 613.12 | 49% ad val. |
| 613.15 | 46% ad val. |
| 613.18 | 49% ad val. |
| 618.01 | 18.5% ad val. |
| 618.02 | 11% ad val. |
| 618.04 | 25% ad val. |
| 618.06 | 10.5% ad val. |
| 618.10 | 16% ad val. |
| 618.15 | 11% ad val. |
| 618.22 | 25% ad val. |
| 618.25 | 13.5% ad val. |
| 618.27 | 9.5% ad val. |
| 618.40 | 11% ad val. |
| 618.45 | 15.5% ad val. |
| 624.02 | 10.5% ad val. |
| 624.03 | 10% ad val. |
| 624.04 | 11.5% ad val. |
| 624.10 | 10% ad val. |
| 624.18 | 47% ad val. |
| 624.22 | 44% ad val. |
| 624.30 | 10% ad val. |
| 624.32 | 45% ad val. |
| 624.40 | 45% ad val. |
| 624.50 | 10% ad val. |
| 624.52 | 44% ad val. |
| 626.10 | 11% ad val. |

| Item: | Rate of duty: |
|---|---|
| 626.17 | 4% ad val. |
| 626.18 | 24% ad val. |
| 626.31 | 25.5% ad val. |
| 628.57 | 60.5% ad val. |
| 629.25 | 50% ad val. |
| 629.28 | 58% ad val. |
| 629.32 | 35.5% ad val. |
| 632.32 | 20% ad val. |
| 632.42 | 21% ad val. |
| 642.12 | 40% ad val. |
| 642.50 | 28% ad val. |
| 642.54 | 19.5% ad val. |
| 642.56 | 28% ad val. |
| 642.58 | 18% ad val. |
| 642.62 | 31% ad val. |
| 642.66 | 25% ad val. |
| 642.68 | 43% ad val. |
| 642.70 | 27.5% ad val. |
| 642.76 | 51.5% ad val. |
| 642.85 | 37% ad val. |
| 642.96 | 2% ad val. |
| 644.02 | 6.5% ad val. |
| 644.08 | 61.5% ad val. |
| 644.11 | 47.5% ad val. |
| 644.17 | 28% ad val. |
| 644.24 | 47% ad val. |
| 644.36 | 21% ad val. |
| 644.38 | 22.5% ad val. |
| 644.40 | 24.5% ad val. |
| 644.42 | 23% ad val. |
| 644.46 | 8% ad val. |
| 644.52 | 26% ad val. |
| 644.64 | 13.5% ad val. |
| 644.68 | 104% ad val. |
| 644.80 | 10% ad val. |
| 644.84 | 15% ad val. |
| 644.88 | 3% ad val. |
| 644.92 | 6% ad val. |
| 644.95 | 20% ad val. |
| 644.98 | 4% ad val. |
| 646.02 | 4% ad val. |
| 646.20 | 4% ad val. |
| 646.25 | 2% ad val. |
| 646.26 | 3.5% ad val. |
| 646.28 | 2% ad val. |
| 646.30 | 5.5% ad val. |
| 646.32 | 8% ad val. |
| 646.45 | 8% ad val. |
| 646.54 | 3.5% ad val. |
| 646.56 | 0.5% ad val. |
| 646.74 | 7% ad val. |
| 646.80 | 39.5% ad val. |
| 646.81 | 29.5% ad val. |
| 646.82 | 28.5% ad val. |

| Item: | Rate of duty: |
|---|---|
| 646.83 | 27% ad val. |
| 646.84 | 36% ad val. |
| 646.85 | 29.5% ad val. |
| 646.86 | 40% ad val. |
| 646.87 | 41% ad val. |
| 646.88 | 77% ad val. |
| 646.89 | 32.5% ad val. |
| 649.33 | 6% ad val. |
| 651.07 | 72% ad val. |
| 652.24 | 10% ad val. |
| 652.41 | 10% ad val. |
| 653.97 | 35.5% ad val. |
| 654.10 | 45.5% ad val. |
| 657.30 | 45.5% ad val. |
| 657.35 | 46% ad val. |
| 657.70 | 2.5% ad val. |
| 660.65 | 68.5% ad val. |
| 672.20 | 42% ad val. |
| 680.20 | 47% ad val. |
| 680.30 | 45% ad val. |
| 690.25 | 3% ad val. |
| 712.10 | 70% ad val. |
| 720.75 | 45% ad val. |
| 725.04 | 37.5% ad val. |
| 730.23 | 82.5% ad val. |
| 730.25 | 82.5% ad val. |
| 730.27 | 74% ad val. |
| 730.29 | 73% ad val. |
| 730.37 | 75% ad val. |
| 730.39 | 75% ad val. |
| 730.41 | 79% ad val. |
| 730.43 | 71.5% ad val. |
| 730.51 | 65% ad val. |
| 730.53 | 65% ad val. |
| 730.55 | 65% ad val. |
| 730.57 | 65% ad val. |
| 730.63 | 69.5% ad val. |
| 730.71 | 73.5% ad val. |
| 730.74 | 57.5% ad val. |
| 750.10 | 36% ad val. |
| 760.10 | 41.5% ad val. |
| 760.20 | 21.5% ad val. |
| 760.30 | 20% ad val. |
| 770.05 | 42.5% ad val. |
| 770.07 | 64% ad val. |
| 770.10 | 56% ad val. |
| 771.20 | 30.5% ad val. |
| 771.31 | 28.5% ad val. |
| 771.35 | 18% ad val. |
| 771.50 | 17% ad val. |
| 772.06 | 84.5% ad val. |
| 772.80 | 57.5% ad val. |
| 773.20 | 105.5% ad val. |
| 774.35 | 56% ad val. |

| Item: | Rate of duty: |
|---|---|
| 790.59 | 56% ad val. |
| 790.60 | 55.5% ad val. |
| 790.61 | 52% ad val. |
| 790.62 | 51% ad val. |

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to articles entered, or withdrawn from warehouse, for consumption after December 31, 1979.

## TITLE VI—CIVIL AIRCRAFT AGREEMENT

### SEC. 601. CIVIL AIRCRAFT AND PARTS.

(a) GENERAL.—When the conditions under section 2(b) of this Act on acceptance of the Agreement on Trade in Civil Aircraft are fulfilled, the President may proclaim after September 30, 1979, the changes provided for under the following amendments:

(1) The headnotes to schedule 6, part 6, subpart C of the Tariff Schedules of the United States are amended by inserting the following new headnote:

"3. Certified for Use in Civil Aircraft.

"(a) Whenever the term 'certified for use in civil aircraft' is used in an item description in the schedules, the importer shall file a written statement, accompanied by such supporting documentation as the Secretary of the Treasury may require, with the appropriate customs officer stating that the imported article has been imported for use in civil aircraft, that it will be so used, and that the article has been approved for such use by the Administrator of the Federal

Aviation Administration (F.A.A.) or by the airworthiness authority in the country of exportation, if such approval is recognized by the F.A.A. as an acceptable substitute for F.A.A. certification, or that an application for approval for such use has been submitted to, and accepted by, the Administrator of the F.A.A.

"(b) For purposes of the schedules, the term 'civil aircraft' means all aircraft other than aircraft purchased for use by the Department of Defense or the United States Coast Guard.".

(2) A duty rate of "Free" in rate column numbered 1 of the Tariff Schedules of the United States for those articles classified in the following items which the President determines would provide coverage comparable to that provided by foreign countries in the Annex to the Agreement on Trade in Civil Aircraft if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States:

| | | |
|---|---|---|
| 518.51 | 680.47 | 709.45 |
| 544.41 | 680.50 | 710.08 |
| 642.20 | 680.55 | 710.14 |
| 647.03 | 680.56 | 710.16 |
| 647.05 | 682.07 | 710.30 |
| 652.09 | 682.40 | 710.46 |
| 653.39 | 682.60 | 711.36 |
| 653.94 | 683.60 | 711.37 |
| 660.44 | 684.30 | 711.82 |
| 660.46 | 684.40 | 711.84 |
| 660.52 | 684.50 | 711.98 |
| 660.54 | 684.70 | 712.05 |
| 660.85 | 685.24 | 712.47 |

| | | |
|---|---|---|
| 660.97 | 685.29 | 712.49 |
| 661.10 | 685.40 | 715.15 |
| 661.12 | 685.60 | 720.08 |
| 661.15 | 685.70 | 727.47 |
| 661.20 | 686.22 | 727.48 |
| 661.35 | 686.24 | 727.55 |
| 661.90 | 686.60 | 745.45 |
| 661.95 | 688.12 | 772.45 |
| 662.50 | 688.40 | 772.65. |
| 664.10 | 694.15 | |
| 676.15 | 694.20 | |
| 676.30 | 694.40 | |
| 678.50 | 694.60 | |

(3) Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(d) The duty imposed under subsection (a) shall not apply to the cost of repair parts, materials, or expenses of repairs in a foreign country upon a United States civil aircraft, within the meaning of headnote 3 to Schedule 6, part 6, subpart C of the Tariff Schedules of the United States.".

(b) TERMINATION AND WITHDRAWAL.—For purposes of section 125 of the Trade Act of 1974, the amendments made under subsection (a), if any, shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

## TITLE VII—CERTAIN AGRICULTURAL MEASURES

### SEC. 701. LIMITATION ON CHEESE IMPORTS.

(a) PROCLAMATION.—The President shall by proclamation limit the amount of quota cheese which may enter the customs territory of the United States in any calendar year

after 1979 to not more than 111,000 metric tons. Any such proclamation shall be considered a proclamation which is issued by the President under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) and which meets the requirements of such section.

(b) RESTRICTION ON EMERGENCY ACTION.—No increase in the amount proclaimed under subsection (a) to an amount greater than 111,000 metric tons for any calendar year may be proclaimed except in accordance with section 22 of the Agricultural Adjustment Act. The President may not proclaim any such increase to an amount greater than 111,000 metric tons by use of the procedure established for immediate action by the second paragraph of subsection (b) of such section, at any time before January 1, 1983, unless the Secretary determines that extraordinary circumstances warrant such action and reports such determination to the President.

(c) DEFINITIONS.—For purposes of this title—

(1) QUOTA CHEESE.—The term "quota cheese" means the articles provided for in the following items of the Tariff Schedules of the United States:

(A) 117.00 (except Stilton produced in the United Kingdom);

(B) 117.05 (except Stilton produced in the United Kingdom);

(C) 117.15;

(D) 117.20;

(E) 117.25;

(F) 117.40 (except Goya in original loaves);

(G) 117.55;

(H) 117.60 (except Gammelost and Nokkelost);

(I) 117.75 (except goat's milk cheeses and soft-ripened cow's milk cheeses);

(J) 117.81; and

(K) 117.85 (except goat's milk cheeses and soft-ripened cow's milk cheeses).

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 702. ENFORCEMENT.

(a) DETERMINATION AND LISTING OF SUBSIDIES.—

(1) INITIAL DETERMINATION AND ANNUAL LISTING.—Not later than January 1, 1980, the administering authority shall—

(A) determine, in consultation with the Secretary, whether any foreign government is providing a subsidy with respect to any article of quota cheese, and

(B) publish a list of the type and the amount of each such subsidy which is determined to exist.

Not later than January 1 of each year beginning with 1981, the administering authority shall republish such list, incorporating the changes and additional subsidies determined for the preceding calendar year under paragraph (2).

(2) QUARTERLY DETERMINATION OF CHANGES AND ADDITIONAL SUBSIDIES.—Not later than April 1, July 1, and October 1 of each year beginning with 1980, and not later than January 1 of each year beginning with 1981, the administering authority shall determine, in consultation with the Secretary—

(A) whether any changes in the type or amount of any subsidy included in the current annual list under paragraph (1) (as modified by quarterly lists under this paragraph) have occurred, and

(B) whether any subsidy not included in such list is being provided with respect to any article of quota cheese by a foreign government, and the type and amount of any such subsidy which is determined to exist.

Not later than April 1, July 1, and October 1, the administering authority shall publish such changes and additional subsidies for the preceding calendar quarter.

(3) ADDITIONAL DETERMINATIONS.—Any person, including the Secretary, may request the administering authority to make a determination under subparagraph (A) or (B) of paragraph (2). Not later than 30 days after receiving such a request, the administering authority shall (A) make the determination, in consultation with the Secretary, (B) notify the person making the request of such determination, and (C) publish such modification, if any. Any such determination shall be in addition to the quarterly determinations required under paragraph (2). Requests made under this paragraph shall be supported by information reasonably available to the person requesting the determination.

(b) COMPLAINTS OF PRICE-UNDERCUTTING BY SUBSIDIZED IMPORTS.—

(1) IN GENERAL.—Any person may make a written complaint to the Secretary alleging that—

(A) the price at which any article of quota cheese is offered for sale in the United States on a duty-paid wholesale basis (hereinafter in this section referred to as the "duty-paid wholesale price") is less than the domestic wholesale market price of similar articles produced in the United States, and

(B) a foreign government is providing a subsidy with respect to such article of quota cheese.

(2) DETERMINATIONS.—(A) The Secretary shall investigate and determine, not later than 30 days after receiving a complaint under paragraph (1), the validity of the allegations made under paragraph (1)(A).

(B) Except as otherwise provided in this subparagraph, the existence and the type and amount of any subsidy alleged under paragraph (1)(B) shall be determined by reference to the current list, as determined and published under subsection (a). If the complaint alleges a subsidy which is not included in such current list, or which is different in type or amount from a subsidy which is included in such current list, the Secretary shall immediately request the administering authority to make a determination with respect to the subsidy pursuant to subsection (a)(3). The administering authority shall make such determination in accordance with such subsection and shall report such determination to the Secretary.

(c) REPORTS OF DETERMINATIONS.—

(1) PUBLICATION.—The Secretary shall publish the determinations made under subsection (b) in the Federal Register not later than 5 days after the date

on which the Secretary makes his determination under subsection (b)(2)(A).

(2) NOTIFICATION OF FOREIGN GOVERNMENT.—Whenever it is determined under subsection (b) that the duty-paid wholesale price of any article of quota cheese is less than the domestic wholesale market price of a similar article produced in the United States and that a foreign government is providing a subsidy with respect to such article of quota cheese, the Secretary shall immediately notify the Special Representative for Trade Negotiations. The Special Representative shall notify the foreign government or governments involved of such determination not later than 3 days after the date on which the Secretary makes his determination under subsection (b)(2)(A).

(3) REPORT TO PRESIDENT.—If, within 15 days after receiving notification under paragraph (2), the foreign government does not eliminate the subsidy or take such action as may be necessary to ensure that the duty-paid wholesale price of the article of quota cheese will not be less than the domestic wholesale market price of similar articles produced in the United States, the Secretary shall immediately—

(A) report the determinations under subsection (b) to the President, and

(B) recommend the imposition of a fee or quantitative limitation with respect to the importation of such article of quota cheese from the country involved, in such amount as the Secretary determines necessary.

(d) PRESIDENTIAL ACTION.—

(1) IN GENERAL.—Not later than 7 days after receiving a report under subsection (c)(3) with respect to an article of quota cheese (or not later than 3 days after receiving a report under paragraph (2) of this subsection in any case in which such paragraph applies), the President shall—

(A) proclaim the imposition of a fee on the importation of such article from the country involved in such amount (not to exceed the amount of the subsidy determined under subsection (b)(2)(B)) as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, or

(B) proclaim a prohibition on the entry, in whole or part, of such article of quota cheese from such country into the United States,

and shall direct the Commissioner of Customs to administer and enforce such fee or quantitative limitation. Any fee imposed under subparagraph (A) or any quantitative limitation imposed under subparagraph (B) shall be in addition to any other fee or quantitative limitation imposed by law on the importation of quota cheese.

(2) ADDITIONAL INVESTIGATION.—If the President finds that the determinations or recommendations of the Secretary reported under subsection (c)(3) are unsubstantiated by fact, he shall, not later than 7 days after receiving such report, notify the Secretary and direct him to make a further investigation. The Secretary shall, within 7 days of receiving such notification, make such investigation and report his findings to the President, including any modification in such determinations or recommendations. The President shall thereupon make the proclamation required by paragraph (1), unless the Secretary finds that there is no basis for the determinations or recommendations reported under subsection(c)(3) whether or not modified.

(e) ADMINISTRATION.—Any fee or quantitative limitation proclaimed pursuant to subsection (d) and any termination or modification thereof pursuant to subsection (g) shall apply with respect to articles entered, or withdrawn from

warehouse, for consumption after the date which is 3 days after the President makes the proclamation required by subsection (d). Such fees shall be treated for administrative purposes as duties imposed by the Tariff Act of 1930, but shall not be considered as duties for the purpose of granting any preferential concession under any law or international obligation of the United States.

(f) INAPPLICABILITY OF COUNTERVAILING DUTIES DURING EFFECTIVE PERIOD OF CHEESE AGREEMENTS.—No countervailing duty shall be imposed under title I of this Act or under section 303 of the Tariff Act of 1930 with respect to an article of quota cheese which is the product of any country at any time during which an agreement relating to cheese described in section 2(c)(8) containing a commitment from a foreign government with respect to price undercutting is in effect between the United States and such country.

(g) TERMINATION OR MODIFICATION OF PRESIDENTIAL ACTION.—

(1) TERMINATION.—If, at any time after the President takes an action under subsection (d) with respect to the importation from a foreign country of an article of quota cheese, the Secretary receives reasonable evidence and assurance that, with respect to

future entries of such article into the customs territory of the United States—

(A) the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, or

(B) the foreign government will no longer provide a subsidy with respect to such article of quota cheese,

the Secretary shall notify the President of such finding and the President shall, by proclamation, terminate such action with respect to the importation of such article from such country.

(2) MODIFICATION.—The Secretary shall recommend to the President such modifications of fees or quantitative limitations imposed under subsection (d) with respect to any article of quota cheese as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, and the President shall, by proclamation, make such modifications. The amount of any fee, as so modified, shall not be greater than the amount of the subsidy provided by the foreign government with respect to the article of quota cheese.

(h) DEFINITIONS.—For purposes of this section—

(1) ADMINISTERING AUTHORITY.—The term "administering authority" has the same meaning such term has in section 771(1) of the Tariff Act of 1930.

(2) SUBSIDY.—The term "subsidy" has the same meaning such term has in section 771(5) of the Tariff Act of 1930.

(3) DOMESTIC WHOLESALE MARKET, DOMESTIC WHOLESALE MARKET PRICE, AND DUTY-PAID WHOLESALE PRICE.—The domestic wholesale market and the domestic wholesale market price of any article similar to an article of quota cheese, and the duty-paid wholesale price of any article of quota cheese shall be determined under regulations prescribed by the Secretary not later than January 1, 1980, in accordance with chapter 5 of title 5 of the United States Code.

SEC. 703. LIMITATION ON IMPORTS OF CHOCOLATE CRUMB.

The President shall by proclamation—

(1) increase the amount of the articles of chocolate provided for in item 950.15 of the Tariff Schedules of the United States which may enter the customs territory of the United States in any calendar year after 1979 to include—

(A) 2,000 metric tons from Australia, and

(B) one kilogram from New Zealand, and

(2) increase the amount of the articles of chocolate and the articles containing chocolate provided for in item 950.16 of the Tariff Schedules of the United States which may enter the customs territory of the United States in any calendar year after 1979 to include one kilogram from New Zealand.

Such proclamation shall be considered a proclamation which is issued by the President pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) and which meets the requirements of such section.

SEC. 704. AMENDMENTS TO MEAT IMPORT LAW.

(a) IN GENERAL.—Subsection (a) of section 2 of the Act entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (78 Stat. 594) is amended to read as follows:

"(a)(1) It is the policy of the Congress that the aggregate quantity of the articles specified in items 106.10 (relating to fresh, chilled, or frozen cattle meat), 106.22 (relating to fresh, chilled, or frozen meat of sheep (except lambs)), 106.25 (relating to fresh, chilled, or frozen meat of goats), and 107.61 (relating to certain prepared fresh, chilled, or frozen beef) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1964, should not

exceed 725,400,000 pounds, increased or decreased as provided in paragraph (2).

"(2) The amount referred to in paragraph (1) shall be increased or decreased for any calendar year by the same percentage that estimated average annual domestic commercial production of the articles specified in items 106.10, 106.22, and 106.25 of the Tariff Schedules of the United States in that calendar year and the two preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of such articles during the years 1959 through 1963, inclusive.".

(b) MINIMUM ACCESS FLOOR.—Paragraph (1) of subsection (c) of section 2 of such Act is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, no limitation proclaimed for a calendar year after 1979 shall be less than 1,200,000,000 pounds.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of subsection (b) of section 2 of such Act is amended by inserting "(1)" after "subsection (a)".

(2) Subsection (c)(1) of section 2 of such Act is amended by inserting "(1)" after "subsection (a)".

(3) Subsection (c)(3) of section 2 of such Act is amended by inserting inserting "(1)" after "subsection (a)".

(4) Paragraphs (2) and (3) of subsection (d) of section 2 of such Act are amended by inserting "(1)" after "subsection (a)".

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar years after 1979. The amendments made by subsection (c) shall take effect on January 1, 1980.

# TITLE VIII—TREATMENT OF DISTILLED SPIRITS

## Subtitle A—Tax Treatment

### SEC. 801. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This subtitle may be cited as the "Distilled Spirits Tax Revision Act of 1979".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

### SEC. 802. REPEAL OF WINE-GALLON METHOD OF TAXING DISTILLED SPIRITS.

Paragraph (1) of section 5001(a) (relating to imposition, rate, and attachment of tax) is amended to read as follows:

"(1) IN GENERAL.—There is hereby imposed on all distilled spirits produced in or imported into the

United States a tax at the rate of $10.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon."

SEC. 803. REPEAL OF RECTIFICATION TAXES ON DISTILLED SPIRITS.

(a) GALLONAGE TAXES.—Subpart B of part I of subchapter A of chapter 51 (imposing rectification taxes) is hereby repealed.

(b) OCCUPATIONAL TAX.—Subpart A of part II of subchapter A of chapter 51 (imposing occupational tax on rectifiers) is hereby repealed.

SEC. 804. DETERMINATION AND PAYMENT OF TAX.

(a) DETERMINATION.—Subsection (a) of section 5006 (relating to determination of tax) is amended to read as follows:

"(a) REQUIREMENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the tax on distilled spirits shall be determined when the spirits are withdrawn from bond. Such tax shall be determined by such means as the Secretary shall by regulations prescribe, and with the use of such devices and apparatus (including but not limited to tanks and pipelines) as the Secretary may require. The tax on distilled spirits withdrawn from the bonded premises of a distilled spirits plant shall be de-

termined upon completion of the gauge for determination of tax and before withdrawal from bonded premises, under such regulations as the Secretary shall prescribe.

"(2) DISTILLED SPIRITS NOT ACCOUNTED FOR.—If the Secretary finds that the distiller has not accounted for all the distilled spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of distilled spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced at the rate of tax imposed by law for every proof gallon."

(b) EXTENSION OF TIME FOR PAYING TAX.—Section 5061 (relating to method of collecting tax) is amended by adding at the end thereof the following new subsection:

"(d) EXTENSION OF TIME FOR COLLECTING TAX ON DISTILLED SPIRITS.—In the case of distilled spirits to which subsection (a) applies which are withdrawn from the bonded premises of a distilled spirits plant under bond for deferred payment of tax, the last day for filing a return (with remittances) for each semimonthly return period shall be determined under the following table:

| "If the return period is in— | Such last day shall be— |
|---|---|
| 1980 | The last day of the first succeeding return period plus 5 days. |
| 1981 | The last day of the first succeeding return period plus 10 days. |

| "If the return period is in— | Such last day shall be— |
|---|---|
| 1982 or any year thereafter..... | The last day of the second succeeding return period." |

SEC. 805. ALL-IN-BOND METHOD OF DETERMINING EXCISE TAX ON DISTILLED SPIRITS.

(a) ESTABLISHMENT OF DISTILLED SPIRITS PLANTS.—Section 5171 (relating to establishment of distilled spirits plants) is amended to read as follows:

"SEC. 5171. ESTABLISHMENT.

"(a) CERTAIN OPERATIONS MAY BE CONDUCTED ONLY ON BONDED PREMISES.—Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person who is qualified under this subchapter.

"(b) ESTABLISHMENT OF DISTILLED SPIRITS PLANT.—A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

"(c) REGISTRATION.—

"(1) IN GENERAL.—Each person shall, before commencing operations at a distilled spirits plant (and at such other times as the Secretary may by regulations prescribe), make application to the Secretary for, and receive notice of, the registration of such plant.

"(2) APPLICATION REQUIRED WHERE NEW OPERATIONS ARE ADDED.—No operation in addition to

those set forth in the application made pursuant to paragraph (1) may be conducted at a distilled spirits plant until the person has made application to the Secretary for, and received notice of, the registration of such additional operation.

"(3) SECRETARY MAY ESTABLISH MINIMUM CAPACITY AND LEVEL OF ACTIVITY REQUIREMENTS.—The Secretary may by regulations prescribe for each type of operation minimum capacity and level of activity requirements for qualifying premises as a distilled spirits plant.

"(4) APPLICANT MUST COMPLY WITH LAW AND REGULATIONS.—No plant (or additional operation) shall be registered under this section until the applicant has complied with the requirements of law and regulations in relation to the qualification of such plant (or additional operation).

"(d) PERMITS.—

"(1) REQUIREMENTS.—Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and

obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

"(2) EXCEPTIONS FOR AGENCIES OF A STATE OR POLITICAL SUBDIVISIONS.—Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency, officer, or employee shall be required to obtain a permit thereunder.

"(e) CROSS REFERENCES.—

**"(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).**

**"(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3)."**

(b) CHANGES IN PROVISIONS RELATING TO FACILITIES ON BONDED PREMISES OF DISTILLED SPIRITS PLANTS.—

(1) Paragraphs (2), (3), (4), and (5) of section 5178(a) (relating to location, construction, and arrangement on premises of distilled spirits plants) are amended to read as follows:

"(2) PRODUCTION OPERATIONS.—

"(A) Any person establishing a distilled spirits plant may, as described in his application for registration, produce distilled spirits from any source or substance.

"(B) The distilling system shall be continuous and shall be so designed and constructed and so connected as to prevent the unauthorized removal of distilled spirits before their production gauge.

"(C) The Secretary is authorized to order and require—

"(i) such identification of, changes of, and additions to, distilling apparatus, connecting pipes, pumps, tanks, and any machinery connected with or used in or on the premises, and

"(ii) such fastenings, locks, and seals to be part of any of the stills, tubs, pipes, tanks, and other equipment,

as he may deem necessary to facilitate inspection and afford adequate security to the revenue.

"(3) WAREHOUSING OPERATIONS.—

"(A) Any person establishing a distilled spirits plant for the production of distilled spirits may, as described in the application for registration,

warehouse bulk distilled spirits on the bonded premises of such plant.

"(B) Distilled spirits plants for the bonded warehousing of bulk distilled spirits elsewhere than as described in subparagraph (A) may be established at the discretion of the Secretary by proprietors referred to in subparagraph (A) or by other persons under such regulations as the Secretary shall prescribe.

"(4) PROCESSING OPERATIONS.—Any person establishing a distilled spirits plant may, as described in the application for registration, process distilled spirits on the bonded premises of such plant."

(2) Section 5212 (relating to transfer of distilled spirits between bonded premises) is amended—

(A) by striking out "Distilled spirits" and inserting in lieu thereof "Bulk distilled spirits", and

(B) by striking out "distilled spirits" and inserting in lieu thereof "bulk distilled spirits".

(c) BONDS.—Section 5173 (relating to qualification bonds) is amended to read as follows:

"SEC. 5173. BONDS.

"(a) OPERATIONS AT, AND WITHDRAWALS FROM, DISTILLED SPIRITS PLANT MUST BE COVERED BY BOND.—

"(1) OPERATIONS.—No person intending to establish a distilled spirits plant may commence operations at such plant unless such person has furnished bond covering operations at such plant.

"(2) WITHDRAWALS.—No distilled spirits (other than distilled spirits withdrawn under section 5214 or 7510) may be withdrawn from bonded premises except on payment of tax unless the proprietor of the bonded premises has furnished bond covering such withdrawal.

"(b) OPERATIONS BONDS.—The bond required by paragraph (1) of subsection (a) shall meet the requirements of paragraph (1), (2), or (3) of this subsection:

"(1) ONE PLANT BOND.—The bond covers operations at a single distilled spirits plant.

"(2) ADJACENT WINE CELLAR BOND.—The bond covers operations at a distilled spirits plant and at an adjacent bonded wine cellar.

"(3) AREA BOND.—The bond covers operations at 2 or more distilled spirits plants (and adjacent bonded wine cellars) which—

"(A) are located in the same geographical area (as designated in regulations prescribed by the Secretary), and

"(B) are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

"(c) WITHDRAWAL BONDS.—The bond required by paragraph (2) of subsection (a) shall cover withdrawals from 1 or more bonded premises the operations at which could be covered by the same operations bond under subsection (b).

"(d) UNIT BONDS.—Under regulations prescribed by the Secretary, the requirements of paragraphs (1) and (2) of subsection (a) shall be treated as met by a unit bond which covers both operations at, and withdrawals from, 1 or more bonded premises which could be covered by the same operations bond under subsection (b).

"(e) TERMS AND CONDITIONS.—

"(1) IN GENERAL.—Any bond furnished under this section shall be conditioned that the person furnishing the bond—

"(A) will faithfully comply with all provisions of law and regulations relating to the activities covered by such bond, and

"(B) will pay—

"(i) all taxes imposed by this chapter, and

"(ii) all penalties incurred by, or fines imposed on, such person for violation of any such provision.

"(2) OTHER TERMS AND CONDITIONS.—Any bond furnished under this section shall contain such other terms and conditions as may be required by regulations prescribed by the Secretary.

"(f) AMOUNT.—

"(1) IN GENERAL.—The penal sum of any bond shall be the amount determined under regulations prescribed by the Secretary.

"(2) MAXIMUM AND MINIMUM AMOUNT.—The Secretary shall by regulations prescribe a minimum amount and a maximum amount for each type of bond which may be furnished under this section.

"(g) TOTAL AMOUNT AVAILABLE.—The total amount of any bond furnished under this section shall be available for the satisfaction of any liability incurred under the terms and conditions of such bond.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) WITHDRAWAL BONDS.—In the case of any bond furnished under this section which covers withdrawals but not operations—

"(A) such bond shall be in addition to the operations bond, and

"(B) if distilled spirits are withdrawn under such bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn.

"(2) ADJACENT WINE CELLARS.—

"(A) REQUIREMENTS.—No wine cellar shall be treated as being adjacent to a distilled spirits plant unless—

"(i) such distilled spirits plant is qualified under this subchapter for the production of distilled spirits, and

"(ii) such wine cellar and the distilled spirits plant are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

"(B) BOND IN LIEU OF WINE CELLAR BOND.—In the case of any adjacent wine cellar, a bond furnished under this section which covers operations at such wine cellar shall be in lieu of any bond which would otherwise be required under section 5354 with respect to such wine cellar (other than supplemental bonds required under the second sentence of section 5354)."

(d) ALCOHOLIC INGREDIENTS ADDED TO DISTILLED SPIRITS TAXED AS DISTILLED SPIRITS.—Paragraph (2) of

section 5001(a) (relating to products containing distilled spirits) is amended to read as follows:

"(2) PRODUCTS CONTAINING DISTILLED SPIRITS.—All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits."

(e) DEFINITIONS.—Section 5002 (relating to definitions) is amended to read as follows:

"SEC. 5002. DEFINITIONS.

"(a) IN GENERAL.—For purposes of this chapter—

"(1) DISTILLED SPIRITS PLANT.—The term 'distilled spirits plant' means an establishment which is qualified under subchapter B to perform any distilled spirits operation.

"(2) DISTILLED SPIRITS OPERATION.—The term 'distilled spirits operation' means any operation for which qualification is required under subchapter B.

"(3) BONDED PREMISES.—The term 'bonded premises', when used with respect to distilled spirits, means the premises of a distilled spirits plant, or part thereof, on which distilled spirits operations are authorized to be conducted.

"(4) DISTILLER.—The term 'distiller' includes any person who—

"(A) produces distilled spirits from any source or substance,

"(B) brews or makes mash, wort, or wash fit for distillation or for the production of distilled spirits (other than the making or using of mash, wort, or wash in the authorized production of wine or beer, or the production of vinegar by fermentation),

"(C) by any process separates alcoholic spirits from any fermented substance, or

"(D) making or keeping mash, wort, or wash, has a still in his possession or use.

"(5) PROCESSOR.—

"(A) IN GENERAL.—The term 'processor', when used with respect to distilled spirits, means any person who—

"(i) manufactures, mixes, or otherwise processes distilled spirits, or

"(ii) manufactures any article.

"(B) RECTIFIER, BOTTLER, ETC., INCLUDED.—The term 'processor' includes (but is not limited to) a rectifier, bottler, and denaturer.

"(6) CERTAIN OPERATIONS NOT TREATED AS PROCESSING.—In applying paragraph (5), there shall not be taken into account—

"(A) OPERATIONS AS DISTILLER.—Any process which is the operation of a distiller.

"(B) MIXING OF TAXPAID SPIRITS FOR IMMEDIATE CONSUMPTION.—Any mixing (after determination of tax) of distilled spirits for immediate consumption.

"(C) USE BY APOTHECARIES.—Any process performed by an apothecary with respect to distilled spirits which such apothecary uses exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

"(7) WAREHOUSEMAN.—The term 'warehouseman', when used with respect to distilled spirits, means any person who stores bulk distilled spirits.

"(8) DISTILLED SPIRITS.—The terms 'distilled spirits', 'alcoholic spirits', and 'spirits' mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced).

"(9) BULK DISTILLED SPIRITS.—The term 'bulk distilled spirits' means distilled spirits in a container having a capacity in excess of 1 wine gallon.

"(10) PROOF SPIRITS.—The term 'proof spirits' means that liquid which contains one-half its volume of ethyl alcohol of a specific gravity of 0.7939 at 60 degrees Fahrenheit (referring to water at 60 degrees Fahrenheit as unity).

"(11) PROOF GALLON.—The term 'proof gallon' means a United States gallon of proof spirits, or the alcoholic equivalent thereof.

"(12) CONTAINER.—The term 'container', when used with respect to distilled spirits, means any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring, or conveying distilled spirits.

"(13) APPROVED CONTAINER.—The term 'approved container', when used with respect to distilled spirits, means a container the use of which is authorized by regulations prescribed by the Secretary.

"(14) ARTICLE.—Unless another meaning is distinctly expressed or manifestly intended, the term 'article' means any substance in the manufacture of which denatured distilled spirits are used.

"(15) EXPORT.—The terms 'export', 'exported', and 'exportation' include shipments to a possession of the United States.

"(b) CROSS REFERENCES.—

"(1) For definition of wine gallon, see section 5041(c).
"(2) For definition of manufacturer of stills, see section 5102.
"(3) For definition of dealer, see section 5112(a).
"(4) For definitions of wholesale dealers, see section 5112.
"(5) For definitions of retail dealers, see section 5122.
"(6) For definitions of general application to this title, see chapter 79."

SEC. 806. REMOVAL OF REQUIREMENT OF ON-SITE INSPECTION.

(a) SUPERVISION OF OPERATIONS.—Section 5202 (relating to supervision of operations) is amended to read as follows:

"SEC. 5202. SUPERVISION OF OPERATIONS.

"All operations on the premises of a distilled spirits plant shall be conducted under such supervision and controls (including the use of Government locks and seals) as the Secretary shall by regulations prescribe."

(b) REMOVAL OF REQUIREMENT THAT REVENUE OFFICERS MUST BE ASSIGNED TO THE PREMISES.—The first sentence of subsection (a) of section 5221 (relating to commencement, suspension, and resumption of operations) is amended by striking out "until an internal revenue officer has been assigned to the premises" and inserting in lieu thereof

"until written notice has been given to the Secretary stating when operations will begin".

SEC. 807. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

(a) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 5003.—

(A) Paragraph (9) of section 5003 (relating to cross references to exemptions, etc.) is amended by striking out "section 5522(a) and".

(B) Section 5003 is amended by redesignating paragraph (15) as paragraph (17) and by inserting after paragraph (14) the following new paragraphs:

"(15) For provisions authorizing the withdrawal of distilled spirits without payment of tax for transfer to manufacturing bonded warehouses for manufacturing for export, see section 5214(a)(6).

"(16) For provisions authorizing the withdrawal of articles from the bonded premises of a distilled spirits plant free of tax when contained in an article, see section 5214(a)(11)."

(2) SECTION 5004.—

(A) Subsection (b) of section 5004 (relating to other property subject to lien) is hereby repealed.

(B) Subsection (c) of section 5004 is redesignated as subsection (b).

(C) Subparagraph (B) of section 5004(a)(2) is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (11)".

(3) SECTION 5005.—

(A) Subsection (c) of section 5005 (relating to proprietors of distilled spirits plants) is amended by striking out paragraph (3) thereof.

(B) Subsection (d) of section 5005 is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (11)".

(C) Paragraph (1) of section 5005(f) is amended to read as follows:

**"(1) For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173."**

(D) Subsection (f) of section 5005 is amended by adding at the end thereof the following new paragraph:

**"(6) For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A)."**

(4) SECTION 5006.—

(A) The first sentence of paragraph (1) of section 5006(b) is amended by striking out ", notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered in storage in such cask or package has not expired, except" and inserting in lieu thereof "; except".

(B) Subsection (b) of section 5006 is amended by striking out "in storage in internal revenue bond" each place it appears and inserting in lieu thereof "on bonded premises".

(5) SECTION 5007.—Subsection (a) of section 5007 (relating to tax on distilled spirits removed from bonded premises) is amended to read as follows:

"(a) TAX ON DISTILLED SPIRITS REMOVED FROM BONDED PREMISES.—The tax on domestic distilled spirits and on distilled spirits removed from customs custody under section 5232 shall be paid in accordance with section 5061."

(6) SECTION 5008.—

(A) Paragraph (1) of section 5008(a) (relating to distilled spirits lost or destroyed in bond) is amended—

(i) by striking out "and" at the end of subparagraph (A),

(ii) by striking out "subsection (b)(1)." at the end of subparagraph (B) and inserting in lieu thereof "subsection (b); and", and

(iii) by adding at the end thereof the following new subparagraph:

"(C) UNEXPLAINED SHORTAGE.—In the case of an unexplained shortage of bottled distilled spirits."

(B) Paragraph (5) of section 5008(a) is amended to read as follows:

"(5) APPLICABILITY.—The provisions of this subsection shall extend to and apply in respect of distilled spirits lost after the tax was determined and before completion of the physical removal of the distilled spirits from the bonded premises."

(C) Section 5008 is amended by striking out subsections (b), (c), (d), and (e) and by inserting in lieu thereof the following:

"(b) VOLUNTARY DESTRUCTION.—The proprietor of the distilled spirits plant or other persons liable for the tax imposed by this chapter or by section 7652 with respect to any distilled spirits in bond may voluntarily destroy such spirits, but only if such destruction is under such supervision and under such regulations as the Secretary may prescribe.

"(c) DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—

"(1) IN GENERAL.—Whenever any distilled spirits withdrawn from bonded premises on payment or determination of tax are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax

equal to such tax imposed under section 7652) on the spirits so returned.

"(2) CLAIM MUST BE FILED WITHIN 6 MONTHS OF RETURN OF SPIRITS.—No allowance under paragraph (1) may be made unless claim therefor is filed within 6 months of the date of the return of the spirits. Such claim may be filed only by the proprietor of the distilled spirits plant to which the spirits were returned, and shall be filed in such form as the Secretary may by regulations prescribe."

(D) Section 5008 is amended by redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), respectively.

(E) Subsection (e) of section 5008 (as redesignated by subparagraph (D)) is amended—

(i) by striking out "subsections (b)(2), (c), and (d)," and inserting in lieu thereof "subsection (c),", and

(ii) by striking out "under such subsections" and inserting in lieu thereof "under such subsection".

(7) SECTION 5009.—Section 5009 (relating to drawback) is hereby repealed.

(8) SECTION 5043.—Subparagraph (A) of section 5043(a)(1) (relating to collection of taxes on wines) is

amended by striking out "between bonded wine cellars".

(9) SECTION 5061.—

(A) The first sentence of subsection (a) of section 5061 (relating to method of collecting tax) and the first sentence of subsection (b) of section 5061 are each amended by striking out "rectified distilled spirits and wines,".

(B) Subsection (b) of section 5061 is amended by striking out paragraph (3) and by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively.

(10) SECTION 5064.—Section 5064 (relating to losses resulting from disaster, vandalism, or malicious mischief) is amended—

(A) by striking out "rectified products," each place it appears, and

(B) by striking out "RECTIFIED PRODUCTS," in the heading of subsection (c).

(11) SECTION 5066.—

(A) The first sentence of paragraph (1) of section 5066(a) (relating to distilled spirits for use of foreign embassies, legations, etc.) is amended by striking out "distilled spirits bottled in bond for export under the provisions of section 5233, or

bottled distilled spirits returned to bonded premises under section 5215(b)," and inserting in lieu thereof "bottled distilled spirits".

(B) Subsection (b) of section 5066 is amended by striking out "or domestic distilled spirits transferred to customs bonded warehouses under section 5521(d)(2)".

(12) SECTION 5116.—Paragraph (1) of section 5116(b) (relating to cross references) is amended by striking out "section 5205(a)(2)" and inserting in lieu thereof "section 5205(a)(1)".

(13) SECTION 5172.—Section 5172 (relating to application for registration) is amended by striking out "section 5171(a)" and inserting in lieu thereof "section 5171(c)".

(14) SECTION 5174.—Section 5174 (relating to withdrawal bonds) is hereby repealed.

(15) SECTION 5175.—

(A) Subsection (a) of section 5175 (relating to export bonds) is amended by striking out "for storage therein pending exportation".

(B) Subsection (b) of section 5175 (relating to export bonds) is amended to read as follows:

"(b) EXCEPTION WHERE PROPRIETOR WITHDRAWS SPIRITS FOR EXPORTATION.—In the case of distilled spirits

withdrawn from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply."

(16) SECTION 5176.—

(A) Subsection (a) of section 5176 (relating to new or renewed bonds) is amended by striking out ", 5174,".

(B) Subsection (b) of section 5176 is amended to read as follows:

"(b) BONDS.—If the proprietor of a distilled spirits plant fails or refuses to furnish a bond required under paragraph (1) of section 5173(a) or to renew the same, and neglects to immediately withdraw the spirits and pay the tax thereon, the Secretary shall proceed to collect the tax."

(17) SECTION 5177.—Subsection (a) of section 5177 (relating to other provisions relating to bonds) is amended by striking out ", 5174,".

(18) SECTION 5178.—Subparagraph (A) of section 5178(a)(1) (relating to premises of distilled spirits plant) is amended by striking out "section 5171(a)" and inserting in lieu thereof "section 5171(c)".

(19) SECTION 5180.—The first sentence of subsection (a) of section 5180 (relating to signs) is amend-

ed to read as follows: "Every person engaged in distilled spirits operations shall place and keep conspicuously on the outside of his place of business a sign showing the name of such person and denoting the business, or businesses, in which engaged."

(20) SECTION 5181.—Section 5181 (relating to cross references) is amended by striking out "as rectifier, see section 5081, or".

(21) SECTION 5201.—Subsection (a) of section 5201 (relating to regulation of operations) is amended to read as follows:

"(a) IN GENERAL.—Proprietors of distilled spirits plants shall conduct all operations authorized to be conducted on the premises of such plants under such regulations as the Secretary shall prescribe."

(22) SECTION 5203.—

(A) The first sentence of section 5203(b) (relating to entry and examination of premises) is amended by striking out "where distilled spirits are produced or rectified" and inserting in lieu thereof "where distilled spirits operations are carried on".

(B) The last sentence of section 5203(c) is amended by striking out "not under the control of

the internal revenue officer in charge" and inserting in lieu thereof "on such premises".

(C) The first sentence of section 5203(d) is amended by striking out "where distilled spirits are produced or rectified" and inserting in lieu thereof "where distilled spirits operations are carried on".

(23) SECTION 5204.—Subsection (a) of section 5204 (relating to gauging) is amended by striking out ", in addition to those specified in section 5202(f),".

(24) SECTION 5205.—

(A) Subsection (a) of section 5205 (relating to stamps) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Paragraph (1) of section 5205(a) (as redesignated by subparagraph (A)) is amended—

(i) by striking out "OTHER" in the heading, and

(ii) by striking out subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(C) Paragraph (2) of section 5205(c) is amended by striking out the last sentence.

(D) Section 5205 is amended by striking out subsection (d) and by redesignating subsections (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively.

(E) Subsection (h) of section 5205 (as redesignated by subparagraph (D)) is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(25) SECTION 5207.—Section 5207 (relating to records and reports) is amended to read as follows:

"SEC. 5207. RECORDS AND REPORTS.

"(a) RECORDS OF DISTILLED SPIRITS PLANT PROPRIETORS.—Every distilled spirits plant proprietor shall keep records in such form and manner as the Secretary shall by regulations prescribe of:

"(1) The following production activities—

"(A) the receipt of materials intended for use in the production of distilled spirits, and the use thereof,

"(B) the receipt and use of distilled spirits received for redistillation, and

"(C) the kind and quantity of distilled spirits produced.

"(2) The following storage activities—

"(A) the kind and quantity of distilled spirits, wines, and alcoholic ingredients entered into storage,

"(B) the kind and quantity of distilled spirits, wines, and alcoholic ingredients removed, and the purpose for which removed, and

"(C) the kind and quantity of distilled spirits returned to storage.

"(3) The following denaturation activities—

"(A) the kind and quantity of denaturants received and used or otherwise disposed of,

"(B) the kind and quantity of distilled spirits denatured, and

"(C) the kind and quantity of denatured distilled spirits removed.

"(4) The following processing activities—

"(A) all distilled spirits, wines, and alcoholic ingredients received or transferred,

"(B) the kind and quantity of distilled spirits packaged or bottled,

"(C) the kind and quantity of distilled spirits removed from his premises, and

"(D) the receipt, use, and balance on hand of all stamps required by law or regulations to be used by him.

"(5) Such additional information with respect to activities described in paragraphs (1), (2), (3), and (4), and with respect to other activities, as may by regulations be required.

"(b) REPORTS.—Every person required to keep records under subsection (a) shall render such reports covering his operations, at such times and in such form and manner and containing such information, as the Secretary shall by regulations prescribe.

"(c) PRESERVATION AND INSPECTION.—The records required by subsection (a) and a copy of each report required by subsection (b) shall be kept on the premises where the operations covered by the record are carried on and shall be available for inspection by any internal revenue officer during business hours, and shall be preserved by the person required to keep such records and reports for such period as the Secretary shall by regulations prescribe.

"(d) PENALTY.—

**"For penalty and forfeiture for refusal or neglect to keep records required under this section, or for false entries therein, see sections 5603 and 5615(5)."**

(26) SECTION 5211.—

(A) Paragraph (1) of the third sentence of section 5211 (relating to production and entry of distilled spirits) is amended to read as follows:

"(1) deposit of such spirits on bonded premises for storage or processing;".

(B) The third sentence of section 5211 is amended by inserting "and" at the end of paragraph (3), by striking out "; or" at the end of paragraph (4) and inserting in lieu thereof a period, and by striking out paragraph (5).

(27) SECTION 5213.—The text of section 5213 (relating to withdrawal of distilled spirits from bonded premises on determination of tax) is amended to read as follows:

"Subject to the provisions of section 5173, distilled spirits may be withdrawn from the bonded premises of a distilled spirits plant on payment or determination of tax thereon, in approved containers, under such regulations as the Secretary shall prescribe."

(28) SECTION 5214.—

(A) Paragraph (6) of section 5214(a) is amended to read as follows:

"(6) without payment of tax for transfer to manufacturing bonded warehouses for manufacturing in such warehouses for export, as authorized by law; or".

(B) Paragraph (9) of section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is

amended by striking out "in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b),".

(C) Paragraph (10) of section 5214(a) is amended by striking out "distillery operations" and inserting in lieu thereof "distilled spirits operations".

(D) Subsection (a) of section 5214 is amended by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(11) free of tax when contained in an article (within the meaning of section 5002(a)(14))."

(E) Subsection (b) of section 5214 is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

**"(4) For provisions relating to withdrawal of distilled spirits without payment of tax for manufacture in manufacturing bonded warehouse, see 19 U.S.C. 1311."**

(29) SECTION 5215.—Section 5215 (relating to return of tax determined distilled spirits to bonded premises) is amended to read as follows:

"SEC. 5215. RETURN OF TAX DETERMINED DISTILLED SPIRITS TO BONDED PREMISES.

"(a) GENERAL RULE.—Under such regulations as the Secretary may prescribe, distilled spirits on which tax has been determined or paid may be returned to the bonded premises of a distilled spirits plant but only for destruction, denaturation, redistillation, reconditioning, or rebottling.

"(b) APPLICABILITY OF CHAPTER TO DISTILLED SPIRITS RETURNED TO A DISTILLED SPIRITS PLANT.—All provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

"(c) RETURN OF BOTTLED DISTILLED SPIRITS FOR RELABELING AND RESTAMPING.—Under such regulations as the Secretary shall prescribe, bottled distilled spirits withdrawn from bonded premises may be returned to bonded premises for relabeling or restamping, and the tax under section 5001 shall not again be collected on such spirits.

"(d) CROSS REFERENCE.—

**"For provisions relating to the abatement, credit, or refund of tax on distilled spirits returned to a distilled spirits plant under this section, see section 5008(c)."**

(30) SECTION 5222.—Subsection (c) of section 5222 (relating to processing of distilled spirits containing extraneous substances) is amended by striking out ", in the production facilities of a distilled spirits plant".

(31) SECTION 5223.—

(A) Subsection (c) of section 5223 (relating to redistillation of articles and residue) is amended by inserting "or on the bonded premises of a distilled spirits plant" after "subchapter D".

(B) Subsection (e) of section 5223 is amended by striking out the last sentence thereof.

(32) SECTION 5231.—Section 5231 (relating to entry for deposit in storage) is amended to read as follows:

"SEC. 5231. ENTRY FOR DEPOSIT.

"All distilled spirits entered for deposit on the bonded premises of a distilled spirits plant under section 5211 shall, under such regulations as the Secretary shall prescribe, be deposited in the facilities on the bonded premises designated in the entry for deposit."

(33) SECTION 5232.—Subsection (b) of section 5232 (relating to imported distilled spirits) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(34) SECTION 5233.—Section 5233 (relating to bottling of distilled spirits in bond) is hereby repealed.

(35) SECTION 5234.—Section 5234 (relating to mingling and blending of distilled spirits) is hereby repealed.

(36) SECTION 5235.—The second sentence of section 5235 (relating to bottling of alcohol for industrial purposes) is amended to read as follows: "The provisions of section 5205(a)(1) shall not apply to alcohol bottled, stamped, and labeled as such under this section."

(37) SECTION 5241.—Section 5241 (relating to authority to denature) is amended to read as follows:

"SEC. 5241. AUTHORITY TO DENATURE.

"Under such regulations as the Secretary shall prescribe, distilled spirits may be denatured on the bonded premises of a distilled spirits plant qualified for the processing of distilled spirits. Distilled spirits to be denatured under this section shall be of such kind and such degree of proof as the Secretary shall by regulations prescribe. Distilled spirits denatured under this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article."

(38) SECTIONS 5251 AND 5252.—Part III of subchapter C of chapter 51 (sections 5251 and 5252, relating to operations on bottling premises) is hereby repealed.

(39) SECTION 5273.—Paragraph (3) of section 5273(e) (relating to sale, use, and recovery of denatured distilled spirits) is amended by striking out "section 5002(a)(11)" and inserting in lieu thereof "section 5002(a)(14)".

(40) SECTION 5291.—Subsection (b) of section 5291 is amended—

(A) by striking out "section 5002(a)(6)" in paragraph (1) and inserting in lieu thereof "section 5002(a)(8)", and

(B) by striking out "section 5002(a)(11)" in paragraph (2) and inserting in lieu thereof "section 5002(a)(14)".

(41) SECTION 5301.—Paragraph (1) of section 5301(a) is amended by striking out "section 5002(a)(6)" and inserting in lieu thereof "section 5002(a)(8)".

(42) SECTION 5352.—The first sentence of section 5352 (relating to taxpaid wine bottling house) is amended by striking out "at premises other than the bottling premises of a distilled spirits plant".

(43) SECTION 5361.—Section 5361 (relating to bonded wine cellar operations) is amended by striking out "or receive on standard wine premises only" and inserting in lieu thereof "or receive on wine premises".

(44) SECTION 5362.—Subsection (b) of section 5362 (relating to transfers of wine between bonded wine cellars) is amended to read as follows:

"(b) TRANSFERS OF WINE BETWEEN BONDED PREMISES.—

"(1) IN GENERAL.—Wine on which the tax has not been paid or determined may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises.

"(2) WINE TRANSFERRED TO A DISTILLED SPIRITS PLANT MAY NOT BE REMOVED FOR CONSUMPTION OR SALE AS WINE.—Any wine transferred to the bonded premises of a distilled spirits plant—

"(A) may be used in the manufacture of a distilled spirits product, and

"(B) may not be removed from such bonded premises for consumption or sale as wine.

"(3) CONTINUED LIABILITY FOR TAX.—The liability for tax on wine transferred to the bonded premises of a distilled spirits plant pursuant to paragraph (1) shall (except as otherwise provided by law) continue until the wine is used in a distilled spirits product.

"(4) TRANSFER IN BOND NOT TREATED AS REMOVAL FOR CONSUMPTION OR SALE.—For purposes of this chapter, the removal of wine for transfer in

bond between bonded premises shall not be treated as a removal for consumption or sale.

"(5) BONDED PREMISES.—For purposes of this subsection, the term 'bonded premises' means a bonded wine cellar or the bonded premises of a distilled spirits plant."

(45) SECTION 5363.—Section 5363 (relating to taxpaid wine bottling house operations) is amended by striking out the last 2 sentences thereof.

(46) SECTION 5364.—Section 5364 (relating to standard wine premises) is hereby repealed.

(47) SECTION 5365.—Section 5365 (relating to segregation of operations) is amended to read as follows:

"SEC. 5365. SEGREGATION OF OPERATIONS.

"The Secretary may require by regulations such segregation of operations within the premises, by partitions or otherwise, as may be necessary to prevent jeopardy to the revenue, to prevent confusion between untaxpaid wine operations and such other operations as are authorized in this subchapter, to prevent substitution with respect to the several methods of producing effervescent wines, and to prevent the commingling of standard wines with other than standard wines."

(48) SECTION 5381.—The last sentence of section 5381 (relating to natural wine) is amended to read as follows: "Any wine conforming to such definition except for having become substandard by reason of its condition shall be deemed not to be natural wine, unless the condition is corrected."

(49) SECTION 5391.—Section 5391 (relating to exemption from rectifying and spirits taxes) is amended to read as follows:

"SEC. 5391. EXEMPTION FROM DISTILLED SPIRITS TAXES.

"Notwithstanding any other provision of law, the tax imposed by section 5001 on distilled spirits shall not, except as provided in this subchapter, be assessed, levied, or collected from the proprietor of any bonded wine cellar with respect to his use of wine spirits in wine production, in such premises; except that, whenever wine or wine spirits are used in violation of this subchapter, the applicable tax imposed by section 5001 shall be collected unless the proprietor satisfactorily shows that such wine or wine spirits were not knowingly used in violation of law."

(50) SECTIONS 5521, 5522, AND 5523.—Part III of subchapter H of chapter 51 (sections 5521, 5522, and 5523, relating to manufacturing bonded warehouses) is hereby repealed.

(51) SECTION 5551.—Subsection (a) of section 5551 (relating to general provisions relating to bonds) is amended by striking out "bonded warehouseman, rectifier," each place it appears and inserting in lieu thereof "warehouseman, processor,".

(52) SECTION 5601.—

(A) Paragraph (2) of section 5601(a) (relating to criminal penalties) is amended to read as follows:

"(2) FAILURE TO FILE APPLICATION.—engages in the business of a distiller or processor without having filed application for and received notice of registration, as required by section 5171(c); or".

(B) Paragraphs (3) and (5) of section 5601(a) are each amended by striking out "bonded warehouseman, rectifier, or bottler" and inserting in lieu thereof "warehouseman, or processor".

(C) Paragraph (4) of section 5601(a) is amended to read as follows:

"(4) FAILURE OR REFUSAL OF DISTILLER, WAREHOUSEMAN, OR PROCESSOR TO GIVE BOND.—carries on the business of a distiller, warehouseman, or processor without having given bond as required by law; or".

(D) Paragraph (10) of section 5601(a) is amended to read as follows:

"(10) UNLAWFUL PROCESSING.—engages in or carries on the business of a processor—

"(A) with intent to defraud the United States of any tax on the distilled spirits processed by him; or

"(B) with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits; or".

(E) Paragraph (11) of section 5601(a) is amended to read as follows:

"(11) UNLAWFUL PURCHASE, RECEIPT, OR PROCESSING OF DISTILLED SPIRITS.—purchases, receives, or processes any distilled spirits, knowing or having reasonable grounds to believe that any tax due on such spirits has not been paid or determined as required by law; or".

(F) Subsection (b) of section 5601 is amended by striking out "rectifier" and inserting in lieu thereof "processor".

(53) SECTION 5604.—

(A) Paragraph (1) of section 5604(a) (relating to penalties related to stamps, marks, brands, and containers) is amended by striking out "section

5205(a)(2)" and inserting in lieu thereof "section 5205(a)(1)".

(B) Paragraph (2) of section 5604(a) is amended—

(i) by striking out "section 5205(a) (1) or (2)" and inserting in lieu thereof "section 5205(a)(1)", and

(ii) by striking out "section 5205(a)(3)" and inserting in lieu thereof "section 5205(a)(2)".

(C) Paragraph (3) of section 5604(a) is amended by striking out "section 5205(g)" and inserting in lieu thereof "section 5205(f)".

(D) Paragraph (6) of section 5604(a) is amended by striking out "section 5205(a)(3)" and inserting in lieu thereof "section 5205(a)(2)".

(E) Paragraph (13) of section 5604(a) is amended by striking out "section 5205(a) (2) and (3)" and inserting in lieu thereof "section 5205(a)".

(54) SECTION 5610.—Section 5610 (relating to disposal of forfeited equipment and material for distilling) is amended by striking out "or rectifying" and inserting in lieu thereof "or processing".

(55) SECTION 5612.—Subsection (b) of section 5612 (relating to forfeiture of taxpaid distilled spirits remaining on bonded premises) is amended to read as follows:

"(b) EXCEPTIONS.—Subsection (a) shall not apply in the case of—

"(1) distilled spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

"(2) distilled spirits returned to bonded premises in accordance with the provisions of section 5215."

(56) SECTION 5615.—Paragraph (5) of section 5615 (relating to property subject to forfeiture) is amended by striking out "distillery, bonded warehouse, or rectifying or bottling establishment" each place it appears and inserting in lieu thereof "distilled spirits plant".

(57) SECTION 5663.—Section 5663 (relating to cross references) is amended by striking out ", and for penalties for rectified products, see part I".

(58) SECTION 5681.—

(A) Subsection (a) of section 5681 (relating to penalty relating to signs) is amended by striking out "distilling, warehousing of distilled spirits, rectifying, or bottling of distilled spirits" and

inserting in lieu thereof "distilled spirits operations".

(B) Subsection (b) of section 5681 is amended—

(i) by striking out "distiller, warehouseman of distilled spirits, rectifier, or bottler of distilled spirits" and inserting in lieu thereof "distiller, warehouseman, or processor of distilled spirits",

(ii) by striking out "section 5171(a)" and inserting in lieu thereof "section 5171(c)", and

(iii) by striking out "distiller, bonded warehouseman, rectifier, bottler of distilled spirits" and inserting in lieu thereof "distiller, warehouseman, or processor of distilled spirits".

(C) Subsection (c) of section 5681 is amended to read as follows:

"(c) PREMISES WHERE NO SIGN IS PLACED OR KEPT.—Every person who works in any distilled spirits plant or wholesale liquor establishment, on which no sign required by section 5115(a) or section 5180(a) is placed or kept, and every person who knowingly receives at, or carries or conveys any distilled spirits to or from any such distilled

spirits plant or wholesale liquor establishment, or who knowingly carries or delivers any grain, molasses, or other raw material to any distilled spirits plant on which such a sign is not placed and kept, shall forfeit all vehicles, aircraft, or vessels used in carrying or conveying such property and shall be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(D) Subsection (d) of section 5681 is amended by striking out "distillery or rectifying establishment" and inserting in lieu thereof "distilled spirits plant".

(59) SECTION 5682.—Section 5682 (relating to penalty for breaking locks or gaining access) is amended by striking out "duly authorized internal revenue officer, or" and inserting in lieu thereof "authorized internal revenue officer or any approved lock or seal placed thereon by a distilled spirits plant proprietor, or who".

(60) SECTION 5691.—Subsection (a) of section 5691 (relating to penalties for nonpayment of special taxes related to liquors) is amended by striking out "rectifier,".

(b) CLERICAL AMENDMENTS.—

(1) The table of subparts for part I of subchapter A of chapter 51 is amended by striking out the item relating to subpart B.

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by striking out the item relating to section 5009.

(3) The table of subparts for part II of subchapter A of chapter 51 is amended by striking out the item relating to subpart A.

(4) The table of sections for subchapter B of chapter 51 is amended—

(A) by striking out the item relating to section 5173 and inserting in lieu thereof the following:

"Sec. 5173. Bonds.";

(B) by striking out the item relating to section 5174; and

(C) by striking out the item relating to section 5178 and inserting in lieu thereof the following:

"Sec. 5178. Distilled spirits plants."

(5) The table of parts for subchapter C of chapter 51 is amended by striking out the item relating to part III.

(6) The table of sections for subpart C of part II of subchapter C of chapter 51 is amended—

(A) by striking out the item relating to section 5231 and inserting in lieu thereof the following:

"Sec. 5231. Entry for deposit.";

and

(B) by striking out the items relating to sections 5233 and 5234.

(7) The table of sections for part II of subchapter F of chapter 51 is amended by striking out the item relating to section 5364.

(8) The table of sections for part IV of subchapter F of chapter 51 is amended by striking out the item relating to section 5391 and inserting in lieu thereof the following:

"Sec. 5391. Exemption from distilled spirits taxes."

(9) The table of parts for subchapter H of chapter 51 is amended by striking out the item relating to part III.

SEC. 808. TRANSITIONAL RULES RELATING TO DETERMINATION AND PAYMENT OF TAX.

(a) LIABILITY FOR PAYMENT OF TAX.—Except as otherwise provided in this section, the tax on all distilled spirits which have been withdrawn from bond on determination of

tax and on which tax has not been paid by the close of December 31, 1979, shall become due on January 1, 1980, and shall be payable in accordance with section 5061 of the Internal Revenue Code of 1954.

(b) TREATMENT OF CONTROLLED STOCK AND BULK WINE.—

(1) ELECTION WITH RESPECT TO CONTROLLED STOCK.—The proprietor of a distilled spirits plant may elect to convert any distilled spirits or wine which on January 1, 1980, is controlled stock.

(2) ELECTION WITH RESPECT TO WINE.—The proprietor of a distilled spirits plant may elect to convert any bulk wine which on January 1, 1980, is on the premises of a distilled spirits plant.

(3) EFFECT OF ELECTION.—If an election under paragraph (1) or (2) is in effect with respect to any controlled stock or wine—

(A) any distilled spirits, wine, or rectification tax previously paid or determined on such controlled stock or wine shall be abated or (without interest) credited or refunded under such regulations as the Secretary shall prescribe, and

(B) such controlled stock or wine shall be treated as distilled spirits or wine on which tax has not been paid or determined.

(4) MAKING OF ELECTIONS.—The elections under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

(c) TAXPAID STOCK.—

(1) TAXPAID STOCK MAY REMAIN ON BONDED PREMISES DURING 1980.—Section 5612(a) of the Internal Revenue Code of 1954 (relating to forfeiture of taxpaid distilled spirits remaining on bonded premises) shall not apply during 1980.

(2) SEPARATION OF TAXPAID STOCK.—All distilled spirits and wine on which tax has been paid and which are on the bonded premises of a distilled spirits plant shall be physically separated from other distilled spirits and wine. Such separation shall be by the use of separate tanks, rooms, or buildings, or by partitioning, or by such other methods as the Secretary finds will distinguish such distilled spirits and wine from other distilled spirits and wine on the bonded premises of the distilled spirits plant.

(d) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING TAXPAID WINE.—With respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, section 5008(c)(1) of the Internal Revenue Code of 1954 (relating to refunds for distilled spirits returned

to bonded premises) shall be treated as including a reference to section 5041 of such Code.

(e) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING OTHER ALCOHOLIC INGREDIENTS.—With respect to distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before January 1, 1980, section 5215(a) of the Internal Revenue Code of 1954 shall apply only if such spirits are returned to the distilled spirits plant from which withdrawn.

(f) SECRETARY DEFINED.—For purposes of this section, the term "Secretary" means the Secretary of the Treasury or his delegate.

SEC. 809. TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD.

(a) NEW APPLICATION REQUIRED.—

(1) IN GENERAL.—For purposes of section 5171 of the Internal Revenue Code of 1954 (relating to establishment of distilled spirits plants), each person who intends to continue any distilled spirits operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

(2) CURRENT REGISTRATION TO REMAIN IN EFFECT.—Notwithstanding paragraph (1), the registra-

tion of any person under section 5171 of the Internal Revenue Code of 1954 which is in effect on December 31, 1979, shall remain in effect until final action on the application required by paragraph (1).

(b) CONTINUING OPERATIONS AT EXISTING PREMISES.—With respect to any operation which was permitted to be conducted on May 1, 1979, at premises which were registered on such date under section 5171 of the Internal Revenue Code of 1954, the determination of whether such premises qualify for registration under such section as a distilled spirits plant shall be made without regard to whether or not—

(1) the person engaged in operations at such premises is registered under such section with respect to such premises as a distiller or warehouseman, and

(2) such premises meet the minimum capacity and level of activity requirements for that type of operation.

(c) NEW BOND REQUIRED.—For purposes of section 5173 of the Internal Revenue Code of 1954 (relating to bonds), each person who intends to continue operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

SEC. 810. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 1, 1980.

## Subtitle B—Tariff Treatment

SEC. 851. REPEAL OF PROVISION THAT EACH WINE GALLON IS TO BE COUNTED AS AT LEAST ONE PROOF GALLON.

The first sentence of headnote 2 to part 12 of schedule 1 of the Tariff Schedules of the United States is amended to read as follows: "The standard for determining the proof of brandy and other spirits or liquors of any kind when imported is the same as that which is defined in the laws relating to internal revenue."

SEC. 852. CHANGES IN RATES OF DUTY.

So much of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States as follows headnote 1 is amended to read as follows:

"

| | | | |
|---|---|---|---|
| 168.04 | Aquavit:<br>In containers each holding not over 1 gallon..... | $2.20 per proof gal. | $7.52 per proof gal. |
| 168.06 | In containers each holding over 1 gallon..... | 42¢ per proof gal. | $5.00 per proof gal. |
| | Arrack: | | |
| 168.09 | In containers each holding not over 1 gallon..... | $2.28 per proof gal. | $6.72 per proof gal. |
| 168.11 | In containers each holding over 1 gallon..... | $1.00 per proof gal. | $5.00 per proof gal. |
| | Bitters of all kinds containing spirits: | | |
| | Not fit for use as beverages: | | |
| 168.12 | In containers each holding not over 1 | | |

| | | | |
|---|---|---|---|
| | gallon | $1.04 per proof gal. | $5.56 per proof gal. |
| 168.13 | In containers each holding over 1 gallon | 94¢ per proof gal. | $5.00 per proof gal. |
| | Fit for use as beverages: | | |
| 168.14 | In containers each holding not over 1 gallon | $16.34 per proof gal. | $27.32 per proof gal. |
| 168.16 | In containers each holding over 1 gallon | 50¢ per proof gal. | $5.00 per proof gal. |
| | Brandy: | | |
| | Pisco and Singani: | | |
| | In containers each holding not over 1 gallon: | | |
| 168.36 | Valued not over $9 per gallon | $1.86 per proof gal. | $6.72 per proof gal. |
| 168.37 | Valued over $9 per gallon | $2.56 per proof gal. | $6.72 per proof gal. |
| | In containers each holding over 1 gallon: | | |
| 168.39 | Valued not over $9 per gallon | 50¢ per proof gal. | $5.00 per proof gal. |
| 168.41 | Valued over $9 per gallon | $1.00 per proof gal. | $5.00 per proof gal. |
| | Other: | | |
| | In containers each holding not over 1 gallon: | | |
| 168.43 | Valued not over $9 per gallon | $3.40 per proof gal. | $8.88 per proof gal. |
| 168.44 | Valued over $9 but not over $13 per gallon | $4.19 per proof gal. | $8.88 per proof gal. |
| 168.49 | Valued over $13 per gallon | $4.19 per proof gal. | $8.88 per proof gal. |
| | In containers each holding over 1 gallon: | | |
| 168.51 | Valued not over $9 per gallon | 50¢ per proof gal. | $5.00 per proof gal. |
| 168.53 | Valued over $9 per gallon | $1.00 per proof gal. | $5.00 per proof gal. |
| | Cordials, liqueurs, kirschwasser, and ratafia: | | |
| 168.56 | In containers each holding not over 1 gallon | $5.21 per proof gal. | $11.64 per proof gal. |
| 168.58 | In containers each holding over 1 gallon | 50¢ per proof gal. | $5.00 per proof gal. |
| 168.60 | Ethyl alcohol for beverage purposes | $1.12 per proof gal. | $5.00 per proof gal. |
| | Gin: | | |
| 168.62 | In containers each holding not over 1 gallon | $2.29 per proof gal. | $7.52 per proof gal. |
| 168.63 | In containers each holding over 1 gallon | 50¢ per proof gal. | $5.00 per proof gal. |
| | Rum (including cana paraguaya): | | |
| 168.65 | In containers each holding not over 1 gallon | $3.74 per proof gal. | $7.52 per proof gal. |
| 168.67 | In containers each holding over 1 gallon | $1.75 per proof gal. | $5.00 per proof gal. |
| | Whiskey: | | |
| | Irish and Scotch: | | |
| 168.69 | In containers each holding not over 1 gallon | $2.30 per proof gal. | $7.52 per proof gal. |
| 168.71 | In containers each holding over 1 gallon | 51¢ per proof gal. | $5.00 per proof gal. |
| | Other: | | |
| 168.73 | In containers each holding not over 1 gallon | $2.59 per proof gal. | $7.74 per proof gal. |

| | | | |
|---|---|---|---|
| 168.75 | In containers each holding over 1 gallon | 62¢ per proof gal. | $5.00 per proof gal. |
| | Tequila: | | |
| 168.77 | In containers each holding not over 1 gallon | $2.27 per proof gal. | $6.35 per proof gal. |
| 168.79 | In containers each holding over 1 gallon | $1.25 per proof gal. | $5.00 per proof gal. |
| | Vodka: | | |
| | In containers each holding not over 1 gallon: | | |
| 168.81 | Valued not over $7.75 per gallon | $2.56 per proof gal. | $6.72 per proof gal. |
| 168.83 | Valued over $7.75 per gallon | $2.56 per proof gal. | $6.72 per proof gal. |
| 168.85 | In containers each holding over 1 gallon | $1.25 per proof gal. | $5.00 per proof gal. |
| | Other spirits, and preparations in chief value of distilled spirits, fit for use as beverages or for beverage purposes: | | |
| | Spirits: | | |
| 168.87 | In containers each holding not over 1 gallon | $2.56 per proof gal. | $6.72 per proof gal. |
| 168.89 | In containers each holding over 1 gallon | $1.25 per proof gal. | $5.00 per proof gal. |
| | Other: | | |
| 168.91 | In containers each holding not over 1 gallon | $9.08 per proof gal. | $15.33 per proof gal. |
| 168.93 | In containers each holding over 1 gallon | $1.25 per proof gal. | $5.00 per proof gal. |
| | Imitations of brandy and other spirituous beverages: | | |
| 168.95 | In containers each holding not over 1 gallon | $5.75 per proof gal. | $8.88 per proof gal. |
| 168.97 | In containers each holding over 1 gallon | $2.50 per proof gal. | $5.00 per proof gal. ". |

**SEC. 853. EFFECTIVE DATE FOR SECTIONS 851 AND 852.**

The amendments made by sections 851 and 852 shall apply to articles entered, or withdrawn from warehouse, for consumption after December 31, 1979.

**SEC. 854. REVIEW OF INTERNATIONAL TRADE IN ALCOHOLIC BEVERAGES.**

(a) REVIEW.—The President shall review foreign tariff and nontariff barriers affecting United States exports of alcoholic beverages. Not later than January 1, 1982, the President shall report to the Congress the results of his review.

(b) WITHDRAWAL OF CONCESSIONS.—If, as the result of his review under subsection (a), the President determines

that a foreign country or instrumentality has not implemented concessions to the United States affecting alcoholic beverages which were negotiated in the agreement entered into before January 3, 1980, under the authority of title I of the Trade Act of 1974, the President shall withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality under section 125 of the Trade Act of 1974 (19 U.S.C. 2135).

(c) FURTHER NEGOTIATIONS TO REMOVE BARRIERS.—If, as the result of his review under subsection (a), the President determines that foreign tariff or nontariff barriers are unduly burdening or restricting the United States exports of alcoholic beverages, he shall enter into negotiations under the Trade Act of 1974 to eliminate or reduce such barriers.

SEC. 855. AUTHORITY TO PROCLAIM EXISTING RATES FOR CERTAIN ITEMS.

(a) GENERAL RULE.—In the case of any item set forth in subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States, as amended by section 852 of this Act, whenever the President determines that adequate reciprocal concessions have been received therefor under a trade agreement entered into under the Trade Act of 1974, he may (notwithstanding section 109 of such Act) proclaim that the rate

of duty applicable to such item shall be the rate of duty appearing in rate column numbered 1 on January 1, 1979, for the comparable item, determined on a proof gallon basis. For purposes of sections 101 and 601(7) of the Trade Act of 1974, the rates of duty proclaimed under the preceding sentence shall be deemed to be the rates of duty existing on January 1, 1975.

(b) TERMINATION AND WITHDRAWAL AUTHORITY.—For purposes of section 125 of the Trade Act of 1974, any rate of duty proclaimed under subsection (a) shall be deemed to be a trade agreement obligation entered into under the Trade Act of 1974 which is of benefit to a foreign country or instrumentality. In the case of any item affected by any such proclamation, the last sentence of subsection (c) of such section 125 shall be applied as if it authorized (in addition to any increase authorized therein) an increase up to the rate of duty for such item set forth in rate column numbered 1 of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States, as amended by section 852 of this Act.

**SEC. 856. AMENDMENTS OF SECTION 311 OF THE TARIFF ACT OF 1930.**

(a) CERTAIN TRANSFERS TO WAREHOUSES PENDING EXPORTATION.—In the case of articles described in section 5522(a) of the Internal Revenue Code of 1954 (as in effect before its repeal by section 807(a)(50) of the Distilled Spirits

Tax Revision Act of 1979), the first sentence of the eighth paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) shall be applied as if such first sentence did not include the phrase "at an exterior port".

(b) REMOVAL OF REFERENCE TO RECTIFICATION TAXES.—Effective January 1, 1980, the second proviso to the last paragraph of section 311 of the Tariff Act of 1930 is hereby repealed.

## TITLE IX—ENFORCEMENT OF UNITED STATES RIGHTS

### SEC. 901. ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN PRACTICES.

Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411) is amended to read as follows:

### "CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

"SEC. 301. DETERMINATIONS AND ACTION BY PRESIDENT.

"(a) DETERMINATIONS REQUIRING ACTION.—If the President determines that action by the United States is appropriate—

"(1) to enforce the rights of the United States under any trade agreement; or

"(2) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(A) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(B) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice. Action under this section may be taken on a nondiscriminatory basis or solely against the products or services of the foreign country or instrumentality involved.

"(b) OTHER ACTION.—Upon making a determination described in subsection (a), the President, in addition to taking action referred to in such subsection, may—

"(1) suspend, withdraw, or prevent the application of, or refrain from proclaiming, benefits of trade agreement concessions to carry out a trade agreement with the foreign country or instrumentality involved; and

"(2) impose duties or other import restrictions on the products of, and fees or restrictions on the services of, such foreign country or instrumentality for such time as he determines appropriate.

"(c) PRESIDENTIAL PROCEDURES.—

"(1) ACTION ON OWN MOTION.—If the President decides to take action under this section and no petition requesting action on the matter involved has been filed under section 302, the President shall publish notice of his determination, including the reasons for the determination in the Federal Register. Unless he determines that expeditious action is required, the President shall provide an opportunity for the presentation of views concerning the taking of such action.

"(2) ACTION REQUESTED BY PETITION.—Not later than 21 days after the date on which he receives the recommendation of the Special Representative under section 304 with respect to a petition, the President shall determine what action, if any, he will take under this section, and shall publish notice of his determination, including the reasons for the determination, in the Federal Register.

"(d) SPECIAL PROVISIONS.—

"(1) DEFINITION OF COMMERCE.—For purposes of this section, the term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(2) VESSEL CONSTRUCTION SUBSIDIES.—An act, policy, or practice of a foreign country or instrumentality that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country or instrumentality of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.

"SEC. 302. PETITIONS FOR PRESIDENTIAL ACTION.

"(a) FILING OF PETITION WITH SPECIAL REPRESENTATIVE.—Any interested person may file a petition with the Special Representative for Trade Negotiations (hereinafter in this chapter referred to as the 'Special Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request. The Special Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Special Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of his reasons therefor and shall publish notice of

the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Special Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Special Representative shall publish the text of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner), if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

"On the date an affirmative determination is made under section 302(b) with respect to a petition, the Special Representative, on behalf of the United States, shall request consultations with the foreign country or instrumentality concerned regarding issues raised in the petition. If the case involves a trade agreement and a mutually acceptable resolu-

tion is not reached during the consultation period, if any, specified in the trade agreement, the Special Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement. The Special Representative shall seek information and advice from the petitioner and the appropriate private sector representatives provided for under section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

"SEC. 304. RECOMMENDATIONS BY THE SPECIAL REPRESENTATIVE.

"(a) RECOMMENDATIONS.—

"(1) IN GENERAL.—On the basis of the investigation under section 302, and the consultations (and the proceedings, if applicable) under section 303, and subject to subsection (b), the Special Representative shall recommend to the President what action, if any, he should take under section 301 with respect to the issues raised in the petition. The Special Representative shall make that recommendation not later than—

"(A) 7 months after the date of the initiation of the investigation under section 302(b)(2) if the petition alleges only an export subsidy covered by the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General

Agreement on Tariffs and Trade (relating to subsidies and countervailing measures and hereinafter referred to in this section as the 'Subsidies Agreement');

"(B) 8 months after the date of the investigation initiation if the petition alleges any matter covered by the Subsidies Agreement other than only an export subsidy;

"(C) in the case of a petition involving a trade agreement approved under section 2(a) of the Trade Agreements Act of 1979 (other than the Subsidies Agreement), 30 days after the dispute settlement procedure is concluded; or

"(D) 12 months after the date of the investigation initiation in any case not described in subparagraph (A), (B), or (C).

"(2) SPECIAL RULE.—In the case of any petition—

"(A) an investigation with respect to which is initiated on or after the date of the enactment of the Trade Agreements Act of 1979 (including any petition treated under section 903 of that Act as initiated on such date); and

"(B) to which the 12-month time limitation set forth in subparagraph (D) of paragraph (1) would but for this paragraph apply;

if a trade agreement approved under section 2(a) of such Act of 1979 that relates to any allegation made in the petition applies between the United States and a foreign country or instrumentality before the 12-month period referred to in subparagraph (B) expires, the Special Representative shall make the recommendation required under paragraph (1) with respect to the petition not later than the close of the period specified in subparagraph (A), (B), or (C), as appropriate, of such paragraph, and for purposes of such subparagraph (A) or (B), the date of the application of such trade agreement between the United States and the foreign country or instrumentality concerned shall be treated as the date on which the investigation with respect to such petition was initiated; except that consultations and proceedings under section 303 need not be undertaken within the period specified in such subparagraph (A), (B), or (C), as the case may be, to the extent that the requirements under such section were complied with before such period begins.

"(3) REPORT IF SETTLEMENT DELAYED.—In any case in which a dispute is not resolved before the

close of the minimum dispute settlement period provided for in a trade agreement referred to in paragraph (1)(C) (other than the Subsidies Agreement), the Special Representative, within 15 days after the close of such period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement of any stage.

"(b) CONSULTATION BEFORE RECOMMENDATION.—Before recommending that the President take action under section 301 with respect to the treatment of any product or service of a foreign country or instrumentality which is the subject of a petition filed under section 302, the Special Representative, unless he determines that expeditious action is required—

"(1) shall provide opportunity for the presentation of views, including a public hearing if requested by any interested person;

"(2) shall obtain advice from the appropriate private sector advisory representatives provided for under section 135; and

"(3) may request the views of the International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to such product or service.

If the Special Representative does not comply with paragraphs (1) and (2) because expeditious action is required, he shall, after making the recommendation concerned to the President, comply with such paragraphs.

"SEC. 305. REQUESTS FOR INFORMATION.

"(a) IN GENERAL.—Upon receipt of written request therefor from any person, the Special Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

"(1) the nature and extent of a specific trade policy or practice of a foreign government or instrumentality with respect to particular merchandise, to the extent that such information is available to the Special Representative or other Federal agencies;

"(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

"(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

"(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by an interested party under subsection (a) is not available to the Special Representative or other Federal agencies, the Special Representative shall, within 30 days after receipt of the request—

"(1) request the information from the foreign government; or

"(2) decline to request the information and inform the person in writing of the reasons for the refusal.

"SEC. 306. ADMINISTRATION.

"The Special Representative shall—

"(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this chapter;

"(2) keep the petitioner regularly informed of all determinations and developments regarding his case under this section, including the reasons for any undue delays; and

"(3) submit a report to the House of Representatives and the Senate semiannually describing the petitions filed and the determinations made (and reasons therefor) under section 302, developments in and cur-

rent status of each such proceeding, and the actions taken, or the reasons for no action, by the President under section 301.".

SEC. 902. CONFORMING AMENDMENTS.

(a) ELIMINATION OF CONGRESSIONAL PROCEDURES.—Chapter 5 of title I of the Trade Act of 1974 is amended as follows:

(1) Section 152(a) is amended—

(A) by amending paragraph (1)(A) to read as follows:

"(A) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 transmitted to the Congress on .', the blank space being filled with the appropriate date; and";

(B) by striking out "paragraph (3)," in paragraph (1)(B) and inserting in lieu thereof "paragraph (2),";

(C) by striking out paragraph (2); and

(D) by redesignating paragraph (3) as paragraph (2).

(2) Section 154 is amended by striking out "302(a)," in subsection (a); and by striking out "302(b)," in subsection (b).

(b) TABLE OF CONTENTS.—The table of contents of the Trade Act of 1974 is amended by striking out

"CHAPTER 1—FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES

"Sec. 301. Responses to certain trade practices of foreign governments.
"Sec. 302. Procedure of or congressional disapproval of certain actions taken under section 301.";

and inserting in lieu thereof the following:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

"Sec. 301. Determinations and action by President.
"Sec. 302. Petitions for Presidential action.
"Sec. 303. Consultation upon initiation of investigation.
"Sec. 304. Recommendations by the Special Representative.
"Sec. 305. Requests for information.
"Sec. 306. Administration.".

SEC. 903. EFFECTIVE DATE.

The amendments made by sections 901 and 902 shall take effect on the date of the enactment of this Act. Any petition for review filed with the Special Representative for Trade Negotiations under section 301 of the Trade Act of 1974 (as in effect on the day before such date of enactment) and pending on such date of enactment shall be treated as an investigation initiated on such date of enactment under section 302(b)(2) of the Trade Act of 1974 (as added by section 901 of this Act) and any information developed by, or submitted to, the Special Representative before such date of enact-

ment under the review shall be treated as part of the information developed during such investigation.

# TITLE X—JUDICIAL REVIEW

SEC. 1001. JUDICIAL REVIEW.

(a) REVIEW PROCEDURES APPLICABLE TO COUNTERVAILING DUTY AND ANTIDUMPING DUTY MATTERS.—Title V of the Tariff Act of 1930 (19 U.S.C. 1501, et seq.) is amended by inserting after section 516 the following new section:

"SEC. 516A. JUDICIAL REVIEW IN COUNTERVAILING DUTY AND ANTIDUMPING DUTY PROCEEDINGS.

"(a) REVIEW OF DETERMINATION.—

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of notice of—

"(A) a determination by the Secretary or the administering authority, under section 303(a)(3), 702(c), or 732(c) of this Act, not to initiate an investigation,

"(B) a determination by the administering authority, under section 703(c) or 733(c) of this Act, that a case is extraordinarily complicated,

"(C) a determination by the administering authority or the Commission, under section 751(b)

of this Act, not to review an agreement or a determination based upon changed circumstances,

"(D) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, or

"(E) a negative determination by the administering authority under section 703(b) or 733(b) of this Act,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Customs Court by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(2) REVIEW OF DETERMINATIONS ON RECORD.—

"(A) IN GENERAL.—Within thirty days after the date of publication in the Federal Register of—

"(i) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Customs Court by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the Secretary and by the Commission under section 303, or by the administering authority and by the Commission under section 705 or 735 of this Act.

"(ii) A final negative determination by the Secretary, the administering authority, or

the Commission under section 303, 705, or 735 of this Act.

"(iii) A determination, other than a determination reviewable under paragraph (1), by the Secretary, the administering authority, or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(3) PROCEDURES AND FEES.—The procedures and fees set forth in subsections (b), (c), and (e) of section 2632 of title 28, United States Code, apply to an action under this section.

"(b) STANDARDS OF REVIEW.—

"(1) REMEDY.—The court shall hold unlawful any determination, finding, or conclusion found—

"(A) in an action brought under paragraph (1) of subsection (a), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

"(B) in an action brought under paragraph (2) of subsection (a), to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.

"(2) RECORD FOR REVIEW.—

"(A) IN GENERAL.—For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

"(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 777(a)(3); and

"(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

"(B) CONFIDENTIAL OR PRIVILEGED MATERIAL.—The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence,

the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

"(c) LIQUIDATION OF ENTRIES.—

"(1) LIQUIDATION IN ACCORDANCE WITH DETERMINATION.—Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a notice of a decision of the United States Customs Court, or of the United States Court of Customs and Patent Appeals, not in harmony with that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

"(2) INJUNCTIVE RELIEF.—In the case of a determination described in paragraph (2) of subsection (a) by the Secretary, the administering authority, or the

Commission, the United States Customs Court may enjoin the liquidation of some or all entries of merchandise covered by a determination of the Secretary, the administering authority, or the Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances. In ruling on a request for such injunctive relief, the court shall consider, among other factors, whether—

"(A) the party filing the action is likely to prevail on the merits,

"(B) the party filing the action would be irreparably harmed if liquidation of some or all of the entries is not enjoined,

"(C) the public interest would best be served if liquidation is enjoined, and

"(D) the harm to the party filing the action would be greater if liquidation of some or all of the entries is not enjoined than the harm to other persons if liquidation of some or all of the entries is enjoined.

"(3) REMAND FOR FINAL DISPOSITION.—If the final disposition of an action brought under this section is not in harmony with the published determination of the Secretary, the administering authority, or the Com-

mission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

"(d) STANDING.—Any interested party who was a party to the proceeding under section 303 of this Act or title VII of this Act shall have the right to appear and be heard as a party in interest before the United States Customs Court. The party filing the action shall notify all interested parties of the filing of an action pursuant to this section.

"(e) LIQUIDATION IN ACCORDANCE WITH FINAL DECISION.—If the cause of action is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals—

"(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, or withdrawn from warehouse, for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, and

"(2) entries, the liquidation of which was enjoined under subsection (c)(2),

shall be liquidated in accordance with the final court decision in the action. Such notice of the court decision shall be pub-

lished within ten days from the date of the issuance of the court decision.

"(f) DEFINITIONS.—For purposes of this section—

"(1) ADMINISTERING AUTHORITY.—The term 'administering authority' means the administering authority described in section 771(1) of this Act.

"(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

"(3) INTERESTED PARTY.—The term 'interested party' means any person described in section 771(9) of this Act.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 516 OF THE TARIFF ACT OF 1930.—Section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) is amended—

(A) by striking out so much of such section as precedes subsection (e) and inserting in lieu thereof the following:

"SEC. 516. PETITIONS BY DOMESTIC INTERESTED PARTIES.

"(a) REQUEST FOR CLASSIFICATION AND RATE OF DUTY; PETITION.—The Secretary shall, upon written request by an interested party (as defined in section 771(9) (C),

(D), and (E) of this Act) furnish the classification and the rate of duty imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by such interested party. If the interested party believes that the appraised value, the classification, or rate of duty is not correct, it may file a petition with the Secretary setting forth—

"(1) a description of the merchandise,

"(2) the appraised value, the classification, or the rate of duty that it believes proper, and

"(3) the reasons for its belief.

"(b) DETERMINATION ON PETITION.—If, after receipt and consideration of a petition filed by such an interested party, the Secretary determines that the appraised value, the classification, or rate of duty is not correct, he shall determine the proper appraised value, classification, or rate of duty and shall notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised, classified, or assessed as to the rate of duty in accordance with the Secretary's determination.

"(c) CONTEST BY PETITIONER OF APPRAISED VALUE, CLASSIFICATION, OR RATE OF DUTY.—If the Secretary determines that the appraised value, classification, or rate of

duty with respect to which a petition was filed pursuant to subsection (a) of this section is correct, he shall notify the petitioner. If dissatisfied with the determination of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the notification, notice that it desires to contest the appraised value, classification, or rate of duty. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his determination as to the proper appraised value, classification, or rate of duty and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the determination of the Secretary, at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value, classification, or rate of duty imposed upon such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to immediately notify the petitioner by mail when the first of such entries is liquidated.", and

(B) by redesignating subsections (e), (f), (g), and (h), as subsections (d), (e), (f), and (g), and

(C) in subsection (f), as that subsection is redesignated by subparagraph (B) of this paragraph—

(i) by inserting "in the Federal Register by the Secretary or the administering authority of a notice" immediately before "of the court decision", and

(ii) by adding at the end thereof the following: "Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.".

(2) AMENDMENT OF SECTION 515 OF THE TARIFF ACT OF 1930.—Section 515(a) of such Act (19 U.S.C. 1515(a)) is amended by adding at the end thereof the following: "Such notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of his right to file a civil action contesting the denial of a protest under section 514 of the Tariff Act of 1930.".

(3) AMENDMENT OF SECTION 514 OF THE TARIFF ACT OF 1930.—Section 514 of such Act (19 U.S.C. 1514) is amended—

(A) in subsection (a), by inserting "subsection (b) of this section," immediately after "Except as provided in",

(B) in subsection (a), by striking out "American manufacturers, producers, and wholesalers" and inserting in lieu thereof "domestic interested

parties as defined in section 771(9) (C), (D), and (E) of this Act",

(C) by redesignating subsections (b) and (c) as subsections (c) and (d),

(D) by inserting after subsection (a) the following new subsection:

"(b) With respect to determinations made under section 303 of this Act or title VII of this Act which are reviewable under section 516A of this title, determinations of the appropriate customs officer are final and conclusive upon all persons (including the United States and any officer thereof) unless a civil action contesting a determination listed in section 516A of this title is commenced in the United States Customs Court.",

(E) in paragraph (1) of subsection (c), as that subsection is redesignated by subparagraph (C) of this paragraph, by striking out the last sentence thereof and inserting in lieu thereof the following: "Except as provided in sections 485(d) and 557(b) of this Act, protests may be filed with respect to merchandise which is the subject of a decision specified in subsection (a) of this section by—

"(A) the importers or consignees shown on the entry papers, or their sureties;

"(B) any person paying any charge or exaction;

"(C) any person seeking entry or delivery;

"(D) any person filing a claim for drawback; or

"(E) any authorized agent of any of the persons described in clauses (A) through (D)", and

(F) in paragraph (2) of subsection (c), as that subsection is redesignated by subparagraph (C) of this paragraph, by adding at the end thereof the following: "A protest by a surety which has an unsatisfied legal claim under its bond may be filed within 90 days from the date of mailing of notice of demand for payment against its bond. If another party has not filed a timely protest, the surety's protest shall certify that it is not being filed collusively to extend another authorized person's time to protest as specified in this subsection.".

(4) AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE.—

(A) Section 1541(a) of title 28, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "and from any interlocutory order

granting, continuing, modifying, refusing, or dissolving an injunction, or refusing to dissolve or modify an injunction, under section 516A(c)(2) of the Tariff Act of 1930".

(B) Section 1582 of such title is amended—

(i) in subsection (b), by striking out "American manufacturers, producers, or wholesalers pursuant to section 516" and inserting in lieu thereof "interested parties under sections 516 and 516A";

(ii) in subsection (c), by inserting "and 516A" immediately after "section 516" each time it appears; and

(iii) by adding at the end thereof the following:

"(e) The Customs Court shall have exclusive jurisdiction of any civil action brought by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979. For purposes of this subsection, the term 'party-at-interest' means—

"(1) a foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under section 305(b) of the Trade Agreements Act of 1979,

"(2) a manufacturer, producer, or wholesaler in the United States of a like product,

"(3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and

"(4) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

"(f) The Customs Court shall have exclusive jurisdiction of any application for the issuance of a protective order under section 777(c)(2) of the Tariff Act of 1930.".

(C) Section 2632(f) of such title is amended by striking out "Upon service" and inserting in lieu thereof "Except as provided in section 516A of the Tariff Act of 1930, upon service".

(D) Section 2633 of such title is amended—

(i) in the section heading, by striking out "American manufacturer, producer, or wholesaler";

(ii) by inserting "and section 516A" immediately after "section 516"; and

(iii) by inserting "(a)" immediately before "Every proceeding" and by adding at the end thereof the following:

"(b) Of those proceedings given precedence under subsection (a) of this section, any proceeding for the review of a determination under section 516A(a)(1)(B) or 516A(a)(1)(E) of the Tariff Act of 1930 shall be given priority over other such proceedings.".

(E) Section 2637 of such title is amended—

(i) in subsection (a) by striking out "In any proceeding" and inserting in lieu thereof "Except as otherwise provided by law, in any proceeding"; and

(ii) in subsection (b), by striking out "by an American manufacturer, producer, or wholesaler" and inserting in lieu thereof "under section 2632(a) of this title".

(F) The table of sections for chapter 169 of such title is amended by striking out the item relating to section 2633 and inserting in lieu thereof the following new item:

"Sec. 2633. Precedence of cases.".

**SEC. 1002. EFFECTIVE DATE AND TRANSITIONAL RULES.**

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on that date (hereinafter in this section referred to as the "effective date") on which title VII of the Tariff Act of 1930 (as added by title I of this Act) takes effect; and section 515(a) of such Act of 1930 (as amended by

section 901(b)(2)) shall apply with respect to any denial, in whole or in part, of a protest filed under section 514 of such Act of 1930 on or after the effective date.

(b) TRANSITIONAL RULES.—

(1) CERTAIN PROTESTS, PETITIONS, ACTIONS, ETC.—The amendments made by this title shall not apply with respect to—

(A) any protest, petition, or notice of desire to contest filed before the effective date under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930;

(B) any civil action commenced before the effective date under section 2632 of title 28 of the United States Code; or

(C) any civil action commenced after the effective date under such section 2632 if the protest, petition, or notice of desire to contest (under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930) on which such action is based was filed before such effective date.

"(2) LAW TO BE APPLIED FOR PURPOSES OF SUCH ACTIONS.—Notwithstanding the repeal of the Antidumping Act, 1921, by section 106(a) of this Act, and the amendment of section 303 of the Tariff Act of 1930 by section 103 of this Act, the law in effect on

the date of any finding or determination contested in a civil action described in subparagraph (A), (B), or (C) of paragraph (1) shall be applied for purposes of that action.

(3) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY ASSESSMENTS.—The amendments made by this title shall apply with respect to the review of the assessment of, or failure to assess, any countervailing duty or antidumping duty on entries subject to a countervailing duty order or antidumping finding if the assessment is made after the effective date. If no assessment of such duty had been made before the effective date that could serve the party seeking review as the basis of a review of the underlying determination, made by the Secretary of the Treasury or the International Trade Commission before the effective date, on which such order, finding, or lack thereof is based, then the underlying determination shall be subject to review in accordance with the law in effect on the day before the effective date.

(4) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY DETERMINATIONS.—With respect to any preliminary determination or final determination of the Secretary of the Treasury under section 303 of the Tariff Act of 1930 or the Antidumping Act, 1921,

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which is treated under section 102 of this Act as if made under section 703(b), 705(a), 733(b), or 735(a) of the Tariff Act of 1930 (as added by title I of this Act) such determinations shall be subject to judicial review in the same manner and to the same extent as if made on the day before the effective date.

## TITLE XI—MISCELLANEOUS PROVISIONS

### SEC. 1101. EXTENSION OF NONTARIFF BARRIER NEGOTIATING AUTHORITY.

Section 102(b) of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "5-year period" and inserting in lieu thereof "13-year period".

### SEC. 1102. AUCTION OF IMPORT LICENSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may sell import licenses at public auction under such terms and conditions as he deems appropriate. Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

(b) DEFINITION OF IMPORT LICENSE.—For purposes of this section, the term "import license" means any documentation used to administer a quantitative restriction imposed or modified after the date of enactment of this Act under—

(1) section 125, 203, 301, or 406 of the Trade Act of 1974 (19 U.S.C. 2135, 2253, 2411, or 2436),

(2) the International Emergency Economic Powers Act (50 U.S.C. App. 1701–1706),

(3) authority under the headnotes of the Tariff Schedules of the United States, but not including any quantitative restriction imposed under section 22 of the Agricultural Adjustment Act of 1934 (7 U.S.C. 624),

(4) the Trading With the Enemy Act (50 U.S.C. App. 1–44),

(5) section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) other than for meat or meat products, or

(6) any Act enacted explicitly for the purpose of implementing an international agreement to which the United States is a party, including such agreements relating to commodities, but not including any agreement relating to cheese or dairy products.

***SEC. 1103. ADVICE FROM PRIVATE SECTOR.***

Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended—

(1) by striking out ", in accordance with the provisions of this section;" in subsection (a),

(2) by striking out "101 or 102" in subsection (a) and inserting in lieu thereof "101, 102, or 124",

(3) by inserting before the period in subsection (a) a comma and the following: "with respect to the operation of any trade agreement once entered into, and with respect to other matters arising in connection with the administration of the trade policy of the United States",

(4) by striking out "any trade agreement referred to in section 101 or 102" in subsection (b)(1) and inserting in lieu thereof the following: "matters referred to in subsection (a)",

(5) by striking out subsection (b)(2) and inserting in lieu thereof the following:

"(2) The Committee shall meet at the call of the Special Representative for Trade Negotiations. The Chairman of the Committee shall be elected by the Committee from among its members. Members of the Committee shall be appointed by the President for a period of 2 years and may be reappointed for one or more additional periods.",

(6) by striking out so much of subsection (c) as precedes paragraph (2) and inserting in lieu thereof the following:

"(c)(1) The President may, on his own initiative, or at the request of organizations representing industry, labor, agriculture, or services, establish general policy advisory committees for industry, labor, agriculture, or services, respec-

tively, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, and service interests, respectively, including small business interests, and shall be organized by the Special Representative for Trade Negotiations and the Secretary of Commerce, Labor, or Agriculture, as appropriate.",

(7) by striking out the first two sentences of subsection (c)(2) and inserting in lieu thereof the following: "The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned.",

(8) by striking out "the President, acting through the Special Representative for Trade Negotiations and" in the third sentence of subsection (c)(2) and inserting in lieu thereof the following: "the Special Representative for Trade Negotiations and",

(9) by striking out "product sector" in the last sentence of subsection (c)(2),

(10) by inserting ", in the case of each sectoral committee," in the last sentence of subsection (c)(2) immediately before "the product lines",

(11) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Committees established under subsection (c) shall meet at the call of the Special Representative for Trade Negotiations and the Secretary of Agriculture, Commerce, or Labor, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).",

(12) by striking out "and each sector advisory committee, if the sector," in the first sentence of subsection (e)(1) and inserting in lieu thereof the following: "and each sector or functional advisory committee, if the sector or area",

(13) by inserting "or functional area" immediately after "appropriate sector" in the second sentence of subsection (e)(1),

(14) by inserting "or within the functional area" immediately before the period at the end of subsection (e)(1),

(15) by striking out subsection (e)(2) and redesignating subsection (e)(1) as subsection (e),

(16) by—

(A) striking out "groups" in subsection (f)(2) and inserting in lieu thereof "committees", and

(B) striking out "on the negotiation of any trade agreement" in such subsection and inserting in lieu thereof "with respect to matters referred to in subsection (a)",

(17) by striking out "a trade agreement referred to in section 101 or 102" in subsection (g)(1)(A) and inserting in lieu thereof the following: "matters referred to in subsection (a)",

(18) by—

(A) striking out "trade negotiations" in subsection (g)(1)(B) and inserting in lieu thereof "matters referred to in subsection (a)", and

(B) striking out "proposed trade agreements" in subsection (g)(2) and inserting in lieu thereof "matters referred to in subsection (a)",

(19) by—

(A) striking out ", both during preparation for negotiations and actual negotiations" in the first sentence of subsection (i),

(B) striking out "arising in preparation for or in the course of such negotiations" in the second sentence of such subsection, and

(C) striking out "to the negotiations" in the second sentence of such subsection and inserting

in lieu thereof the following: "with respect to matters referred to in subsection (a)",

(20) by striking out "trade agreement referred to in section 101 or 102" in subsections (j) and (k) and inserting in lieu thereof "matters referred to in subsection (a)",

(21) by adding at the end of subsection (k) the following new sentence: "To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate, but may not speak or negotiate for the United States.", and

(22) by adding at the end thereof the following new subsection:

"(l) The provisions of title XVIII of the Food and Agriculture Act of 1977 shall not apply to an advisory committee established under subsection (c).".

**SEC. 1104. STUDY OF POSSIBLE AGREEMENTS WITH NORTH AMERICAN COUNTRIES.**

(a) IN GENERAL.—Section 612 of the Trade Act of 1974 (19 U.S.C. 2486) is amended by inserting "(a)" before "It" and by adding at the end thereof the following:

"(b) The President shall study the desirability of entering into trade agreements with countries in the northern portion of the western hemisphere to promote the economic growth of the United States and such countries and the mutual expansion of market opportunities and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate his findings and conclusions within 2 years after the date of enactment of this Act. The study shall include an examination of competitive opportunities and conditions of competition between such countries and the United States in the agricultural, energy, and other appropriate sectors.".

(b) CLERICAL AMENDMENTS.—

(1) The caption of section 612 of such Act is amended to read as follows:

**"SEC. 612. TRADE RELATIONS WITH NORTH AMERICAN COUNTRIES.".**

(2) The table of contents of such Act is amended by striking out the item relating to section 612 and inserting in lieu thereof the following new item:

"Sec. 612. Trade relations with North American countries.".

**SEC. 1105. AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930.**

(a) RELATIONSHIP TO COUNTERVAILING AND ANTIDUMPING DUTY INVESTIGATIONS.—Paragraph (3) of section 337(b) of the Tariff Act of 1930 (19 U.S.C. 1337) is amended—

(1) by striking out "the matter" and inserting in lieu thereof "a matter, in whole or in part,", and

(2) by adding at the end thereof the following: "If the Commission has reason to believe the matter before it is based solely on alleged acts and effects which are within the purview of section 303, 701, or 731 of this Act, it shall terminate, or not institute, any investigation into the matter. If the Commission has reason to believe the matter before it is based in part on alleged acts and effects which are within the purview of section 303, 701, or 731 of this Act, and in part on alleged acts and effects which may, independently from or in conjunction with those within the purview of such section, establish a basis for relief under this section, then it may institute or continue an investigation into the matter. If the Commission notifies the Secretary or the administering authority (as defined in section 771(1) of this Act) with respect to a matter under this paragraph, the Commission may suspend its investigation during the time the matter is

before the Secretary or administering authority for final decision. For purposes of computing the 1-year or 18-month periods prescribed by this subsection, there shall be excluded such period of suspension. Any final decision of the Secretary under section 303 of this Act or by the administering authority under section 701 or 731 of this Act with respect to which the Commission has notified the Secretary or administering authority shall be conclusive upon the Commission with respect to the issue of less-than-fair-value sales or subsidization and the matters necessary for such decision.".

(b) CIVIL PENALTY FOR VIOLATION OF ORDER.—Subsection (f) of section 337 of such Act (19 U.S.C. 1337(f)) is amended by inserting "(1)" before "In lieu of", and by adding at the end thereof the following new paragraph:

"(2) Any person who violates an order issued by the Commission under paragraph (1) after it has become final shall forfeit and pay to the United States a civil penalty for each day on which an importation of articles, or their sale, occurs in violation of the order of not more than the greater of $10,000 or the domestic value of the articles entered or sold on such day in violation of the order. Such penalty shall accrue to the United States and may be recovered for the United States in a civil action brought by the Commission in the Federal District Court for the District of Columbia or for

the district in which the violation occurs. In such actions, the United States district courts may issue mandatory injunctions incorporating the relief sought by the Commission as they deem appropriate in the enforcement of such final orders of the Commission.".

(c) CONFORMING AMENDMENT.—The fourth sentence of section 337(c) of such Act (19 U.S.C. 1337(c)) is amended by striking out "(d) or (e)" and inserting in lieu thereof "(d), (e), or (f)".

**SEC. 1106. TECHNICAL AMENDMENTS TO THE TRADE ACT OF 1974.**

(a) AMENDMENT OF TRADE ACT OF 1974.—Except as otherwise specifically provided in this section, any reference in this section by way of amendment, repeal, or other change to a provision of law is a reference to the specified provision of the Trade Act of 1974.

(b) TABLE OF CONTENTS.—In the table of contents the item relating to section 261 is amended to read as follows:

"Sec. 261. Definition of firm.".

(c) TITLE I.—

(1) Section 102(e)(2) is amended by striking out "copy of such agreement" and inserting in lieu thereof "copy of the final legal text of such agreement". The amendment made by the preceding sentence shall apply with respect to trade agreements submitted to

the Congress under section 102 of the Trade Act of 1974 after the date of the enactment of this Act.

(2) The next to last sentence of section 121(c) is amended to read as follows: "Such trade agreement may be entered into under section 102.".

(3) Paragraph (2) of section 109(c) is amended by striking out "such" and inserting in lieu thereof "any".

(4) Section 5315(24) of title 5, United States Code, is amended by inserting immediately after "Commission" the following: "(5)".

(5) Paragraph (1) of section 152(c) is amended by striking out "153(b)" and inserting in lieu thereof "154(b)".

(d) TITLE II.—

(1) Section 203(a)(4) is amended by inserting ", conclude, and carry out" immediately after "negotiate".

(2) Section 203(b) is amended by—

(A) striking out "On the day on which the President proclaims import relief under this section or announces his intention to negotiate one or more orderly marketing agreements," in paragraph (1) and inserting in lieu thereof "On the day the President determines under section 202 to provide import relief, including announcement of

his intention to negotiate an orderly marketing agreement,",

(B) striking out "201(b)(1)(A)" in paragraph (1) and inserting in lieu thereof "201(d)(1)(A)", and

(C) adding at the end thereof the following new paragraph:

"(3) On the day on which the President proclaims any import relief under this section not reported pursuant to paragraph (1), he shall transmit to Congress a document setting forth the action he is taking and the reasons therefor.".

(3) Section 203(c)(1) is amended by—

(A) striking out "201(b)(1)(A)" and inserting in lieu thereof "201(d)(1)(A)", and

(B) by inserting "under the procedures set forth in section 152" immediately after "voting".

(4) Section 203(e)(3) is amended by striking out "(1), (2), (3) or (5)".

(5) Section 203(g)(1) is amended by—

(A) striking out "quantitative"; and

(B) striking out "pursuant to subsection (a)(3) or (c)" and inserting in lieu thereof "pursuant to this section".

(6) Section 203(g)(2) is amended by striking out "or (e)(2)" each place it appears and inserting in lieu thereof "(e)(2), or (e)(3)".

(7) Subsection (h) of section 203 is amended by—

(A) inserting "or (i)(3)" after "(i)(2)" in paragraphs (3) and (4), and

(B) by striking out "one 3-year period" in paragraph (3) and inserting in lieu thereof "one period of not more than 3 years".

(8) The caption of section 261 is amended to read as follows:

"SEC. 261. DEFINITION OF FIRM.".

(e) TITLE III.—Section 331(c) is amended by striking out "515(d)" and inserting in lieu thereof "315(d)".

(f) TITLE IV.—

(1) Section 402(c)(1) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsections (a)".

(2) Section 404(c) is amended by striking out the comma.

(3) Section 405(b)(8) is amended by striking out "those" and inserting in lieu thereof "arrangements".

(g) TITLE V.—

(1) Section 502(b)(2) is amended by striking out "withhold supplies of vital commodity resources from

international trade or to raise the price of such commodities to an unreasonable level which causes serious disruption of the world economy;".

(2) Section 502(b)(6) is amended by inserting a comma after "partnership".

(3) Section 504(c)(1) is amended—

(A) by striking out "60 days" and inserting in lieu thereof "90 days", and

(B) by striking out "60th day," and inserting in lieu thereof "90th day,".

(h) TITLE VI.—

(1) Section 601(2) is amended by striking out "and" and inserting in lieu thereof "or".

(2) Section 602(a) is amended by striking out ", as amended".

(3) Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended by striking out "subsections (c) and (d)" each place it appears and inserting in lieu thereof "subsection (d)".

(i) Section 602(f) is amended by striking out the last comma.

SEC. 1107. TECHNICAL AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES.

(a) GENERAL HEADNOTE CHANGES.—The general headnotes for the Tariff Schedules of the United States (19 U.S.C. 1202) are amended—

(1) by inserting "and" after "subpart E" in headnote 3(a)(1), and

(2) by striking out "Germany (the Soviet zone and the Soviet sector of Berlin)" in headnote 3(e) and inserting in lieu thereof "German Democratic Republic and East Berlin".

(b) TOBACCO.—Schedule 1, part 13 of such Schedules is amended by redesignating headnotes 5 and 6 as 3 and 4, respectively.

(c) FLUORANTHENE.—Schedule 4, part 1, subpart A, item 401.36 of such Schedules is amended to read "Fluoranthene."

(d) STRUCTURES.—Schedule 6, part 3, subpart F of such Schedules is amended by striking out items 652.97 and 652.99 and the superior heading thereto and by inserting in lieu thereof the following:

| | | | |
|---|---|---|---|
| " 652.97 | Offshore oil and natural gas drilling and production platforms | 9.5% ad val. | 45% ad val. |
| 653.00 | Other | 9.5% ad val. | 45% ad val. |
| 653.01 | Other | 9.5% ad val. | 45% ad val. " |

(e) MEASURING, TESTING, AND CONTROLLING INSTRUMENTS.—Schedule 7, part 2, subpart D of such Schedules is amended—

(1) by striking out "711.00" in headnote 1 and headnote 2(a) and inserting "711.04" in lieu thereof; and

(2) by striking out "712.00 to 712.99" in headnote 2 and inserting "712.05 to 712.51" in lieu thereof.

(f) PHOTOGRAPHIC PRODUCTS.—The article description in item 722.10 of such Schedules is amended to read as follows: "Having a photographic lens valued over 50 percent of the value of the article.".

(g) BUTTONS.—Schedule 7, part 7, subpart A of such Schedules is amended—

(1) by striking out "745.22," in headnote 2(a); and

(2) by redesignating headnote 4 as headnote 3.

(h) PRESSURE-SENSITIVE ARTICLES.—Schedule 7, part 13, subpart A, headnote 1(ii) of such Schedules is amended by striking "13B" and inserting "13C" in lieu thereof.

SEC. 1108. REPORTING OF STATISTICS ON A COST-INSURANCE-FREIGHT BASIS.

(a) IN GENERAL.—Section 301 of title 13, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) There shall be reported, on monthly and cumulative bases, for each item in the Tariff Schedules of the United States Annotated, the United States port of entry value (as determined under subsection (b)(6)). There shall be reported, on monthly and cumulative bases, the balance of international trade for the United States reflecting (1) the aggregate value of all United States imports as reported in accordance with the first sentence of this subsection, and (2) the aggregate value of all United States exports. The values and balance of trade required to be reported by this subsection shall be released no later than 48 hours before the release of any other government statistics concerning values of United States imports or United States balance of trade, or statistics from which such values or balance may be derived.

"(f) On or before January 1, 1981, and as often thereafter as may be necessary to reflect significant changes in rates, there shall be reported for each item of the Tariff Schedules of the United States Annotated, the ad valorem or ad valorem equivalent rate of duty which would have been required to be imposed on dutiable imports under that item, if the United States customs values of such imports were based

on the United States port of entry value (as reported in accordance with the first sentence of subsection (e)) in order to collect the same amount of duties on imports under that item as are currently collected.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to reports made after December 31, 1979.

SEC. 1109. REORGANIZING AND RESTRUCTURING OF INTERNATIONAL TRADE FUNCTIONS OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—The President shall submit to the Congress, not later than July 10, 1979, a proposal to restructure the international trade functions of the Executive Branch of the United States Government. In developing his proposal, the President shall consider, among other possibilities, strengthening the coordination and functional responsibilities of the Office of the Special Representative for Trade Negotiations to include, among other things, representation of the United States in all matters before the General Agreement on Tariffs and Trade, the establishment of a board of trade with a coordinating mechanism in the Executive Office of the President, and the establishment of a Department of International Trade and Investment. The recommendations of the President, as embodied in such proposal, should include a monitoring and enforcement structure which would

insure protection of United States rights under agreements negotiated pursuant to the Tokyo Round of the Multilateral Trade Negotiations and all other elements of multilateral and bilateral international trade agreements. The proposal should result in an upgrading of commercial programs and commercial attaches overseas to assure that United States trading partners are meeting their trade agreement obligations, particularly those entered into under such agreements, including the tendering procedures of the Agreement on Government Procurement.

(b) CONGRESSIONAL ACTION.—In order to ensure that the 96th Congress takes final action on a comprehensive reorganization of trade functions as soon as possible, the appropriate committee of each House of the Congress shall give the proposal by the President immediate consideration and shall make its best efforts to take final committee action to reorganize and restructure the international trade functions of the United States Government by November 10, 1979.

SEC. 1110. STUDY OF EXPORT TRADE POLICY.

(a) REVIEW OF EXPORT PROMOTION AND DISINCENTIVES.—The President shall review all export promotion functions of the executive branch and potential programmatic and regulatory disincentives to exports, and shall submit to the Congress a report of that review not later than July 15, 1980. The report should make particular reference to those

activities which enhance the role of small and medium-sized businesses in export trade.

(b) CONDITIONS OF COMPETITION STUDY.—Not later than July 15, 1980, the President shall submit to the Congress a study of the factors bearing on the competitive posture of United States producers and the policies and programs required to strengthen the relative competitive position of the United States in world markets.

**SEC. 1111. GENERALIZED SYSTEM OF PREFERENCES.**

(a) IN GENERAL.—Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is amended as follows:

(1) Section 502(a)(3) is amended by inserting "or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties," immediately before "the President".

(2) Section 502(e) is amended by—

(A) inserting "(1)" immediately after "(e)"; and

(B) adding at the end thereof the following new paragraph:

"(2) The President may exempt from the application of paragraph (2) of subsection (b) any country that enters into a bilateral product-specific trade agreement with the United States under section 101 or 102 of the Trade Act of 1974

before January 3, 1980. The President shall terminate the exemption granted to any country under the preceding sentence if that country interrupts or terminates the delivery of supplies of petroleum and petroleum products to the United States.".

(3) Section 503(b) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) If the sum of (A) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus (B) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States."; and

(B) by striking out the penultimate sentence.

(4) Section 504 is amended—

(A) by adding at the end of subsection (c) the following new paragraph:

"(3) 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."; and

(B) by inserting at the end of subsection (d) the following new sentence: "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.".

(b) EFFECTIVE DATE.—The amendments made by paragraph (4) of subsection (a) shall take effect on April 1, 1980.

SEC. 1112. CONCESSION-RELATED REVENUE LOSSES TO UNITED STATES POSSESSIONS.

(a) DETERMINATIONS BY SECRETARY OF COMMERCE.—

(1) IMPACT OF CONCESSIONS.—Upon the request of the government of a possession of the United States, the Secretary of Commerce shall determine before January 1, 1980—

(A) whether a concession was granted by the United States in the Tokyo round of the Multilat-

eral Trade Negotiations on an article produced in that possession on which excise taxes are levied by the United States, and

(B) whether the sum of the amounts transferred and paid over to that possession attributable to such taxes for calendar year 1978 were equal to, or greater than, an amount equal to 10 percent of the tax revenues (not including revenues associated with petroleum or petroleum products) of that possession for 1978.

(2) ANNUAL DETERMINATIONS.—If the determinations of the Secretary under subparagraphs (A) and (B) of paragraph (1) are affirmative, then he shall determine, within 8 months after the close of each of the fiscal years 1980 through 1984, whether that concession contributed importantly to a reduction in the sum of the amounts transferred and paid over to that possession on account of such excise taxes for the most recently closed fiscal year. In making his determination, the Secretary shall take into account the extent to which other factors may have contributed to the reduction. The Secretary shall determine the amount of the reduction by subtracting the amount so transferred and paid over for the fiscal year from the amount which would have been transferred and paid over for

the fiscal year if the products of the possession with respect to which the excise tax is imposed had maintained a share of the United States market for that product which was the share of the United States market for the product for fiscal year 1979.

(b) INCLUSION OF COMPENSATORY AMOUNT IN BUDGET OF THE UNITED STATES.—If the Secretary determines an amount under subsection (a)(2), he shall advise the President of that amount and the President may include, in the first Budget or Supplemental Budget submitted under the Budget and Accounting Act, 1921, after receiving such advice, an amount, equal to the amount so determined by the Secretary, for payment to the government of that possession to offset the amount of the reduction. If the President includes an amount different from the amount determined by the Secretary or no amount, the President shall promptly submit a report to the Congress setting forth his reasons for submitting such a different amount. Upon appropriation, such sums shall be paid promptly to the government of such possession. There are authorized to be appropriated such sums as may be necessary for the purposes of this section for fiscal years 1981 through 1985.

(c) REPORT TO THE CONGRESS.—On January 31, 1984, the President shall report to the Congress on the operation of this section, the reductions in revenues determined

under this section, and any reductions which are likely to occur in fiscal years beginning after September 30, 1984. If he determines that such action is warranted, he shall recommend to the Congress in such report an extension of the application of this section to such fiscal years.

SEC. 1113. NO BUDGET AUTHORITY FOR ANY FISCAL YEAR BEFORE FISCAL YEAR 1981.

Nothing in this Act shall be construed as authorizing the enactment of new budget authority for any fiscal year beginning before October 1, 1980.

SEC. 1114. EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall take effect on the date of enactment of this Act.

Senator RIBICOFF. The committee will be in order.

Six years ago the Tokyo round of multilateral trade negotiations began. Today the Subcommittee on International Trade is considering legislation to implement the results of those negotiations for the United States.

The MTN has produced tangible results. It did not end in a whimper. This alone is a remarkable achievement.

The negotiations began during a worldwide boom. Since then we have had the OPEC price increases, a global recession and changes in administration in every major trading country.

The productive conclusion of the MTN is due largely to the leadership of the United States. Several Presidents and many Government officials have contributed to this effort. However, there is no doubt that without Robert S. Strauss there could have been no conclusion to the MTN and no Trade Agreements Act of 1979.

The legislation before us today marks the end of the negotiations. It may mark the beginning of a new era both in international and in U.S. trade policy.

Internationally, the MTN agreements on subsidies, government procurement, product standards, antidumping, customs valuation and import licensing may permit governments to resolve conflicts before they become confrontations. This should promote increased trade and higher standards of living throughout the world.

I say may and should because the MTN agreements are merely rules. Rules mean nothing unless they are enforced.

Domestically, the MTN should provide some immediate benefits. In the long run, the MTN agreements could benefit the United States significantly by opening up new markets and discouraging unfair competition. Again, I say "should" and "could." This is because the benefits of the MTN to the United States depend entirely upon our ability to take advantage of those agreements.

If history is any indication, international enforcement of the new trade rules will depend on the United States. Our ability to enforce the MTN agreements and to promote the short- and long-term economic interests of the United States require some fundamental changes.

First, Congress and the President must continue to work closely together on international economic issues. The era of the trade agreements program, as we have known it, is over. U.S. negotiators will never again make trade agreements for the United States without close congressional review.

The MTN was a successful constitutional experiment in coordination between the two branches of Government. We must apply the lessons we have learned during MTN to future negotiations.

Second, the executive branch trade policy agencies must be reorganized. We can no longer afford the luxury of dispersing political responsibility for international economic policymaking among many agencies. We can no longer afford limp enforcement of our unfair trade laws and uncoordinated attempts at export promotion. We must establish a strong trade policy agency. Without such an agency, the benefits of the MTN for the United States will be minimal.

Parenthetically, it was my impression that the administration was to send to us its recommendations for the reorganization of our

trade agencies by the 10th of July. Today is July 10. If anybody has seen a copy of it, I have not.

Maybe the administration could enlighten us before the day is over. It is very unfortunate, because in looking ahead, in cooperation with the MTN, it was the overwhelming sentiment of the Finance Committee that we would do something to reorganize our trade bureaucracies, organization, whatever you may have. And I do believe that that is the overwhelming sentiment of the Governmental Affairs Committee who has the responsibility.

Senator Roth and myself serve on both committees.

Finally, we must all realize that the world marketplace is rough. We must fight to keep the markets we have and gain new markets. We must win these fights because our economic welfare absolutely depends on international trade, both imports and exports. Furthermore, economics dictate international relations today, not geopolitics. If anyone doubts this, all they have to do is try and buy some gasoline.

If we do these three things, then the Trade Agreements Act of 1979 will mark the beginning of a new era for U.S. international trade. We have many witnesses today and I hope they will provide some guidance to the committee on these questions.

Before we call our first witness, Senator Roth, do you have any comments?

Senator ROTH. At the outset, I would like to take a moment to recognize the incomparable contribution that Senator Ribicoff, as chairman of the International Trade Subcommittee, has made to the MTN process. The pluses we have gleaned from the negotiations in no small way are directly attributable to Abe Ribicoff's knowledgeable and experienced guidance.

In the same vein, I congratulate my other colleagues of the Senate Finance Committee for monitoring the negotiations as they progressed and taking an effective role in shaping and molding the implementing legislation to best suit our domestic needs, while at the same time abiding by the provisions of the various agreements.

A word of praise must also be said for the Special Trade Representative, Bob Strauss, and his staff. Many voices have congratulated them for what they have accomplished in the current world trade environment. Let me simply add my voice to others.

Mr. Chairman, I also want to thank the many people in this audience who will be testifying and the hundreds of other people in the private sector who contributed their time and energies to shaping this MTN package. Their contribution has been invaluable, at least to my understanding of the issue.

I am sure it had a significant effect on the package.

Mr. Chairman, within the next few days, if all goes according to schedule, and the House approves the bill, we in the Senate will take a vote, which will chart the course of world trade for decades to come.

If approved, the bill will significantly alter domestic loss. In fact, the entire international trade infrastructure will feel a shift.

The testimony that we heard today will help us make the final decision. Perhaps one issue, however, stands out above all others— the United States be prepared structurally to take advantage of these new trade agreements.

I have studied, and discussed the idea of trade reorganization for years now. I am convinced, as are many others more knowledgeable than I am on the subject, that the MTN will fulfill the predictions of having a minimal positive impact unless we undertake a substantial reorganization of our trade promotion and enforcement of unfair trade statutes.

The MTN practice may serve as a roadmap for future international trade, but without meaningful reorganization I am afraid that the United States will never be able to fully explore its possibilities. Our vehicle will simply be too old and inefficient to carry us on the journey.

Today, as you mentioned, is July 10. Today the administration was supposed to submit a reorganization proposal. I will understand if the President has had some other issues on his mind, and his proposal is not yet ready at this time. I believe that the granting of another week's grace is not outrageous, but I believe that this committee should not report the MTN implementing bill until the reorganization proposal is submitted.

In making this decision, I hope that the President will keep in mind the principal congressional objective: To provide a real lead agency for trade policy capable of changing the orientation of this country toward trade.

Neither the proposal I heard about, the so-called OMB Strauss option and the so-called State-Treasury option meet this objective.

Thank you, Mr. Chairman.

Senator RIBICOFF. Senator Roth, I do want to thank you for your complimentary remarks as ranking Republican member for the International Trade Subcommittee. Your help and cooperation has been invaluable.

We have worked better, in complete harmony, and time and time again we have worked out knotty problems.

You are an exceptionally valuable member of the Governmental Affairs Committee in whose hearing room we are conducting these hearings. I agree with you completely. You have taken the lead in the reorganization of the trade functions and I will support your position that until the administration sends up its own concept of a trade reorganization we are not going to vote this out of the Finance Committee.

So the time has come. I know the President has a lot of problems but I think that there should be before us, before we vote on MTN, their concept of what a trade reorganization really is.

That does not mean that we will take it. I think that we have definite ideas of our own, where we should go in trade. I think that the overall business community of this country supports our concept, and this is no time to cave in to the bureaucratic in-fighting throughout this administration.

And you can rest assured, Senator Roth, that we will work closely together to make sure that if we are going to have an MTN bill it really works and it cannot work unless you have got a real trade organization in place, because organization is policy.

You can have the best concepts, but if you do not have the organization to put those concepts into being, they just are not going to work.

We feel if MTN is going to work and the benefits will be derived for the American economy, we are going to have to have an organization that knows how to put it together.

I would also like to pay special tribute to the chief of our staff of the committee, Bob Cassidy, and all of the members of the committee staff who have done such outstanding work.

Ambassador Strauss, you were not here for the compliments and they are no reflection on my comments on you, because I have discussed the concept many, many times over the past number of years of where we should go in reorganizing our whole in-place trade organization throughout the bureaucracy.

I do believe that you feel—not in detail, but, as Senator Roth, as I do, that there should be a different trade reorganization in place in this country.

Mr. Strauss, you may proceed as you will, sir.

## STATEMENT OF HON. ROBERT S. STRAUSS, SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Mr. STRAUSS. Thank you.

Senator Ribicoff, Senator Roth, members of the staff, let me begin, if I may, on a very personal note by expressing to the two of you, and through you to the other members of the Finance Committee and to the staff, not just my official or institutional appreciation, but my personal appreciation for the way that you have worked with me and with my colleagues for the past 2½ years.

I have said around this town, around this country, and around the world, that we constantly see deficiencies in the performance of the democratic process as we know it, but that, in my judgment, we have developed an almost classic example of how the system can, and should, work in this trade legislation.

First, we had the 1974 Trade Act which, while not perfect, set out some splendid guidelines for us to follow. It provided a course that enabled us to get not only the right kind of working relationship between the legislative and the executive but also through its far-sightedness, it provided the kind of private sector input that we needed. Through our ability to work together with the tools that we have, and through the cooperation of the staffs particularly, I really think this has been a classic example of the very best of the bipartisan political process. And I take great personal pride in my part in that.

Before I get into my basic remarks let me also say, to those of you that have been so helpful, that I am as committed to reorganization as either of you. I am committed generally to the same type of reorganization that I think the two of you would be entirely satisfied with.

From what I have seen, and what I know of the options before the President, you will have before you in less than 2 weeks' time—a good deal less, I hope—a trade reorganization position of this administration that, while it will not entirely satisfy either of you, as I suspect your own bill does not satisfy totally the two of you, will be a very substantial piece of legislation.

I know the options and I say to you, while it may not be an A product, it will be at least a B product for you to look at. And I urge you not to hold this trade legislation until you get it.

I told you that by July 10 you would have our reorganization proposal, so you have every right to hold me personally responsible for not delivering it. I think that this committee is sensitive to the problems the President faces that have caused him to delay in addressing these questions. I would be derelict in my duties, unfair to myself, and would lack courage if I did not say, let us get on with the dispatch of this bill and get it behind us. Delay is not going to help anything. You have the commitment of the President. You have my commitment, professionally and personally, that documents representing legislation that substantially goes in the direction you want will be presented to you at the earliest possible time.

I just came in from Camp David and I can turn around and go back up there, but I think it would be wrong to take the President's focus and attention off, our immediate energy problems, for a 24 hour period, while he examines this work product.

I went to him 6 weeks ago, following the hearings in which we got into this question of a date certain and got the President's total cooperation on that. I am more disappointed than either of you, I can assure you, and you have my commitment that I will personally follow through and deliver our proposal.

But just to hold this bill here, in my judgment, would be a negative way of proceeding to accomplish positive results.

Senator RIBICOFF. Bob, there is no man that I respect more than you. I do not think there has been a man in this Senate who has been more supportive of the President than I have on issue after issue. I have gone down the line.

If you want to know what one of the problems of this administration is, the President and yourself, it is the inability to grab hold of this Government and to shake that bureaucracy throughout the length and breadth of this town and this country.

The problem with this trade reorganization has been the inability to tell off the various bureaucracies who keep fighting for their own piece of turf, and that continuous fighting in the bureaucracy for their own piece of turf prevents this Government from moving on issue after issue.

I have seen this with every President, not only with this President, as a Congressman, as a Governor, as a member of the Cabinet of the United States, Senator, and until the President of the United States takes the position that he is the boss, not the bureaucracies throughout Washington, this country is not going to move, whether it is energy, whether it is inflation, or any major issue that we have facing us. I think we have a symbolic problem here that is more important whether MTN gets voted on by the middle of July or by September.

We are ready to move and I back Senator Roth and, as far as I am concerned, I personally will ask the Finance Committee not to move in reporting this out until we have a piece of paper indicating where the administration wants to go on reorganizing trade.

We made this very clear, not only during the last 6 months, but the last few months. This administration knew the feeling of the Finance Committee and we had a commitment and we had a right to have the President deliver on that commitment.

Mr. STRAUSS. Senator Ribicoff, may I, without being presumptuous, respond briefly to that? First, let me say that I know of no man in this Senate who has been more supportive of this President and few who have been as supportive. The President shares that view.

The President also knows from you, from me, and from Senator Roth, of both of your primary commitments to trade reorganization, but in fairness to President Carter, let me say this: I know of no President who has tried harder and has done more to reorganize this Government and get his hands on it than has President Carter. He has not accomplished all of what he had hoped to do, but he has made progress in areas where it had not been made before, and he will continue to make progress.

Let me additionally say, if I may, that the President specifically instructed that he was not interested in satisfying the concerns of the bureaucracy in trade reorganization; he was interested in satisfying the needs of the country. And he charged the Director of OMB to go out and produce a trade reorganization plan that would do that. Maybe we can arrive at some way that can satisfy both the requirements of the two of you and also enable the bill to go forward. If not, why I will just have to stand in line—we will stand in line until we can go forward.

Senator RIBICOFF. Bob, I do not want to interrupt, but I have the responsibility, as chairman of the Governmental Affairs Committee to shepherd and manage all reorganization proposals and generally every reorganization proposal over the past few years, since I have been Chairman, have been a lead pipe cinch. They have gone through with a hoop and a holler.

Yesterday on the Floor of the Senate we had a simple reorganization, in my opinion—IPCA. I had to sweat bullets. We finally won, on a 51 to 45 vote.

The only reason we won on that was because I had to call in all my personal chits to put across a simple reorganization proposal, personally appealing to Senators when I saw the votes going against us, give me an extra vote so we can pass this reorganization—which indicates a general, overall dissatisfaction in the Senate over the way things are being run.

That is the problem we are facing here.

If we are going to reorganize the Government—which I think it has to be reorganized—we have to have some cooperation from the executive branch.

Senator ROTH. Mr. Chairman, if I may add a comment or two, number one, the President, as I understand it, is seeking to move this country in new directions and certainly one of the most fundamental changes that can be made is to make this country a great trading nation again.

As I said in my opening remarks, how successfully these particular negotiations will be depends in large measure on bold new steps being taken in the reorganization.

I, for one, am willing to wait a few days. I understand the President's problems, that he is trying to wrestle with some other, very serious, issues. I would point out, that like Senator Ribicoff, I have supported every major reorganization proposal of the President. In no way have I tried to be partisan. But I feel this issue of

trade is of such vast and long range importance to this country that waiting a few days is much more important than trying to rush it through, trying to get the MTN bill a few days earlier.

I completely trust you. I know that the President will try to do what he can. But I also know that, as we move down the road with all of the other problems facing this Congress that it will be very easy for this to become derailed. I, for one, do not intend to see that happen.

Mr. STRAUSS. I understand.

Thank you, Senator Roth.

May I go on, now, and make a few other statements?

Senator RIBICOFF. Certainly.

Mr. STRAUSS. We have covered so much ground on so many occasions that I almost feel it is a bit presumptuous for me to take your time making very much of a detailed statement with respect to the package we have before you.

But let me say this to you—that the trade legislation you have before you reflects an American and an international recognition that world trade has changed, and it reflects a commitment to do something about improving the international trading position of this country a commitment to create a climate of fair opportunity for trade.

In our judgment, the package you have before you benefits every single section, every sector, and every economic strata, of this country.

The breadth of support that we received is verification of that, and it is also proof that the authors of the 1974 Trade Act were wise to involve the private sector. We have had over 1,000 private-sector people advisers on the MTN.

I am very pleased to put in the record here, if I might, a letter, that was sent to the President of the Senate, the Speaker of the House, the chairman of the Senate Finance Committee, and the chairman of the House Ways and Means Committee, in which strong support is expressed for this legislation by what I think is the broadest collection of leading economic advisers to this Nation, that has ever been brought together to endorse any comparable piece of legislation.

I would like the record to reflect that this letter is signed by the two immediate past chairmen of the Federal Reserve Board, seven former chairmen of the Council of Economic Advisers, three other past members of the Council, a former Secretary of the Treasury, and a Nobel Prize winner.

Senator RIBICOFF. Without objection, the letter will go in the record.

Mr. STRAUSS. Thank you

[The material referred to follows:]

Yale University *New Haven, Connecticut 06520*

DEPARTMENT OF ECONOMICS
*Cowles Foundation for Research in Economics*
*Box 2125, Yale Station*

Economists' letter to: The President of the Senate,
The Speaker of the House,
The Chairman of the Senate Finance Committee,
The Chairman of the House Ways and Means Committee

on the Multinational Trade Negotiations and the Trade Agreements Act of 1979

We are writing you to express our strong support for Congressional approval of the agreements reached in the Tokyo Round of the Multinational Trade Negotiations (MTN). These agreements--embodied in the Trade Agreements Act of 1979--represent the culmination of several years of negotiations, under three American Presidents, and constitute a significant step forward in assuring a free and fair international trading system. They will open up new markets for U. S. exports, and will help to moderate inflationary pressures, foster economic growth, and raise U. S. living standards.

The key accomplishment of the Tokyo Round has been a reduction and harmonization of various nontariff trade barriers. In recent years gains from previous tariff-reducing negotiations have been threatened by the increasing use of nontariff measures that can distort international trade. For example, one important barrier to American exports has been the rapid growth in subsidies and other hidden protection for foreign industries, as well as the rising volume of purchases by state enterprises which grant preferences to their domestic firms. Our own greater openness has put our firms at a disadvantage. U. S. procedures for dealing with such issues as government purchasing policy, subsidized imports, dumping, customs valuation, and product standards are spelled out in more detail and are more easily accessible than those in most foreign countries. By contrast, when U. S. exporters fail to sell abroad, they are uncertain whether their failure is an inadequate product or deliberate protectionism that hides behind obscure regulations.

The new agreements expand U. S. export opportunities and correct for these inequities by reducing trade barriers in key areas, such as government procurement policy. The new codes establish more transparent procedures for formulating and carrying out nontariff measures that can distort trade, and by providing new international mechanisms for settling disputes. Equally important, the trade bill provides additional assurances that Congress' desire to safeguard American markets from unfair trade practices is implemented.

Although the tariff-reducing portion of the negotiated package does not require Congressional approval, members of Congress quite properly are concerned about the overall economic effects of the agreements. In our judgment, the various agreements will contribute modestly toward increasing aggregate employment and reducing inflationary pressures. Furthermore, by striking a balance between the competitive needs and abilities of U. S. industries, the negotiators have achieved a significant average duty reduction while avoiding the imposition of unfair adjustment burdens on individual sectors or regions.

The Trade Agreements Act of 1979 represents a landmark in the history of international economic agreements. Both the tariff and nontariff agreements have been shaped by the Executive, Congress, and private sector in a way that assured full airing of views. Congressional approval of the agreements will be the final step in the process of creating a framework for dealing constructively with trading relations in the years ahead.

We urge the Congress to pass the Trade Agreements Act of 1979 with strong bipartisan support.

Sincerely yours,

William Nordhaus
(authorized to sign
for following)

Gardner Ackley, University of Michigan and former Chairman, Council of Economic Advisers.

Robert Baldwin, University of Wisconsin.

Arthur Burns, American Enterprise Institute, former Chairman, Council of Economic Advisers, and former Chairman, Board of Governors of the Federal Reserve System.

Alan Greenspan, Greenspan-Townsend Associates and former Chairman, Council of Economic Advisers.

Walter Heller, University of Minnesota and former Chairman, Council of Economic Advisers.

Hendrik Houthakker, Harvard University, former Member, Council of Economic Advisers.

William McChesney Martin, former Chairman, Board of Governors of the Federal Reserve System.

Paul McCracken, University of Michigan, former Chairman, Council of Economic Advisers.

William Nordhaus, Yale University, former Member, Council of Economic Advisers.

Arthur Okun, Brookings Institution, former Chairman, Council of Economics Advisers.

Paul Samuelson, Massachusetts Institute of Technology, first American Nobel laureate in Economics.

George Schultz, Bechtel Corporation, former Secretary of the Treasury.

Herbert Stein, American Enterprise Institute, former Chairman, Council of Economic Advisers.

Marina v.N. Whitman, University of Pittsburgh, former Member, Council of Economic Advisers.

Mr. STRAUSS. These people represent every philosophical point of view, great bipartisan political strength and make up, I think, the most respected group of economists one could bring together.

Let me go on now, if I may.

People tend to think of this bill as a tariff-cutting act. Those of you on this committee know that the tariff-cutting aspect of our legislation is, indeed, a very minor part of it.

This really goes into far more important areas than that. It deals with impediments to the proper flow of trade. It deals with subsidized products.

It deals with fraudulent, phony standards. It deals with bad and improper licensing. It deals with illegality and unfairness in Government procurement. It deals with better market access for our agricultural products.

It deals with item after item after item of that type and, without going further, let me just say to you that we present it to you with great pride. We know of no substantial body of opposing opinion and I will be very pleased to conclude with this and enter along a more formal statement for the record.

Senator RIBICOFF. Without objection, the entire statement will go into the record as if read.

Mr. STRAUSS. I will take whatever questions you may have.

Senator RIBICOFF. I have two questions. While they may not involve some of the major issues, yet they may be important, especially important to the constituency of Senator Moynihan.

I am concerned about reports of over 40 to 60 percent cuts on the tariffs on apparel for women and children. If these reports are correct, the flagships of the American garment industry, the fashion designers, could be severely hurt.

Your office has answered the reports by saying that the trade weighted tariff reduction will be 18.4 percent. That seems to be an unsatisfactory answer. High fashion apparel is, by definition, small in volume and it would not show off in a trade-weighted basis.

But it is of fundamental importance to the American garment industry, because what is done on Seventh Avenue in New York becomes the basis of smaller manufacturers, the less expensive manufacturers, to copy. And these manufacturers are competing with the French and the Italian and it would then make it possible for them to come in and take away this business on Seventh Avenue.

Enough of the Far East would come in, similarly, and I think you are talking about some 5,000 small manufacturers and it could really destroy Seventh Avenue.

Are you familiar with the potential danger of the tariff cut of 60 percent to this particular industry?

Mr. STRAUSS. Senator, that report that was publicized is as misleading as a report could possibly be. It has been denounced by the American Apparel Manufacturers Association. It has been critically commented upon by Sol Chaikin, head of the ILGWU.

The textile negotiations have received the unanimous support of labor, both the ILGWU and the apparel union. It has, to my knowledge, no critical opposition, with the exception of that one fellow who represents the organization who got this thing out—I forget his name.

Senator MOYNIHAN. Mr. Bernard.

Mr. STRAUSS. Yes, sir.

Let me say the entire industry—labor and management—responded vocally and vigorously that he was mistaken and inaccurate. Let me further say that where we carefully and specifically worked those things out with representatives of the textile industry, the cuts are higher than the 18 percent figure in some areas.

But those are in nonsensitive areas.

On balance, I do not know of anyone of good judgment, who not only is not critical but, to the contrary, is very supportive of what we have done.

Senator RIBICOFF. What is the tariff rate cut in this segment of the garment industry?

Mr. STRAUSS. The average——

Senator RIBICOFF. Not the average. I want this particular segment of the industry.

That is the problem. On the average, it is true that the cuts go down to lower elements, but when you come to the basic garment industry on Seventh Avenue, they are talking about the problem of a 60-percent cut. I have not had a denial of that in that segment. It will be a 60-percent cut.

Mr. STRAUSS. I would say that to be very conservative, Senator, the cuts in that particular area, in that narrow, little, nonsensitive field, probably run between 24.5 percent to 29 percent. They are to be phased in, beginning in 2 years, over an 8-year period.

Senator RIBICOFF. Can the garment industry depend on your statement, just given, that that is the rate of cut that will be involved and put into place?

Mr. STRAUSS. Senator, yes. Let me tell you this. Darned near anybody can depend on a statement I make in a record like this before the Senate. But it is difficult; there are some items in there, I am sure, that are cut 50 percent, but those would be a nontraded item.

That was one of the strengths of this negotiation, Senator. We tried to strike a balance between being fair to the consuming interests and being fair to the producing interests.

We also have a question of the American buying public here.

Doing this to see that the industry was protected, we gave ground in the noncompetitive areas, we made larger concessions there. That enabled us, in the very sensitive areas, to give very little or nothing.

That is the reason the industry is, overall, satisfied. We gave where it did not hurt.

Let me go one step further and say two things. This is not my idea. I do not know anything about textiles. We are working under instructions from the textile industry group. That has been the beauty of these negotiations; that was the beauty of the 1974 Trade Act.

We met with industry people month after month after month and carefully charted our way through this thing.

Overall, this is an A-plus negotiation in the textile industry. I present it with great pride to the country.

Now, here is the headline from a European paper, the Financial Times:

European Textile Industry Urges Tougher GATT Line. Textile Industry leaders in Europe have expressed great concern that the European Community allowed itself to be seriously outnegotiated in its dealing with the United States.

I did not want to bring this thing up, Senator, if I could avoid it, but I want this record to be clear. This country has been well represented in these negotiations and I have no apologies to make to you, to any member of this committee, or to any segment of the textile industry.

Senator RIBICOFF. I know you just had your teeth sharpened in your negotiations with the Israelis and the Egyptians and you are happy to be here, but let's continue a little further.

I am reading from the New York Times of last Thursday:

Authoritative industry sources who estimated yesterday that the average reduction would be 55 percent, said that the sharply lowered tariff walls would be one of the most dramatic changes to be announced today in Washington. The deeper than expected tariff reduction, details of which have been long awaited, are expected to have a stunning effect on the American manufacturers of women's and children's clothing, sportswear and blouses, products with a retail value of $50 billion.

New York City and New York State produce the bulk of this apparel with more than 5,000 producers in the metropolitan area alone.

Now, you see. The effect of the new cuts, trade sources said, would be to increase competition from Europe and the Far East and to force new financial pressures on many American garment makers, especially medium sized and smaller ones.

These are the medium sized and smaller ones. The big textile people have been taken care of in your negotiations; they have the clout. But now you have 5,000 small producers, individually small, but I would imagine they have a very, very important impact upon the economy of New York and the country.

[The material referred to follows:]

[From the New York Times, July 5, 1979]

APPAREL TARIFF CUTS MAY GROW—U.S. LIKELY TO CUT LEVIES BY 40 TO 60 PERCENT

(By Isadore Barmash)

The President's special trade representatives and the Commerce Department are expected to disclose tariff cuts this morning for women's and children's apparel imports ranging from 40 percent to 60 percent. These are in contrast to reductions of only 15 percent previously indicated by the Federal Government.

The tariff cuts are mostly on garments made of synthetic fibers that represent the majority of clothing sold in the United States, but the cuts also include some natural-fiber clothing such as wool dresses.

Authoritative industry sources, who estimated yesterday that the average reduction would be about 55 percent, said that these sharply lower tariff walls would be among the most dramatic changes to be announced today in Washington. The tariff reductions are included in the multilateral trade agreement reached in April by the United States and 97 other participating countries in Geneva.

MAJOR IMPACT ON U.S. SEEN

The deeper-than-expected tariff reductions, details of which have long been awaited, are expected to have a stunning impact on the American manufacturers of women's and children's clothing, sportswear and blouses—products with a retail value of $50 billion. New York City and New York State produce the bulk of this apparel, with more than 5,000 producers in the Metropolitan area alone.

The effect of the new cuts, the trade sources said, would be to increase the competition from Europe and the Far East and to force new financial pressures on many American garment makers, especially medium-sized and smaller ones.

However, from a consumer's standpoint, the tariff cuts will probably mean some sharply lower retail prices on imported dresses, skirts, coats, pants suits and other

women's, youth and infants' wear. But lower price tags resulting from the tariff cuts may not show up in the nation's stores for some months, pending the enactment of the legislation to implement the multilateral agreement now being discussed in Congress.

TEXTILES TO RECEIVE SMALLER CUTS

Textiles made abroad would receive smaller tariff cuts, averaging about 25 percent, the sources said. Textile tariffs, which have ranged from 17 to 20 percent, have been relatively lower than those on women's and children's clothing.

A 60 percent tariff cut is the maximum reduction permissible under the formula agreed to in Geneva, and it appears to have been applied to most of the women's and children's clothing tariffs.

Cuts of 40 to 60 percent on women's and children's clothing compare with reductions of about 30 percent already indicated by Robert S. Strauss, the President's special representative for trade negotiations.

Details of tariff cuts to be announced today for specific types of women's misses' and children's clothes include the following:

For wool dresses and skirts, the average 40 percent tariff will be cut by 57 percent to 17 percent ad valorem (on the cost from the foreign supplier).

For knit dresses, man-made fiber, ornamented or not, the 42½ percent tariff will be reduced by 60 percent to 17 percent ad valorem.

For women's, girls' and infants' pants suits and skirts of man-made fibers, not knitted, the 42½ percent tariff will be cut 60 percent to 17 percent.

For other women's and children's apparel, not knitted or ornamented, the current 16 percent tariff will be reduced 51 percent to 8 percent.

For women's, girls', infants' culottes, knitted and ornamented, the 42½ percent tariff will be cut 60 percent to 17 percent.

For women's, girls' and infants' knitted play suits of man-made fibers, the 37.2 percent tariff will be cut 54 percent to 17 percent.

For women's, girls' and infants' wool coats, not knitted but ornamented, the 42½ percent tariff will be cut 60 percent to 17 percent.

VIRTUALLY NO TARIFF CUTS ON JEANS

But for highly popular items such as cotton trousers for denim jeans, there are virtually no cuts, with tariffs remaining in the 8 to 12 percent range. No marked tariff cuts are being made either on raincoats or on cotton blouses, except in the case of synthetic blouses.

Industry sources said that these tariffs were not being cut because they were already low and because most of the appropriate products sold in the United States are already imports.

A spokesman for the women's apparel industry said yesterday that the cuts would have a severe impact on a large segment of the American apparel industry. Kurt Barnard, executive director of the Federation of Apparel Manufacturers, a New York-based interindustry association group asserted:

"In clothing we are dealing with one of the American products which is already suffering one of the highest trade deficits. But now if the tariffs are effected, what little protection the clothing industry has had will be taken away."

"The negotiations were conducted under the 1974 trade act, which was enacted when the oil crisis had not yet made its full impact," Mr. Barnard added. "That act isn't applicable to today's economic realities and is obsolete."

In 1977, the country's apparel exports totaled less thant $600 million, but imports reached $3.9 billion. In 1978, apparel exports were $515 million, but imports rose to $4.4 billion.

However, last week, the Carter Administration reported a substantial increase in both textile and apparel exports in the first four months of 1979, a rise of 52 percent above the comparable period of 1978. The biggest gains were in yarn, thread, cotton fabrics, sheets and towels. And apparel, while still suffering from its trade deficit, had a rise in export volume.

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[Office of the Special Representative for Trade Negotiations—Press Release No. 309]

STR STATES RECORD OF APPAREL TARIFF REDUCTIONS

The Office of the Special Representative for Trade Negotiations today released the following statement:

Tariff reductions negotiated by the United States in the multilateral trade negotiations (MTN) average 15 percent in the apparel sector and about 18 percent in the

women's, girls', and infants' portion of that sector, not between 40 and 60 percent as was reported in the New York Times today. Many import-sensitive items, especially in the apparel sector—including women's, girls', and infants'—were not cut at all. Indeed, of all the tariff line items in the overall industrial sectors which were given total exceptions from reductions or less than formula cuts, more than 50 percent were in the textile and apparel sectors.

As the attached table shows, the United States will retain relatively high textile and apparel duties.

In apparel items, the United States is reducing its duty rates from an average of 28.8 percent to 24.5 percent or by 4.3 percentage points. These duty reductions will begin to be put into effect 2½ years from now, on January 1, 1982. They will be staged in six cuts from 1982, with the average reduction being a little more than one-half a percentage point a year.

In the New York Times article, not only is the overall average percentage figure erroneous, but some of the specific examples also are erroneous or misleading. Where there is a greater than average reduction, the article fails to mention that there may be little if any trade in the particular item and, hence, involves an item which could be reduced by more than the average cut in order to protect the more import-sensitive or import-impacted product. Private industry and labor advisors supported this approach.

Furthermore, the article omits the fact that a very large proportion of low-cost apparel imports, including women's, girls', and infants' wear, into the United States are and will remain covered by bilateral restraint agreements which limit the amount permitted entry into our market each year regardless of price. In addition, textile and apparel tariff reductions are conditional throughout the tariff reduction staging upon the continuance of the international multifiber textile arrangement (MFA) or a similar scheme.

The objective of the American textile tariff negotiators was to arrive at a tariff position which would meet our international goals while at the same time protecting those sectors of the domestic industry and its work force experiencing the greatest difficulty from imports. This is recognized by the domestic apparel industry and union associations who have advised the American negotiators throughout the MTN and who support the results of these negotiations.

Senator MOYNIHAN. Senator, let me say there are 170,000 workers in those firms in New York City alone.

Mr. STRAUSS. How many of those are represented by unions, Senator Moynihan?

Senator MOYNIHAN. Almost all of them would be.

Mr. STRAUSS. Let me say to you that their union came out and said that statement Senator Ribicoff just read from was inaccurate, misleading, and unfair. So that is my answer.

Senator MOYNIHAN. I know that, Ambassador. So does the chairman.

Senator RIBICOFF. I want to read that.

Friday's New York Times—

Chit Chakin said the published report is misleading because it is apparently based on the impact of the tariff cuts on selected garments without regard to the actual number of such garments actually imported.

That is true. This is a big problem, because you are talking about a weighted average. The weighted average for the small garment manufacturers is small when you are talking about the big textile manufacturers, but it is mighty important.

[The material referred to follows:]

[From the New York Times, July 6, 1979]

U.S. OFFICIALS DISPUTE REPORT ON TARIFF CUTS—AVERAGE IS PUT AT ONLY 18.4 PERCENT

WASHINGTON, July 5.—Average tariff cuts in the women's and children's apparel sector will be 18.4 percent and will be staged over an eight-year period beginning Jan. 1, 1982, according to the Office of the Special Trade Representative and apparel industry and labor representatives.

This profile of the way a new international trade liberalization pact will affect the nation's apparel industry—comprising 5,000 manufacturers in the New York metropolitan area alone—came as the three sources reacted sharply to a report published in The New York Times today that the tariff cuts in the women's and children's apparel sector would range from 40 to 60 percent.

While the three said individual tariff cuts mentioned in the story may be true, they presented an "inaccurate and misleading" picture because they do not reflect trade-weighted results.

The statements came from the Office of the Special Trade Representative, the American Apparel Manufacturers Association and the International Ladies Garment Workers Union.

NO PRECISE FIGURES RELEASED

The association and union sat in an advisory body that worked closely with the trade negotiators and thus they know roughly what the new tariff schedules will be.

But the Carter Administration has yet to publish the precise numbers for individual categories of goods, explaining that a process of verification is now under way in which all signatory governments are still doublechecking to the precise decimal point.

A bill implementing the controversial trade pact, which was drafted by the Carter Administration in close cooperation with key Congressional committees, is expected to be voted in the House next week and in the Senate before the August recess.

Yesterday, Sol C. Chaikin, president of the garment workers union, said "The published report is misleading because it is apparently based on the impact of the tariff cuts on selected garments without regard to the actual number of such garments actually imported."

For example, Mr. Chaikin went on to say, the article reports that for wool dresses and skirts an average 40 percent tariff will be cut by 57 percent to a rate of 17 percent. But the overwhelming bulk—96 percent—of such dresses and skirts were imported at a tariff rate of 23 percent, not 40 percent, he argued, and the overall tariff cut is about 23 percent, not 57 percent.

LARGE CUTS LIMITED IN VOLUME

The apparel manufactuerers association said that "The volume of trade in the items which received large cuts may account for about 10 percent of total trade."

Michael B. Smith, the chief textile negotiator, reported that for women's and children's apparel the new average tariff will be reduced from 29 percent to 24.5 percent.

A statement issued by the Office of the Special Trade Representative made points similar to those underscored by the industry and labor groups and added that a very large proportion of apparel imports will remain covered by bilateral restraint agreements that limit amounts that can enter the United States from 18 developing countries.

Senator RIBICOFF. What is intriguing to me, it is my understanding that the new union contracts, for the first time, go into effect in December, have a provision that the union will receive 1½ percent of the value of the imported garments, and that is very disturbing. They have never had such a provision in a union contract, that the union treasury will get 1½ percent of the value of the goods being imported.

I think that this is a very serious proposition. If this is not inconcrete, I think there is an obligation because we, in this committee, have nothing to do—am I correct—we have nothing to do with tariff schedules.

Mr. CASSIDY. Not with this negotiation.

Senator RIBICOFF. Not with this MTN, but I do think you have a problem because you are in the process of potentially destroying the lead agency, the lead part of the industry, that makes a determination of what happens to the future of the garment industry in this country.

Senator MOYNIHAN. Mr. Chairman, would you yield for just a moment?

Senator RIBICOFF. Yes.

Senator MOYNIHAN. I would like to thank you for the energy with which you have taken up this issue and to say to the Ambassador that we know his word is entirely true on this issue and several issues before us. But there are complexities in this matter that no person is expected to be entirely the master of, not even you or your colleagues.

These are profoundly serious charges and I would like the Ambassador to know only what one who has been in New York would know—between 1969 and 1975, that is.

Are you waving at the chairman?

Mr. STRAUSS. Yes. With your permission, let the record show that I waved at the chairman.

Senator MOYNIHAN. Between 1969 and 1975, the city of New York lost 400,000 jobs south of 59th Street. There are 13 States in the union, I believe, that do not have 400,000 people in their workforce—or almost that many; 400,000 jobs just south of 59th Street, almost all of them in this kind of import-sensitive area, primarily in the garment industry and the clothing industry.

There is not a member of the GATT who would let 400,000 jobs disappear from the center of his largest city as a consequence of trade. Only the United States would do that. The French, the Japanese, the Germans, the British would consider it socially irresponsible. Governments would come crashing down.

It has happened, and it happened under the previous trade bills which we had negotiated with these problems in mind. I would like to ask if we, could in effect, have an adversary hearing on the specifics.

I wonder if we could ask Mr. Bernard, representatives of the unions, representatives of the Ambassador's office, and the special trade representative, to sit down and go over these numbers and see where we agree and where we do not agree. Because in the end, Mr. Chairman, I believe it is true that no community in America has been so affected by imports as has the city of New York, in particular this sector. We just cannot let this unresolved matter go forward. We have done that in the past.

The Ambassador knows I support this legislation. I was proud to be one of those who introduced it. The chairman knows.

But the Chair is absolutely right. I do not think we can let this go and hope that it will turn out for the best.

We have every confidence in the Ambassador, but the record will have to demonstrate that he is right.

Senator RIBICOFF. With the work we have, I would designate you to chair those hearings.

Senator MOYNIHAN. I appreciate that, Mr. Chairman.

Mr. STRAUSS. May I respond to that, Senator? I want to keep this record as balanced as I can and I appreciate your remarks, Senator Moynihan, but let me just say, to begin with, I am familiar with what happened in the 1960's. That is one of the things I spent a good deal of time on before I started negotiating.

What happened in the 1960's shows just exactly how well we have conducted this because that cannot, and will not, happen as a result of these agreements.

If you want to hold some hearings and make a case and pick out some very narrow specifics, I suspect that you can do pretty well,

but I think you have a responsibility, as I think we have a responsibility, not to view some tariff items representing nonsensitive areas in isolation.

We have a textile program that involves the welfare, the working conditions, the ability to work, of close to 2.5 million people in this country, most of whom have the most difficuly finding employment—women and minorities.

That is the reason we have administered a textile program in our office, which is not only of overwhelming importance to this Nation, and these industries, but is overwhelmingly supported.

In addition, we are constantly conducting bilateral negotiations all over the world, and the things you are talking about here are also covered in those bilateral negotiations.

This is a first-rate program. It has been well-conceived, well-executed, and well-negotiated, and to get off here in this area does a disservice—a disservice to 2½ long years of work; a disservice to people who have been out there, and to a program well-crafted by industry, by labor, and by the Government.

We worked together well. We never conducted negotiations, Senator, that did not have industry representatives or labor representatives there with our negotiators.

I have not had a single negotiation, from Taiwan to China, where we did not have labor and industry representatives there with us, advising us every step of the way.

That is the reason they are behind us so strongly.

Senator MOYNIHAN. Mr. Ambassador, that being the case, no harm can come of a closer inquiry.

Mr. Chairman, if I may, I would like to put in the record at this point an editorial from yesterday's New York Post on this point.

Senator RIBICOFF. Without objection.

Senator MOYNIHAN. I thank you for your courtesy.

[The material referred to follows:]

[From the New York Post, July 9, 1979]

SAVE OUR GARMENT INDUSTRY

Senator Moynihan is presiding this week over the Senate Finance Committee's hearings on the Carter Administration's huge new multi-national trade treaty. The treaty is being pushed in Washington in the name of free trade but for many areas, especially New York City, it is subsidized trade—and the proposed tariff cuts could ruin our garment industry.

The Office of the Special Trade Representative, Robert Strauss, argues that the tariff cuts are nowhere near the 40 to 60 percent which the garment industry fears.

It claims they average 15 percent in apparel and 18 percent in women's and children's clothing. It claims tariffs on many of the 2,000 separate categories have not been cut at all and that where large cuts are proposed there is little, if any, trade in these items anyway.

This is a deceptive line. The only figures which matter are those revealing the frightening increase in our clothing imports. In 1976 we imported $3.9 billion worth of clothing made by 30-cent-an-hour labor in South East Asia's back-alley sweatshops. In 1978 these imports amounted to $5.5 billion (as against our exports of a mere $515 million). That is an increase of 41 percent.

While Washington manipulates figures to present a reasonable case for the treaty, our 5,500 garment firms face bankruptcy and their 170,000 workers—mostly women, many members of minorities—face the prospect of unemployment and immense difficulties in getting other work.

The low average tariff reduction claimed as a success by Washington is largely achieved by striking trade-weight averages. Let us assume that we import 10 dresses, nine of them cotton and one of manmade fiber. We agree to a tariff cut from 10 cents to 9 cents on the cotton dresses and of 5 cents on the man-made-fiber item.

This is a 14 percent cut on the package. But presented as a trade-weighted average on each item, it is 1.4 percent.

The claim that many items have not been cut is well demonstrated by jeans—which we invented. The tariff remains at 8 to 12 percent because, Washington says, it was already low and most items sold here are already imported anyway. Precisely. Our home-produced cotton dresses and jeans were driven out of production long ago by low-priced, low-tariff imports.

The threat to Seventh Avenue today is not in cotton items, which are no longer produced in any number, but in man-made-fiber apparel—now the bulk of the New York garment industry's work. The further threat to Seventh Avenue is posed by the large 40 to 60 percent tariff cuts now proposed in a whole series of items which, Washington argues, are not currently imported.

That is exactly Seventh Avenue's point and the basic treat to New York City's economy. These items make up the bulk of our garment industry's work. The proposed tariff cuts virtually insure that each of these categcries will be challenged with a flood of similar, low-priced, low tariff clothing.

Washington argues that the cuts will not be put into effect for another two and a half years and, even then, will be phased in six cuts from 1982, with average reductions "little more than half a percentage point a year." Whether death comes suddenly or agonizingly over a period will be neither relevant nor consolation for an industry that has been, until now, this city's largest private employer.

Senator MOYNIHAN. As soon as these general hearings are over, we will chair a small group and we will get these facts settled. We will get it straightened out.

When we do, I am sure we will be the better for it.

Mr. STRAUSS. I have no difficulty with that. In fact, I appreciate it. But on the record, I am a fellow who constantly keeps the record as balanced as I can. If I get out of line, just tell me so, and I will shut up.

Senator MOYNIHAN. I sometimes think the record is always a little bit imbalanced in favor of the Ambassador's initiative.

Mr. STRAUSS. I hope that is right, Senator. I hope you are not saying that just to make me feel good.

Senator RIBICOFF. Mr. Strauss, I will be on the floor trying to put this MTN across. Now that I have taken up the problem of Senator Moynihan, I have another obligation that will cause you a few uneasy moments, of Senator Bentsen's.

Mr. STRAUSS. Yes, sir.

Senator RIBICOFF. This is a question that Senator Bentsen has who had another hearing to attend.

Recently, the Department of Transportation awarded a contract to Aero Special Corporation of France, a wholly owned corporation of the French Government, for 90 helicopters to be used by the Coast Guard for short range recovery missions.

Do you know if the administration took any steps to object to excessive subsidies or other practices that would be precluded by the agreement on trade and civil aircraft when it becomes effective?

Apparently, as I understand it, there was a bid in here from Bell, Tex. I do not know what place in Texas—Waco, I believe it is.

The contract was let to a French corporation for America government planes.

Mr. STRAUSS. That has to do, they tell me—I never heard of the darned thing, to tell you the truth, Senator—with Bell Helicopter. It is something that we have nothing to do with and it is not covered at all. It is a military matter and does not relate in any way to what we are doing, what we have done, or what we will do.

Senator RIBICOFF. As I understand it, it involves the Buy American Act which is still in force.

Mr. STRAUSS. If it is still in force, it would not be the effect of anything we had done.

Senator RIBICOFF. But it was waived. That is how it was explained to me.

Senator Bentsen will probably be here later. Since you will not be here, I felt I had the obligation——

Mr. STRAUSS. That is the Secretary of Defense's business. He may or may not have waived it. That is his responsibility.

[The following was subsequently supplied for the record:]

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
*Washington, D.C., July 10, 1979.*

Hon. ABRAHAM RIBICOFF,
*U.S. Senate,*
*Washington, D.C.*

DEAR ABE: In further response to the question you raised this morning at the request of Senator Bentsen regarding the recent U. S. Coast Guard Procurement of Aerospatiale helicopters, I believe the following points may be of interest:

1. U.S. Coast Guard aircraft are military, not civil aircraft, and so are not comprehended within the scope of the MTN Agreement on Trade in Civil Aircraft. Thus the definition of "civil aircraft" in sections 308 and 601 of the Trade Agreements Act of 1979 explicitly excludes USCG aircraft from the "Buy America" waiver and the tariff elimination provisions of the Act.

2. As the U.S. Coast Guard is a component of the Department of Transportation, its procurements are not covered by the provisions of the MTN Agreement on Government Procurement.

3. There is a general exception in the GATT for national security. This exception is not affected by the MTN.

Should Textron/Bell consider that their foreign competitor was unfairly advantaged in the USCG helicopter procurement competition by virtue of foreign government subsidies, then it should ask the Coast Guard to review its procurement decision.

Sincerely,

ROBERT S. STRAUSS.

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THE AGREEMENT ON TRADE IN CIVIL AIRCRAFT

(A Discussion by Dr. W. Stephen Piper, Chief U.S. Negotiator for the Agreement, Office of the Special Representative for Trade Negotiations)

Our objective in negotiating the Multilateral Trade Negotiations (MTN) Agreement on Trade in Civil Aircraft was to provide a comprehensive basis for free and fair trade in the civil aircraft sector. The Agreement does that. In the words of the preamble, the intent is "to establish an international framework governing conduct of trade in civil aircraft." Tariff and nontariff issues are linked in a single package in order to address problems peculiar to the aerospace industry. Its special focus and broad scope differentiate this Agreement from most of the other codes developed during the Tokyo Round of Multilateral Trade Negotiations.

In addition to calling for specific, immediate actions relating to tariff and nontariff measures affecting trade in civil aircraft, the Agreement seeks a positive environment for cooperative international development of civil aircraft trade policies. In an effort to preclude future disputes or confrontations, a Committee on Trade in Civil Aircraft is established, under the auspices of the General Agreement on Tariffs and Trade (GATT), to consult whenever a signatory government deems that its trade interests have been or are about to be adversely affected.

We expect Canada, the European Commission, the member states of the European Economic Community, Japan, Norway, and Sweden to join us in signing the Agreement this fall. It is open for signature by other members of the GATT.

BACKGROUND

The Trade Act of 1974, which authorized United States participation in the Tokyo Round of Multilateral Trade Negotiations, anticipated the possibility of sectoral

trade agreements. However, it evolved that the principal focus of the GATT-sponsored negotiations was on a series of trade conduct codes—e.g., Technical Barriers to Trade (Standards), Subsidies and Countervailing Measures, Framework, Government Procurement, Customs Valuation, Import Licensing—on the industrial tariff package, and on certain agricultural trade issues.

Some 27 industrial sector advisory committees were established to provide interactive governmental-industry communication as the negotiations progressed and to provide timely industry advice to the U.S. negotiators. In addition, a number of labor advisory committees were established, and consultations were held periodically with the four major unions associated with the aerospace industry (IAM, IBEW, IEU, and UAW).

The aerospace sector had its own committee, ISAC 24, with membership drawn from a wide range of companies including AVCO, Beech, Bendix, Boeing, Cessna, General Dynamics, General Electric, Grumman, Lockheed, McDonnell Douglas, NARCO, RCA, Rockwell, and United Technologies, and later from the staffs of the Aerospace Industries Association and the General Aviation Manufacturers Association. ISAC 24 was active throughout the Tokyo Round and was particularly instrumental in obtaining international focus on the need for and desirability of an aircraft trade agreement.

In the spring of 1978, ISAC 24 developed an outline of provisions it sought for an agreement on trade in commerical aircraft, and discussed the outline with European, Canadian, and Japanese industry officials and with government officials from the European Commission and Japan.

By May-June of 1978, it was evident, both to the industry and labor advisory committees and to the U.S. Trade Negotiations Delegation, that the trade package emerging in Geneva would not deal satisfactorily with the civil aircraft sector. Canada, the European Economic Community, and Japan had indicated a willingness to make substantial cuts in their tariffs formally listed for civil aircraft, but tariff concessions, even if matched, could not address the trade distortions that U.S. companies were increasingly finding limited or actually foreclosed their competitive opportunities in export markets. Perceived violations of international export credit understandings and official foreign government restrictions on aircraft purchases aggravated U.S. governmental and industry concerns regarding fair, competitive trade opportunities.

The growing foreign restrictions on and obstructions to U.S. civil aircraft competitiveness were a particularly serious matter, in terms of U.S. trade policy, because of the importance of: the U.S. aerospace industry in our economy, worldwide market access for the U.S. aerospace industry, and the civil aircraft trade balance contribution to the overall U.S. trade balance.

The U.S. aerospace industry employs 967,000 workers and has annual sales on the order of $37 billion, of which the nonmilitary share accounts for 560,000 workers and $22 billion in sales (data for 1978). Over the past five years, exports have averaged sixty percent of commercial transport production and twenty-five percent of general aviation production.

In terms of trade balance, export sales in 1978 were $500 million for general aviation aircraft and $2.6 billion for commercial transport aircraft, for a total, including engines and parts, of $6 billion in civil exports. Civil aircraft imports were valued at $940 million.

As a consequence of technological advances and productivity improvements, the U.S. civil aircraft industry has held a dominant position since the beginning of the jet era, producing some 95 percent of the world's general aviation aircraft (outside the Soviet bloc) and 85 percent of the world's commercial transports. But the prospect in 1978 was one of severe challenge to this position, not only because of increased foreign competition on a technical/economic/production basis, but most importantly, because of foreign government pressures, restrictions, and unfair trade actions. European market penetration of the world market increased fivefold between 1973 and 1978.

At the same time, we had a concern for the continued competitive, commercial development of the industry, as the United States represents the world's largest market for aircraft producers—some 35 percent of commercial transports and 60 percent of general aviation aircraft outside the Soviet bloc and the People's Republic of China are registered in the United States. A health, competitive, economically efficient industry is the best way to assure that airline, business, and public needs for aircraft are met.

### THE ORIGIN OF A TRADE AGREEMENT

At U.S. initiative, the leaders at the Bonn Economic Summit in July 1978 endorsed the objective of achieving "maximum freedom of world trade in commercial aircraft, parts and related equipment, including elimination of duties, and to the

fullest extent possible, the reduction or elimination of trade restricting or distorting effects," as included in the July 1978 (GATT) framework document for the conclusion of the Tokyo Round. And there the matter formally rested until October when the United States, after a further round of consultations with private sector advisors, came forward with a working draft for negotiating an agreement addressing tariff and nontariff issues in the aircraft sector. That draft changed "commerical aircraft" as used in the Bonn Summit declaration and GATT framework document to "civil aircraft," specifically to include all general aviation aircraft, as well as large commericial transport aircraft, within the scope of the trade agreement. The U.S. October proposal called for the elimination, without staging, of customs duties on civil aircraft, engines, and parts; it provided disciplines on each of the foreign nontariff barriers identified by our industry and labor advisors.

The negotiations that led eventually to the Agreement on Trade in Civil Aircraft were initiated in Geneva in late October at which time the United States delegation met bilaterally with Canada, the European Commission, Japan, and Sweden, with subsequent bilateral discussions about the U.S. draft proposal being held in Bonn, London, Paris, and Tokyo.

In November, the United States launched in Geneva the plurilateral meetings involving Canada, the European Economic Community, Japan, and Sweden that resulted five months later in the Agreement presented by the GATT for initialing on April 12, 1979. And in November and December, we met with delegations from Australia, Brazil, Israel, New Zealand, Norway, and Switzerland to discuss U.S. objectives for an aircraft trade policy agreement and to invite them to participate in the development of such an agreement.

### POLICY OBJECTIVES

The preamble of the Agreement sets forth the general policy objective of establishing an international framework governing the conduct of trade in civil aircraft. Specific objectives include the encouragement of the continued development of the aeronautical industry on a worldwide basis, the provision of fair and equal competitive opportunities for the civil aircraft producers of all signatory nations, the operation of civil aircraft activities on a commercially competitive basis, and the elimination of adverse effects on trade in civil aircraft resulting from governmental support of civil aircraft development, production, and marketing.

Some of our negotiating partners, noting the dominant U.S. market position at the time in the civil aircraft sector, were concerned that our underlying motive in advancing disciplines on subsidies and other nontariff trade restrictions/distortions might be to freeze the then existing civil aircraft trade patterns. We responded that this was in no way our intent, and accepted the preamble objective "desiring to encourage the continued technological development of the aeronautical industry on a worldwide basis." Certainly, the United States has no monopoly on technological development. Indeed the first commercial jet engine, first jet transport, and first supersonic transport were, for example, all produced in Europe. All of our negotiating partners have very competitive, innovative companies in the aerospace sector, testimony to which is provided by their increasing market share and in the production/risk sharing arrangements that our companies have with them.

Primary U.S. objectives in negotiating the preamble were to establish "commercial competition" as the basis or standard on which the civil aircraft industry should operate and to focus attention on nontariff disciplines. The latter became especially important when some delegations began expressing preference for an aircraft agreement limited to tariffs.

There was reluctance to have "fair and equal competitive opportunities" for civil aircraft companies as an agreed objective for the Agreement, although in the end our view prevailed. Indeed, some delegations who generally favor large-scale governmental intervention in the market place suggested, at one point, in an attempt to sanction subsidies, instead the phrasing: "the provision of fair and equal competition between domestic and imported products." Further they argued that subsidies should be provided "only to the extent that would be required for their companies to produce aircraft technically and economically competitive with U.S. produced aircraft."

We were willing to recognize the reality that Canadian, European, and Japanese government-industry relationships are not the same as ours—and we do so explicitly in the preamble. Similarly, we recognize that some governments, for a number of reasons, deem it appropriate to support the development, production and marketing of various products, in particular of civil aircraft, engines, and systems. In exchange for recognizing another fact, that such support (i.e., subsidy) is not of itself a distortion of trade, we obtained the objective phrases: "seeking to eliminate adverse effects on trade in civil aircraft resulting from governmental support in civil air-

craft development, production, and marketing" and "desiring that their civil aircraft activities operate on a commercially competitive basis."

Just as nothing in the Agreement imposes obligations on government-industry relationships or prohibits domestic subsidies, nothing modifies or dilutes the obligation to avoid adverse effects on the civil aircraft trade interests of others. Our concern is not with how a government relates to its industry, but with what effect that relationship has on trade, in particular on U.S. trade interests. This will be a particularly important aspect of U.S. government-industry monitoring of compliance with the terms of the Agreement.

PRODUCT COVERAGE

The Agreement covers trade in all civil aircraft (i.e., all aircraft other than military aircraft), engines, parts, components, and subassemblies. As part of the negotiations with the Canadian delegation, it was agreed to cover also trade in ground flight simulators for civil aircraft, and parts thereof. (Cf. Article 1.)

At one point in the negotiations, we urged that the Agreement define "civil aircraft" in the same way as the term is defined in the Chicago Convention, since all likely Aircraft Agreement signatories are adherents to that tready and there is substantial international acceptance of the meaning of that defintion. Namely,"civil aircraft" would mean all aircraft other than those used for police, customs, or military services. In this way the Agreement would cover trade in all aircraft which by the Chicago Convention are to be registered with civil airworthiness authorities.

There was, however, general interest in having broader coverage; as a result, it was agreed to cover all aircraft other than military aircraft. We said at the time (February and March 1979) that, for the United States, this would mean coverage of all aircraft other than those purchased for use by the Department of Defense and the United States Coast Guard. However, there was a small stir of controversy at the time that the U.S. implementing legislation was submitted to Congress, as some delegations took exception to the definition of "civil aircraft" in section 601 (also section 308) of the Trade Agreements Act of 1979, arguing that U.S. Coast Guard aircraft are "civil," because the Coast Guard is a component of the Department of Transportation, not the Department of Defense. The controversy, doubtless, was inspired by the fact that French companies had recently made two major aircraft sales to the Coast Guard, and they wanted to be assured of duty-free treatment for these fixed and rotary wing aircraft. Our response was: The U.S. Coast Guard is a military service; its aircraft are considered military aircraft, and are not registered with our civil airworthiness authorities. Hence such aircraft do not fall within the scope of the Agreement. The U.S. tariff schedule amendments resulting from the Agreement on Trade in Civil Aircraft will not affect the customs treatment of aircraft or parts imported for the Coast Guard, i.e., whether they are classified under Schedule 6 (duty assessed) or Schedule 8 (duty waived).

In monitoring the implementation of the Agreement it will be important to assure that aircraft used by the coast guard-type services of other signatories are covered by the Agreement, unless these signatories customarily have considered such services to be military, in the sense of the Chicago Convention. In accordance with the coverage definitions of the Agreement, the distinction is whether an aircraft is a civil one or a military one; the distinction is not what governmental department has administrative responsibility.

The term "parts" in Article 1 of the Agreement is not further defined. The trade in any article is covered by the Agreement if such article is generally recognized as being a civil aircraft part. In particular, all articles classified for customs purposes under one of the specific tariff headings listed in the annex to the Agreement, if for use in civil aircraft, would be considered to be aircraft parts. Further, in our view, an article is to be considered a civil aircraft part once it is sufficiently refined in its manufacture or assembly so that it is given independent cognizance as such. If it has associated with it an aircraft parts number, it would presumptively be an aircraft part. Approval of an article as an aircraft part by an appropriate airworthiness authority, such as the U.S. Federal Aviation Administration, would be important evidence of such state of manufacture or assembly. Partially processed articles, not sufficiently refined in manufacture or assembly to be independently cognizable as aircraft parts, should not be considered aircraft parts. Nor should items such as screws, nuts, bolts, ball bearings, resistors, capacitors, or diodes, if of standard design, be viewed as aircraft parts, for the reason that they, by themselves, are not sufficiently assembled to be cognizable as parts of an aircraft. Further, products used in the manufacture of aircraft, such as adhesives and system fluids, should not be considered parts of aircraft, nor should buyer furnished items such as blankets, pillows, coffee cups, or china. Insulation materials, wall coverings, interior fabrics, asbestos fibers, tubing, piping, wiring and other such articles should not be consid-

ered to be aircraft parts, unless they are already cut and fitted ready for installation in an aircraft or subassembly thereof.

CUSTOMS DUTIES AND OTHER CHARGES

The Agreement (Article 2.1) calls for each signatory government to eliminate, not later than January 1, 1980, (at the request of Japan there is alternate phrasing "or by the date of entry into force"), all customs duties and similar charges of any kind levied on, or in connection with, the importation of civil aircraft and of flight simulators for civil aircraft. Parts, components, or subassemblies of civil aircraft are also to be accorded duty-free treatment if they (1) are for use in civil aircraft and (2) are classified for customs purposes under one of the specific tariff headings listed in the annex to the Agreement. Something more than 90 percent of the value of trade in civil aircraft and parts will thus be accorded duty-free treatment by each signatory government. In addition, to the extent that they exist, duties on foreign repair or civil aircraft will be eliminated.

The signatory governments have agreed (Article 2.2) to implement the duty-free treatment for civil aircraft, engines, and covered parts in such a way as to minimize administrative processing. While details of the customs administration will differ among signatories, the general approach will be that duty exemption will be granted upon an importer's declaration, and customs approval thereof, that an article is a civil aircraft, engine, or part and, in the case of engines and parts, is classified under the list of covered tariff headings and is actually for incorporation in a civil aircraft.

These tariff concessions will be incorporated in each signatory's GATT Schedule (again not later than January 1, 1980) and will be bound in the General Agreement on Tariffs and Trade (GATT); any signatory's subsequent effort to modify the tariff concessions will have to be in accord with the provisions of the GATT, notably Articles II and XXVIII.

Imposition of countervailing duties or antidumping charges, of taxes such as a value-added tax, which apply to domestic products as well as to imports, and of administrative fees to cover the cost of import declaration processing are permitted by the GATT; they would not be affected by this Agreement. The footnote to Article 2.1.1 was added in May to make this point more clear.

Early in the negotiations there was general agreement to eliminate duties on civil aircraft, engines, and parts, with the possible exception of certain categories of parts which one signatory or another might consider to be import sensitive. There also was general agreement that articles for ground use, even though aircraft-specific (such as tractors, ladders, and freight loaders), would not be covered. The one exception was flight simulators for civil aircraft.

However, as we got into detailed negotiations, the difficult question of "when is an article actually an aircraft part?" arose. We rejected the thought of listing specific aircraft parts to be accorded duty-free treatment, because the list would be too lengthy (a parts catalogue for a single aircraft model has thousands of pages) and too rigid (it would not provide the flexibility to cover new kinds of parts in the years ahead). To say that "anything that is an aircraft part would be duty-free" would simply beg the question. While that was indeed the general working concept, the negotiating delegations were faced with the problem of relating such a concept to the realities of customs administration. Throughout the negotiations the unanimously agreed policy objective was that there should be comparable treatment of aircraft parts by the customs officials of each of the Signatories. That meant we had to provide descriptions of items to be duty-free in customs terms, not just in terms satisfactory for aircraft manufacturers. We had to reach agreement on a general rule as to when, in the course of manufacture, an item becomes classified as an aircraft part and so is to be accorded duty-free treatment.

The resolution of the problem that evolved was to eliminate the duty on any article for use in a civil aircraft if it falls, for customs purposes, within specified broad tariff headings (i.e., a categorized "end-use" approach). Some delegations have already expressed an interest in broadening the already-agreed-upon tariff headings and in adding additional headings. This interest is the reason for the inclusion of Article 8.3.

TECHNICAL STANDARDS

The purpose of the Agreement of Technical Barriers to Trade, commonly referred to as the Standards Code, is to discourage discriminatory manipulations of product standards, product testing, and product certification systems, while recognizing the need for and appropriateness of technical product standards for health, safety, and environmental reasons. That agreement requires countries to use fair (i.e., non-

discriminatory) and open procedures when they adopt product standards and related practices that affect international trade.

While the Standards Agreement covers most technical standards in the civil aircraft sector, the Aircraft Agreement (Article 3) extends the coverage of that agreement by providing that civil aircraft certification requirements and specifications on operating and maintenance procedures also be governed by the provisions of the Agreement on Technical Barriers to Trade.

GOVERNMENT-DIRECTED PROCUREMENT ACTIONS AND MANDATORY SUBCONTRACTS

Governmental interference in aircraft, engines, and parts purchase decisions can nullify tariff concessions as well as restrict competitive trade opportunities. The Aircraft Agreement (Article 4.1) specifies that "purchasers of civil aircraft (and of civil aircraft engines, parts, and subassemblies) should be free to select suppliers on the basis of commercial and technological factors." Article 4.1 is intended to serve as a prefatory statement to the succeeding three paragraphs which address various means by which governments might influence (i.e., distort) aircraft procurement decisions: By directions to their own airlines/manufacturers (Article 4.2), by conditioning procurements from foreign suppliers (i.e., offsets, etc.) (Article 4.3), and by offering inducements/threatening sanctions regarding sales—especially in third countries (Article 4.4).

In particular, signatories "shall not require" airlines, aircraft manufacturers, or other entities (both governmental and nongovernmental) engaged in the purchase of civil aircraft, engines, and parts to purchase from any particular source, in a way that would adversely affect the trade interests of any signatory (Article 4.2). Nor may any unreasonable governmental pressure be exerted on airlines, aircraft manufacturers, and other purchasers to influence their purchase decisions. Thus there are to be no official or unofficial governmental preference policies, nor governmental interference with airline procurement decisions that would discriminate against U.S.-manufactured aircraft. A governmental policy expressing preference for any aircraft produced by a Signatory over one produced by a non-Signatory would not be inconsistent with the Aircraft Agreement.

Admittedly "unreasonable" is not defined because it was not possible to obtain international agreement on the definition. Most, if not all, government-owned airlines have government officials on their boards of directors, and such officials quite naturally are involved in major equipment procurement decisions. Their participation as board members, acting in the best interests of the airline in procurement decisions, would be expected; their participation as agents of a "buy national" policy would be "unreasonable." Conversely, from time to time U.S. Congressional committees ask U.S. companies to discuss certain procurement actions. To the extent that such investigations/hearings could be construed as "pressure," it would not be "unreasonable;" the committees would be carrying out normal legislative/investigative functions.

In the course of the negotiations, the delegations considered and rejected, because it was deemed vague, inappropriate, and unacceptable, including a further modifier "unless warranted by (unusual, exceptional, or particular) circumstances" in the text of Article 4.2.

The Aircraft Agreement provides (Article 4.3) that the purchase of civil aircraft, engines, and parts should be made only on a competitive price, quality, and delivery basis. In other words, for example, U.S. aircraft manufacturers are to be free from foreign government requirements and pressures as to the letting of subcontracts. Further, to the extent that U.S. aircraft manufacturers receive bids from foreign firms for production or support contracts, they are to be free, without pressure, to evaluate such bids along with all competing bids on a price, quality, and delivery basis. In conjunction with the awarding or approval of a civil aircraft procurement contract, a foreign government may, however, require that its qualified firms be provided access to business opportunities on a competitive basis; that is, it may require that firms, which have the technical capability, be afforded an opportunity to enter a responsive bid for available production or support subcontracts. A foreign government may require confirmation that U.S. aircraft manufacturers have entertained bids from its qualified firms, but cannot require nor exert pressures to the effect that contracts for business actually be let, or arrangements for co-production, licensed production, or technology transfer be made, much less that any volume of business be contracted with its firms.

Some delegations argued in favor of permitting mandatory subcontracts (i.e., offsets) on the grounds that such procedures provided the only means for their competitive firms to receive consideration as subcontractors to U.S. airframe and engine manufacturers. We insisted that we could never accept or acquiesce to such governmental dictates as to offset procurements. As the expressed concern was with

technologically and economically competitive firms having an opportunity to bid for available subcontracts, on a competitive basis, we offered a compromise, which won acceptance and now forms the essence of Article 4.3: governments may require competitive bidding opportunities for their firms; they may not require that subcontracts be granted.

It should be noted that purchases by nationally-owned airlines and aircraft manufacturing companies are not covered by the provisions of the Agreement on Government Procurement, because the various Signatories have exempted them from its coverage. Thus, the only disciplines on nontariff measures that may be applied in conjunction with procurement actions by such entities are those provided in the Agreement on Trade in Civil Aircraft, or under the General Agreement itself.

### SALES-RELATED INDUCEMENTS

The Aircraft Agreement provides (Article 4.4) that governments avoid attaching political or economic inducements or sanctions to the sale of civil aircraft, engines, or parts. It is a new discipline designed to assist U.S. competitiveness in third country markets (e.g., in competition with aircraft from Europe for sales outside Europe).

Neither private nor nationally owned/controlled manufacturers are restricted from making commercial concessions; they are precluded from offering inducements of a type that only governments can make.

For example, the offer of landing rights for airlines or sales of nuclear fuel reprocessing plants and the threat to reduce textile imports or to impose other economic sanctions are types of government marketing support now prohibited. Discipline on this type of trade distortion is particularly important for U.S. companies, as they do not enjoy the close governmental support/involvement that their nationalized competitors in other countries do. Adherence to the straightforward discipline of Article 4.4 will be a litmus test as to whether nationalized companies are willing, and whether their governments are willing, to permit them, to operate on a "commercially competitive basis" as set forth in the preamble. In this regard, it is worth noting that the negotiating delegations considered and rejected the indirect language suggested by one party that "signatories have the firm intention to avoid attaching inducements." If future practice follows past, then the U.S. Government should feel itself compelled to review its "hands off" policy regarding civil aircraft marketing efforts in export markets.

### TRADE RESTRICTIONS

The Agreement contains a direct statement (Article 5.1) that civil aircraft imports are not to be subject to quotas or to restrictive import licensing requirements. Import monitoring or licensing systems, consistent with the GATT, are not precluded. As elsewhere, the concern is not so much with the fact that these may be government requirements, as with the effect of such requirements on trade.

Signatories have agreed (Article 5.2) not to apply quantitative restrictions or export licensing or other similar requirements to restrict, for commercial or competitive reasons, exports of civil aircraft to other parties to the Agreement on Trade in Civil Aircraft, except as may be consistent with the GATT. In particular, export licensing procedures for reasons of national security or foreign policy are not affected.

### GOVERNMENT SUPPORT AND CIVIL AIRCRAFT MARKETING

A basic U.S. objective in seeking an aircraft sectoral agreement was to provide more specific nontariff disciplines for that sector than could be agreed in a general agreement covering all trade areas. In this sense, we sought to extend the disciplines provided in the conduct codes of the Tokyo Round as they would apply in the aircraft sector. In the areas of standards and government procurement, as noted above, we were successful in doing that. In the most difficult area of subsidies we were not as successful. We sought to extend disciplines on subsidies, by treating the specifics of the aerospace industry. Some others conversely sought to provide further restrictions on possible U.S. imposition of countervailing duties in the aircraft sector, even though historically we have never imposed such duties on aircraft, engines, or parts.

Basically, we were successful in obtaining (1) confirmation of the applicability of the Agreement on Subsidies and Countervailing Measures (Subsidies Code) to trade in civil aircraft, with no derogation of the rights/obligations specified therein, and (2) a statement of intent regarding the pricing of civil aircraft, engines, and parts. We did not succeed in obtaining agreement on export credit financing parameters for civil aircraft, as negotiations toward that end were contemporaneously (and unfortunately unsuccessfully) being pursued within the OECD context. Provision of

effective discipline on official export credit financing parameters for civil aircraft trade should receive priority attention.

The Subsidies Code represents an interpretation and elaboration of the current GATT Articles VI, XVI and XXIII, relating to subsidies and countervailing measures. Among other things it provieds: A flat prohibition on export subsidies on civil aircraft products; illustrative provisions on subsidies other than export subsidies, which recognize the legitimacy of such programs but also recognize that such subsidies may cause injury or serious prejudice, or nullify or impair our GATT benefits, particularly when such subsidies are granted on noncommercial terms; commitment to "seek to avoid" such adverse trade effects and provisions for remedies where they are caused; a "two track" set of remedies designed to provide expeditious countermeasures when subsidized competition causes problems in the U.S. domestic market or in our export markets. Under certain circumstances, authorized countermeasures can be taken without proof of injury; and a dispute settlement mechanism designed to provide: (1) consultation, (2) quick resolution of subsidy and countervailing disputes, and (3) a growing case law in the GATT on such problems.

The Agreement on Trade in Civil Aircraft notes explicitly (Article 6.1) that the provisions of the Agreement on Subsidies and Countervailing Measures apply to trade in civil aircraft and provides confirmation that signatories "in their participation in, or support of, civil aircraft programs * * * shall seek to avoid adverse effects on trade in civil aircraft." As used here, "adverse effects" would include: Injury to the domestic industry of another signatory; nullification or impairment of the benefits accruing directly or indirectly to another signatory under the GATT; and serious prejudice, to include the threat thereof, to the interests of another signatory.

It is further recognized that these adverse effects may arise through: The impact of the subsidized imports in the domestic market of the importing signatory, the displacing or impeding of imports of like aircraft or components into the market of the subsidizing country, or the displacing of the exports of like aircraft or components of another signatory from a third country market.

The preamble and Article 6.1 note the importance of civil aircraft production in the industrial economies of the signatory nations—and further evidence of that importance is provided by the existence of the Agreement itself, the only free and fair trade sectoral agreement concluded in the Tokyo Round. This importance, which because of the large employment in civil aircraft production has major political impact, complicated the discussions as to appropriate conduct with regard to governmental support of civil aircraft production and marketing. While we readily grant that there are special factors in the aircraft sector—as indeed there are in any significant economic sector—we could not agree to any interpretative phrases that might appear to condone the continuance of past practices that have been so adverse to U.S. civil aircraft trade interests.

But at the same time, in following the consultation or dispute settlement procedures set out in the Agreement, or in evaluating the actions of others, it makes more sense to examine the special factors which apply in the aircraft sector, or in that portion of it under discussion, such as, as cited in Article 6.1, international economic trade interests, the reasonable desire of producers in all signatory countries to participate in the expansion of the world civil aircraft market, and the fact that governments commonly encourage or support their civil aircraft industries, than simply to follow some generalized and perhaps arbitrary business indices.

In furtherance of the objective of providing a commercially competitive basis for civil aircraft marketing, governments have agreed (Article 6.2) that civil aircraft prices should be based on a reasonable expectation of recoupment of all costs. While there is no requirement that each particular aircraft program must break even, production and marketing programs should be planned so that, with a reasonable production run, the program will cover all of its nonrecurring costs (such as program development and production tooling) and all of its recurring costs (such as production, finance, and marketing costs). The total costs involved here include the "identifiable and pro-rated" costs of military-funded development of civil aircraft and of components which are subsequently incorporated in civil aircraft. Such a provision is consistent with existing U.S. Government policies on recoupment for Government funded research to the extent it benefits a commercial enterprise.

An important objective, as stated in the preamble, is to " encourage the continued technological development of the aeronautical industry on a world-wide basis." To this end it is our view that governmental support of basic R & D that is not program specific and the free exchange of technical and scientific information (excluding classified data) are in the public interest. We do not believe recoupment of basic governmental R & D expenditures in promoting the aeronautical state-of-

the-art should be required, even if the results of such expenditures are subsequently adapted to commercial programs. The cost of adaptation, however, if funded by government, would necessarily be program specific and so should be recouped.

In determining whether civil aircraft prices are based on reasonable expectation of recoupment of all costs, the Subsidies Code provides for governmental disclosure, upon request, of the levels of support and the recoupment. We do not believe that companies—private, or government owned or controlled—should be compelled to disclose proprietary pricing or cost data.

REGIONAL AND LOCAL GOVERNMENTS

The obligations of the signatories apply only as to actions by central governments. However, the signatories have agreed (Article 7) not to require or encourage other bodies, such as state and local governments or non-governmental bodies to act contrary to the provisions of the Agreement.

We accepted this provision reluctantly, for it is directed principally at federal governments, although there should be no substantive problem with it. It is similar to a provision on the subject of federal-state relationships in the Agreement on Government Procurement.

REVIEW

In furtherance of the objectives of the Agreement, there is established (Article 8.1) a Committee on Trade in Civil Aircraft, composed of all signatories, which shall meet as necessary, but at least annually, to consult on any matters relating to the operation of the Agreement and to assure that the tariff concessions have been implemented on a mutually reciprocal basis. Not later than January 1, 1983, the signatory governments shall meet to review the extent of civil aircraft parts accorded duty-free treatment with a view toward improving and perhaps broadening the coverage on a mutually reciprocal basis.

The Committee on Trade in Civil Aircraft shall meet upon request of any signatory to review any matter that a signatory deems adversely affects or is likely to affect adversely its trade interests. The Committee may issue such rulings and recommendations as it deems appropriate. For the purpose of aiding consideration of issues under the General Agreement on Tariffs and Trade, or under agreements multilaterally negotiated under the GATT (such as the Agreements on Subsidies and Countervailing Measures and on Technical Barriers to Trade), the Committee may offer technical assistance. However, such involvement by the Committee is without prejudice to the rights of any signatory to invoke the dispute settlement procedures of the GATT and of the other GATT agreements.

With respect to any dispute related to a matter covered by the Agreement on Trade in Civil Aircraft, and not covered by the GATT or another GATT aggreement, the provisions of the General Agreement and of the GATT Understanding related to Notification, Consultation, Dispute Settlement and Surveillance shall be applied by the Committee on Trade in Civil Aircraft. Disputes related to matters covered by the GATT or by a GATT agreement shall be settled in accordance with the provisions of such agreement, unless parties to the dispute agree to have the matter resolved within the aircraft committee.

FINAL PROVISIONS

The Agreement is to enter into force on January 1, 1980; if as we anticipate it has been accepted by then by Canada, the European Economic Community, Japan, and Sweden.

The GATT Secretariat is to serve as the Secretariat for the Agreement.

The Agreement also includes standard GATT provisions for acceptance and accession by other governments, withdrawal, and amendments.

Senator RIBICOFF. Senator Roth?

Senator ROTH. Mr. Ambassador, there are a number of areas where much, if any, progress was made not because of the other negotiators, who refused to discuss them, and no concessions were secured.

What I have in mind are the restrictions on the use of the foreign order tax adjustment, the safeguards code, agreement on the restriction of foreign government credit on noncommercial terms to finance experts and, of course, the European agricultural

policy. I am sure that these are matters that will come up in discussions on the Senate floor. Particularly in the case of VAT, that was language in the Trade Act of 1974 that made this a primary purpose of these negotiations to provide some relief from this tax advantage, or what some people consider to be a tax advantage for other countries.

What I am really asking, why was progress not made in these areas? Do you plan to continue to press for agreement in these areas, or do we have any specific plans underway at the present time?

Mr. STRAUSS. Senator Roth, that is an exceedingly important and pertinent subject, and I am delighted that you have brought it up. Because it is so broad and so complex and so urgent that we really ought to do something about it.

What we really need, Senator, is the kind of worldwide tax conference that we have talked about that will really get into direct and indirect taxes from an income tax to a value added tax, and all of these other things.

We could not, in the forum we had, get into those things. There was no way that we could come to grips with it.

My judgment is that with the right kind of pushing and shoving we will be able to form what I would term a worldwide tax conference. I do not know how they would structure the darned thing and begin to talk about and deal with these things. It is not an overnight, or a 6 months' project. It is a big one.

You are going to look at the value-added tax, I gather from what I read in the paper, in this committee in the next couple of years.

I think I have said enough. It is just that big.

Senator ROTH. It is a matter that concerns me.

Mr. STRAUSS. You also got into the question of safeguards. We might have been able to conclude a safeguards code and we still hope that it will be done.

The European Community and the LDC's got locked up in an argument and we got involved in it as far as we could. We felt, if we got in much further, we might end up creating some waves and some problems that would cause us to lose some of the negotiating gains that we had made. They are rather close together.

Ambassador McDonald came back 6 weeks before we concluded these agreements. We met with the agencies of Government and others, and Ambassador McDonald went back one more time to get his hands dirty, but not jump in all the way, and see if he could not bring them together, but to go no further. It was a bit of a trap for us.

That was the decision we made. We think it is a good one. I think it will be worked out.

I think, in the next 6 to 12 months, they will work out the safeguard thing without us having to take the losses in it ourselves.

With respect to the agricultural items we mentioned, we still hope for a consultive agreement in addition to what we have gotten in the way of specific concessions.

I think that we will get it and there are a number of areas in agriculture, where the industry did not want to get in too far. They said, "Leave us alone. You are going to give away more than you will get."

We tried to move forward to see if we could get some good agreements, to see if we could get a consultive arrangement that we could live with.

We will. We have not done it yet.

We did not complete everything we should have, or everything we wanted to do. We felt we got the maximum amount out of it.

We are like the second-story thief. You know, you get in and you get two-thirds of the jewelry and start making a getaway. The question is, Do you risk going back for the other third and get caught, or do you get down there and hope the ladder does not break and get away?

We got about two-thirds of what we went after, or three-fourths. We did not get it all. It was a successful trip. The Europeans were pleased, but there still is some stuff left.

Senator ROTH. It has bothered me down through the years that the Europeans have just taken the position, particularly with respect to the border taxes, that it is not negotiatiable.

To me, it has seriously handicapped this country all the way back to the days of Lyndon Johnson when he was President and made a major effort to find a breakthrough.

Mr. STRAUSS. Yes. We have gotten some major concessions in these negotiations. This country had spent 2½ years with no progress.

One of the reasons was that we sat over there saying, "We want you to give up the common agricultural policy." The Europeans said, "We will not give up the common agricultural policy." It was baying at the Moon.

I talked to the farm leaders in this country, for example, and our other leaders. They agreed this was not doing them any good, so I went back to the Europeans and said, "As much as we want you to, we know you are not going to tear up your common agricultural policy, so let's get into negotiation.

"With that understood, relax. We do not want to take that away from you, but we want you to liberalize it a little bit. Let us get our nose out of the tent a little further."

We could have looked nice and strong and screamed at them for 2 more years and moved nothing additional into Europe. We took a policy of getting something. That is the reason all of these agricultural groups are behind us.

Instead of pedantic postures, we pragmatically traded and improved our market access.

My judgment is the Europeans do not like the common agricultural policy themselves; they know it is costly and wasteful. But they cannot politically do anything about that and do not intend to at the moment. So we might as well resolve ourselves to that and try to live with it and liberalize it as much as we can until they get rid of it themselves in their own due time.

Senator ROTH. Mr. Ambassador, a few weeks ago I sent you a letter following a question I raised in the executive session. My letter had to do with what status the European Commission fulfilled vis-a-vis the EC member countries in signing the codes and implementing them.

I am very concerned that the implementing of the MTN in the EC will be very vague and perhaps not as forthcoming as we are in the Trade Agreement Acts of 1979.

Who will be responsible for the implementation? The European Commission or the individual member states? Will the EC have 1 vote or 9 or 10 votes in the committee of the signatory of the codes? I believe, as I recall, the number depends on votes being taken permitting action. It seems to be very important to know exactly how this procedural question will be handled.

Mr. STRAUSS. The Commission is responsible for their own monitoring, Senator. But we are responsible for monitoring them, and we are doing just that.

We have two people in Brussels this very day working on that implementation. It is going to take, as I testified before you on many occasions, constant monitoring and constant effort.

I would hope that this Government does so, but the Commission has the general authority to do so.

Senator ROTH. Have we resolved the question of how many votes the European Commission has on the committee of signatories? That is not a question of monitoring.

Mr. STRAUSS. One vote.

Senator ROTH. One vote.

Mr. STRAUSS. That is right.

Senator ROTH. I think that is a very important point, because in a number of these areas, whether we have any rights, you could have nine votes against us.

Mr. STRAUSS. That is correct.

Senator ROTH. Mr. Chairman, that is all the questions I have.

Senator RIBICOFF. Senator Nelson?

Senator NELSON. Mr. Chairman, I have some things that I would like to include in the record.

On April 18, I wrote a letter to Ambassador Strauss with a series of questions on cheese quotas and the various aspects of the dairy provisions of the trade agreement, and on May 2, Ambassador Strauss responded to these questions.

I do not want to impose on people's time here by reading through the questions and answers, because I do not think it is necessary, but I would ask that my letter to Ambassador Strauss and his response on May 2 be included in the record.

Senator RIBICOFF. Without objection.

[The material referred to follows:]

U. S. SENATE,
COMMITTEE ON FINANCE,
*Washington. D.C., April 18, 1979.*

ROBERT S. STRAUSS,
*Special Representative for Trade Negotiations,*
*Washington, D.C.*

DEAR BOB: As you know, I am concerned over the possible effects of the multilateral trade pact on the U.S. dairy industry. Although I have discussed these concerns with your staff on several occasions, there remain a number of questions. Because the Finance Committee will complete its consideration of the trade agreements soon, I would appreciate on-the-record answers to the following questions as soon as is practicable.

1. With respect to the establishment of the proposed Sec. 22 cheese quota of 111,000 metric tons:

(a) The Administration has frequently assured dairy farmers concerned over the possible effects of the increased quota on the dairy industry that the new quota

level represents a "cap"—i.e., a ceiling—on subsidized cheese imports. For how long will this ceiling remain in effect?

(b) Under what circumstances, and by what procedures, may the President raise or lower the quota?

(c) The Administration proposes that the President may raise Sec. 22 quotas without a prior hearing and finding by the International Trade Commission only in "extraordinary" circumstances, for three years after the establishment of the new quota. What is the definition of "extraordinary," and how does it differ from the "emergency" standard already found in Sec. 22?

(d) Outside of this 3-year period, exactly what showing must the President make to raise or lower the quota?

(e) Which steps in this process are subject to appeal? To which courts may a complainant take an appeal?

(f) Once made, is a given quota increase permanent, only for one fiscal year, or for some other period of time?

2. With respect to the Administration's proposed enforcement mechanism for cheese exporters' price-undercutting commitment, what steps in that process are subject to appeal, and in which courts?

I thank you in advance for your assistance, and look forward to your speedy reply.

Best wishes.

Sincerely,

GAYLORD NELSON.

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THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
*Washington, D.C., May 2, 1979.*

Hon. GAYLORD NELSON,
*Committee on Finance,*
*U.S. Senate, Washington, D.C.*

Dear Gaylord: This is in response to your letter of April 15 raising a number of specific questions with respect to the possible effects of the Multilateral Trade Negotiations (MTN) on the U.S. dairy industry.

1. With respect to the MTN Cheese Agreement the answers to the points that you raised are as follows.

*Question A.* How long will the new quotas remain in effect:

Answer. The new quotas on cheese imports will remain in effect indefinitely. No further quota increases were either promised to our trading partners or implied in any way during the negotiations. There are effectively only two ways that the quotas could be modified in the future. One is through trade negotiations. Most observers believe it is extremely unlikely that there would be any further negotiations along the lines of the MTN in this century. However, should there be any further negotiated change in the quotas, the proposed changes would have to be submitted to the Congress for approval. Quotas could also be changed under Section 22 of the Agricultural Adjustment Act if the President finds that a different level of imports is necessary to ensure that imports do not materially interfere with the price support program for milk or substantially reduce the amount of milk produced in the United States.

*Question B.* Under what circumstances, and by what procedures may the President modify the quotas:

Answer. Currently Section 22 specifies procedures which must be followed when the President acts to raise or lower dairy quotas. Under the normal Section 22 procedures, the United States International Trade Commission (USITC) makes an investigation in response to a request from the Secretary of Agriculture to determine whether imports of a given product are interfering with the domestic support program or (in the case of a proposed increase) whether a higher level of imports could be accommodated without interfering with the domestic support program. The report and recommendations of the USITC are forwarded to the President who makes the final determination with respect to any action which might be appropriate. Section 22 also provides emergency procedures which allow the President to act first upon the recommendation of the Secretary of Agriculture, with a subsequent investigation by the USITC.

*Question C.* How does the definition of "extraordinary" differ from the emergency standard already found in Section 22:

Answer. The Administration has proposed that for the next three years, except in extraordinary circumstances, the normal Section 22 procedures would be used with respect to any proposed increases in Section 22 quotas. The term extraordinary is intended to define and limit the emergency standard already found in Section 22 in such a way that the normal Section 22 procedures would be utilized in all but truly

extraordinary circumstances. The type of situation which has led to emergency actions in the past would not be considered extraordinary. This would mean the use of the emergency provisions during the next three years would be extremely unlikely.

*Question D.* What happens after the end of the three-year period:

Answer. At the expiration of the three-year period, actions under Section 22 would revert to the previous practice and could be taken either under the normal provisions of Section 22 or under the emergency provisions. Modifications in Section 22 quotas are made solely on the determination of the President that the new level of imports (whether higher or lower) is at levels which would not "materially interfere with the price support program for milk or substantially reduce the amount of milk produced in the United States."

*Question E.* What steps in this process are subject to appeal, and in which courts:

Answer. With respect to Judicial review under Section 22, there are two points at which a procedure could be challenged. First, when the USITC gives its report and recommendations, there could be a challenge in the Federal District Court relating to whether or not the USITC conformed to the procedural requirements of Section 22. Second, there could be a challenge when the President takes action, on the question of whether procedural requirements had been met. This could be in the Federal District Court, or in the Customs Court if the action took the form of a protest of an actual entry into the U.S. of the product under quota.

*Question F.* Are quota actions under Section 22 permanent or temporary:

Answer. Actions under Section 22 can be permanent, as in the case of the implementation of the MTN Cheese Arrangement, or temporary. Most of the past Section 22 actions have been in the form of temporary increases for a specific timeframe.

2. With respect to Judicial review under the new price under-cutting enforcement statute, a challenge could be made at two points. First, where the USDA makes its determination, the action could be challenged in the Federal District Court on procedural grounds. It is likely that the Court would also review the factual finding since the statute will be non-discretionary in that regard. There could also be a challenge when a final action is taken, on the same grounds as above, also with a probable review of the factual basis for the action. This last challenge could take place in the Federal District Court, or if there is an actual entry of the product, in the Customs Court. (*NOTE:* The provisions of the Customs Court Act now before Congress would assure that all of the challenges could go to the Customs Court, By providing that Court with equity jurisdiction).

There is always, of course, the possibility of challenge on the grounds of arbitrary and capricious action either with respect to Section 22 or the price undercutting enforcement mechanism.

I hope that this information is helpful to you.

Sincerely,

ROBERT S. STRAUSS.

Senator NELSON. Mr. Chairman, I sent another letter yesterday to Ambassador Strauss with another group of questions which—it is my understanding from my staff—will be responded to in writing.

Mr. STRAUSS. I have not been in the office, but we should have answered this letter, if it came in. When did it come in?

Senator NELSON. There was one yesterday.

Mr. STRAUSS. It just got there? We will get it answered by 6 p.m. this afternoon.

The first questions we submitted and discussed at the previous hearing were contained in a letter dated April 18. You did respond to those.

In May, we sent another letter with further questions, which you've also answered. These concerned a number of questions that I have raised and discussed in the past with Mr. Starkey.

I would also ask a couple of questions now, if you or your staff is prepared.

Mr. STRAUSS. Yes, sir.

Senator NELSON. A further question I raised yesterday concerned the new cheese quota. Grinder cheese, cheese for further process-

ing, is still subject to the total quota, but I am advised by dairy farmers that a good deal more grinder may come to the U.S. market in the future because of the abolition of the price break system.

Is that a valid concern?

Mr. STRAUSS. Senator, I believe, in fairness, I am going to let Mr. Starkey speak for the record so it will be accurate. I do not know the answer to that. To tell you the truth, I never heard of grinder cheese until this very moment. I do not know whether I like it or I do not like it, whether I am for it or against it.

Senator NELSON. If you make a bad batch of Swiss cheese that you cannot market, then it becomes grinder and you get that into the process.

Mr. STRAUSS. I would like the folks from Wisconsin to know that I never tasted any bad Swiss cheese.

Senator NELSON. We do not produce any, but some States do.

Mr. Starkey?

Mr. Starkey: Senator Nelson, under our new cheese arrangement, essentially all competitive cheeses will come under fixed quotas. We believe that economic incentives will result in imports going into the direction of the higher quality specialty cheeses rather than grinders because we feel that since the exporters and importers can only buy and sell limited quantities they will maximize their returns by going to the higher quality cheeses.

Senator NELSON. I will raise that question with the dairy people. Obviously, it is a quota cheese. Grinder is under the quota.

The question is, would foreign exporters be likely to ship in more grinder at a lower price for purposes of processing or something else?

You received this letter yesterday also, I believe?

Mr. STARKEY. Yes, sir. Last night.

Senator NELSON. In order not to impose upon the committee's time on these special questions, you will submit an answer to this letter in writing for the printed record?

Mr. STRAUSS. Senator, I believe we can get an answer to you tonight. We will do that by dark.

Senator NELSON. In the dark?

Mr. STRAUSS. By the dark.

Senator RIBICOFF. Without objection, the letter and the response will go into the record.

[The material referred to follows:]

U.S. SENATE,
SELECT COMMITTEE ON SMALL BUSINESS,
*Washington, D.C., July 9, 1979.*

Hon. ROBERT STRAUSS,
*The President's Special Representative for Trade Negotiations,*
*Washington, D.C.*

DEAR BOB: As you know, the Senate Finance Committee is currently considering S. 1376, the Trade Agreements Act of 1979.

I would appreciate your responses to the following questions, so as to clarify the Trade Act's provisions with respect to imports of cheese:

(1) Under the new cheese quota, "grinder" cheese—cheese for further processing—is still subject to the total quota. However, dairy farmers are worried that a good deal more grinder might come in to the U.S. market, because of the abolition of the price-break system. What assurance is there that this will not happen?

(2a) If, in the future, the President believes there is a specific need to increase cheese imports for a specific time, what will be the procedure under Section 22 of the Agricultural Adjustment Act?

(2b) Is my understanding correct that the President must make his case on the record and must specify the period during which he proposes increased imports?

(2c) For the first three years of the new trade agreement, the President may not use his emergency authority under Section 22. Please elaborate on this restriction.

(3) A number of farmers have expressed concerns to me over current procedures for the classification of imported cheese.

Currently, the Bureau of Customs classifies imported cheese by type, quality and price. The dairy industry believes that the Department of Agriculture has more expertise in cheese classification, and from personal experience I have come to agree with the industry. Several years ago, we helped demonstrate that a cheese classified by Customs as "Monterey," a non-quota cheese, was in actuality a "cheddar-type" cheese, which comes under quota.

Shifting the responsibility for classifying cheese imports from the Customs Service to the Department of Agriculture requires legislative changes, of course.

Short of that, what assurances can you provide that the Agriculture Department will have a strong voice in cheese classification if a dispute arises?

(4) In enforcing the price-undercutting mechanism in S. 1376, how will the United States take account of the "tied-products" situation, where an importer deals with a single supplier for cheese and other products, agreeing to import the cheese at an artificially high price and the other products at artificially low ones to compensate?

(5) Similarly, how will the United States deal with the situation where private concerns are giving assistance to U.S. importers—by was of "free" advertising, promotional services and so on—as a form of subsidizing their purchases? Though such practices are not technically direct subsidies, they have the same effect.

I thank you for your cooperation in this endeavor. Because your answers will be incorporated in the Finance Committee hearing record, I would hope that this letter receives your early attention.

Sincerely,

GAYLORD NELSON.

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THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
*——Washington, July 11, 1979.*

Hon. GAYLORD NELSON,
*U.S. Senate,*
*Washington, D.C.*

DEAR GAYLORD: This is in response to your July 9 letter requesting additional clarification with respect to the cheese import program as proposed under the Trade Agreements Act of 1979. Jim Starkey, Assistant Special Trade Representative for Agricultural Affairs, responded briefly to a number of these questions during the hearings this morning. The following additional comments are intended to provide a more detailed response to your questions:

*1.* Under the new cheese quota, "grinder" cheese—cheese for further processing—is still subject to total quota. However, dairy farmers are worried that a good deal more grinder cheese might come into the U.S. market, because of the abolition of the price-break system. What assurance is there that this will not happen?

Under the proposed cheese import program, all competitive cheese imports will be under fixed quota. Since each supplying country will have a specific quota by type of cheese, there will be a built-in incentive to maximize returns by exporting as much high-quality, high-priced specialty type cheeses to the United States as possible as opposed to lower-quality, lower-priced "grinder" cheese. Therefore, we anticipate that the new arrangement will result in increased imports of high-quality cheeses rather than "grinder" cheeses.

*2a.* If, in the future, the President believes there is a specific need to increase cheese imports for a specific time, what will be the procedure under section 22 of the Agricultural Adjustment Act?

The procedure will be the same as currently exists under section 22, with the exception that the President cannot use the emergency authority under section 22 for the next three years unless "extraordinary" circumstances require immediate action. The normal section 22 procedures require that the President direct the U.S. International Trade Commission to do an investigation and to report to him its findings and recommendations before any action is taken to increase the quotas. This normal procedure will be followed under all except "extraordinary" circumstances.

*2b.* Is my understanding correct that the President must make his case on record and must specify the period in which he proposes increased imports?

The Secretary of Agriculture is the initiator of action under section 22. If the Secretary has reason to believe that any article is being or is practically certain to

be imported into the United States under conditions and in quantities so as to render or tend to render ineffective or materially interfere with the domestic price support program, he shall so advise the President. If the President agrees, under the normal section 22 procedures, he would direct the U.S. International Trade Commission to undertake an investigation of the facts. During the USITC investigation the Secretary of Agriculture must make a case on record and specify the period during which he proposes to increase imports. Other interested parties, including of course representatives of the domestic dairy industry, would also have an opportunity to make their views known with respect to the proposed action.

*2c.* For the first 3 years of the new Trade Agreement, the President may not use his emergency authority under section 22. Please elaborate on this restriction.

As indicated in 2a above, the administration has proposed that for the next 3 years. except in extraordinary circumstances, the normal section 22 procedures under which representatives of the domestic dairy industry could make their views known would be used with respect to any proposed increases in section 22 quotas. The term extraordinary is intended to define and limit the emergency standard already found in section 22 in such a way that the normal section 22 procedures would be utilized in any but truly extraordinary circumstances. The type of situation that has led to emergency action in the past would not be considered extraordinary. This would mean that the use of emergency provisions during the next 3 years would be extremely unlikely.

*3.* . . . what assurances can you provide that the Agriculture Department will have a strong voice in cheese classification if a dispute arises?

As a result of difficulties encountered in the past in the classification of cheese, an interagency committee has been established to resolve differences with respect to cheese classification. Under current procedures, any industry reprensentative can request that the Department of Agriculture, along with the other agencies in the committee, review the classification of a type of cheese. The interagency committee then examines the classification to independently determine the proper classification of the cheese. Members of the interagency committee include USDA, Customs, FDA, and the U.S. International Trade Commission. In addition, we anticipate that classification problems will not be as significant under the new cheese import program as has been the case in the past. Under the new program essentially all cheese except sheep's milk, goat's milk and soft ripened cow's milk cheeses packaged for retail sale will be under quota. The three remaining categories of nonquota cheeses are much more readily identifiable than is currently the case.

*4.* In enforcing the price-undercutting mechanism in S. 1376, how will the United States take account of the "tied-products" situation, where an importer deals with a single supplier for cheese and other products, agreeing to import the cheese at an artificially high price and the other products at artificially low ones to compensate?

The "tied-products" problem should be eliminated under the new cheese import program. Under the existing program, exporters on some occasions circumvented the quotas by pricing cheese at the border above the price break. In this way, the cheese entered the United States outside of quota. Importers were then compensated by price discounts on other products. Under the new program the price break will be eliminated and since all cheeses except sheep's milk, goat's milk and soft ripened cow's milk cheeses packaged for retail sale will be under quota, the incentive to invoice cheese at a higher price should be eliminated.

*5.* . . . how will the United States deal with the situation where private concerns are giving assistance to U.S. importers—by way of "free" advertising, promotional services and so on—as a form of subsidizing their purchases?

The Trade Act of 1979 (S. 1376) offers a broad enough definition of subsidy to encompass the payment of advertising and promotional services by governments. Consequently, any such payment which results in the sale of imported cheese below the domestic wholesale price for like U.S. products will be subject to countermeasures under title VII of the proposed law.

Thank you for bringing your concerns and questions to my attention.

Sincerely,

ROBERT S. STRAUSS.

Senator NELSON. I do not have any further questions.

Mr. STRAUSS. Thank you.

Senator RIBICOFF. Senator Heinz?

Senator HEINZ. Thank you, Mr. Chairman.

First, I would be remiss if I did not congratulate Ambassador Strauss, Ambassador McDonald, and Ambassador Wolff for being here and for all the hard work and the considerable amount of

patience that you have put into making it possible for us to have an MTN agreement and this implementing legislation.

Senator NELSON. If I may interrupt, Mr. Chairman. I did have two other questions. After Senator Heinz completes his remarks, could I ask those two and have those go in the record?

Senator RIBICOFF. Without objection.

Senator HEINZ. To prove the sincerity of these remarks, as you may know, when Senator Moynihan and I, Senator Long and others introduced the legislation, I said these things in public at that time.

Mr. STRAUSS. I am well aware of that.

Senator HEINZ. In spite of the fact that you won some battles where I wish you had not done so well, but that is just a testimony to your persistence, intelligence, and ability and in your new job, you are going to need all of that.

Mr. STRAUSS. Thank you, sir.

Senator HEINZ. I just wanted to add something to what Senator Ribicoff and Senator Roth discussed earlier. I am, of course, disappointed that we do not have a reorganization proposal, having to do with a Department of International Trade and Investment. I fully concur with the feelings of Senator Ribicoff that we should not report the bill until that reorganization plan which you and others have promised to us is forthcoming.

I know it is not your fault that things have intervened which have made it difficult, if not impossible, for this plan to be with us at this time. Yet, in order to protect the credibility of the committee, and the interest of the members—which is nearly unanimous in this regard—I think Senator Ribicoff's course of action is right for the committee.

I would only add that I feel so strongly about this, I would not be surprised if we did get into a stalemate. I hope we do not. I do not see any reason why we should on this.

But I think that the temper of the committee would be such that we might consider whatever steps are necessary to withhold consideration of the agreement, including the possibility of amending the Trade Act of 1974 to permit us to hold this until we get the reorganization proposal.

Mr. STRAUSS. To tell you the truth, I have been threatened so much going through this, there is not much scare left in me. I have worked myself to death getting this up this far, and if this committee and the Senate concludes that that is the way they would like the outcome to be, people elected you to vote that way, I cannot do anything about it. I have done my very best, I am going to continue to. I do not really need to be threatened about it.

I really think we need that reorganization bill, and so does the President. If you are going to get people in and serve the Government and work as hard as some people do, then I think it is going to have to work both ways.

That is what makes this Nation, the legislative and the executive branch working hard together. We have had a bipartisan effort here. We have worked hard together. If the product does not deserve being graded on its merits, I am sure the Senate will refuse to act upon it and probably the world will little note nor long remember, and I will go on about my business.

That is your responsibility and any way that you discharge it, you will not hear any whining out of me.

Senator HEINZ. Mr. Ambassador, you have been immortalized by Ms. Drew in the New Yorker. You have nothing to worry about.

The world may little note nor long remember the rest of us, but you will go down in history.

Mr. STRAUSS. Thank you, sir.

I would not have made that statement if I was not pretty certain of that in my own mind, Senator.

Senator HEINZ. Mr. Ambassador, what effect will the subsidy agreement have on the DISC and on consideration of tax incentives for capital formation and research and development?

I ask this question specifically because Assistant Secretary Sunley of the Treasury Department was up here a couple of weeks ago, and be made some statements that probably need some clarification.

Mr. STRAUSS. The answer is, in my judgment, none whatsoever, and I sharply disagree with the view he expressed, as does everybody else I know who has dealt with the subject matter.

Senator HEINZ. Thank you very much.

Thank you, Mr. Chairman.

Senator RIBICOFF. Senator Moynihan?

Senator MOYNIHAN. Mr. Chairman, I would only wish to join with you and Senator Heinz, Senator Nelson, in congratulating the Ambassador for what he has done, what his colleagues have done.

It has been a remarkable feat of public service. It does not put the end result beyond criticism, and you know that.

Mr. STRAUSS. I think there is a great deal of criticism I could make of our end result. It is far from perfect.

Senator MOYNIHAN. But we have taken it with the utmost seriousness. We know what is in this agreement because you have negotiated with us. We have been formally consulted, and that has been a reality as well as a formality. I would like to thank you for it.

The public never says things very well, and so I would like to take this occasion to state, as Senator Heinz did in the remark made when we introduced this on the floor, that it is an honor to be in government with the likes of you three gentlemen, and if we have remaining concerns it is only because you have rewarded us for taking this matter seriously.

Mr. STRAUSS. Thank you very much. I appreciate that.

Senator RIBICOFF. Senator Nelson?

Senator NELSON. I would ask, Mr. Chairman, that the questions and answers that I asked be printed in the record at the place where I concluded prior to Senator Heinz's interrogatories. Is Mr. Starkey here?

Mr. STRAUSS. Yes, sir.

Senator NELSON. A number of representatives of farm organizations have expressed concern over the procedures for classifying imported cheese. Currently, the Bureau of Customs classifies imported cheese by type, quality, and price and the dairy industry, or some in the dairy industry, at least, believe that the Department of Agriculture has more expertise in cheese classification and, from personal experience, I am inclined to agree.

Several years ago—I believe you are familiar with the case—the dairy industry came to me and said that Monterey cheese, Monterey Jack was coming into the U.S. market, and it was really a cheddar, and it kept coming in and coming in. So I requested that a test be made at the University of Wisconsin Agricultural College and they reported back that yes, it is a cheddar.

Then I asked the Department of Agriculture. They tested and said yes, that is a cheddar. So there is concern in the dairy industry that there is not sufficient expertise in Agriculture.

I know if you are going to shift the responsibility to the Department of Agriculture to do the testing it would require legislation, which may or may not be possible to pass.

My question is this: What is the procedure if the industry believes, as they did in the case of the Monterey, that a quota cheese is coming into our market as a nonquota cheese? What procedure do they have for raising the issue, getting it appropriately tested so that they do not end up having the quota circumvented? What are their protections? That has happened with the Monterey Jack.

Mr. STARKEY. Senator, I recall very well the situation that you were describing. I think it was your personal interest that led to a significant improvement in the procedures under which cheese is now classified.

I discussed this with officials in the Customs Service.

When there is a difference of opinion about the way cheeses are classified. There is now an interagency committee that consists of the Department of Agriculture, the Food and Drug Administration, the International Trade Commission, and Customs that gets together jointly to make the decision.

I believe, in addition to that, our new cheese arrangements should dramatically improve the situation, because in the past you may recall that half of our cheese imports were not under quota, but now 85 percent will be coming in under quota. Those that would be excluded from quota are very specifically defined cheeses.

So that in the future, questions of classification, I think, will probably be less important as it refers to questions of cheeses inside versus outside of quota.

Senator NELSON. This is an interagency committee, an ad hoc committee, created by the administration?

Mr. STARKEY. An ad hoc committee, yes, sir.

Senator NELSON. So that if anybody representing any segment of the industry wishes to raise a question as to the classification of that cheese, if they raise it with Customs and are not satisfied, they could raise it with the Inter-Agency Committee informally?

Mr. STARKEY. They can directly go to the Department of Agriculture with the experts there who can convene a committee, if they cannot work it out with Customs to make a decision.

Senator NELSON. Now, the following question has been raised several times. I suppose it goes to the heart of the matter. I would like to have you address it, because the dairy representatives also will later in the hearings. First, I will ask that this chart, entitled "United States Imports of Cheese by Quota Status, 1966 Through 1977 and Unofficial Forecast for 1978 Through 1984," consisting of two sheets, be printed at the appropriate place in the record.

[The material referred to follows:]

UNITED STATES IMPORTS OF CHEESE BY QUOTA STATUS 1966–77 AND UNOFFICIAL FORECASTS [1] FOR 1978–84

| Year | Under quota [2] | Above pricebreak | Miscellanous nonquota | Total |
|---|---|---|---|---|
| | (1,000 metric tons) | | | |
| 1966 | 45.4 | 7.4 | 8.6 | 61.4 |
| 1967 | 53.2 | 7.4 | 8.2 | 68.8 |
| 1968 | 58.4 | 9.8 | 9.1 | 77.3 |
| 1969 | 38.0 | 17.4 | 9.9 | 65.3 |
| 1970 | 36.5 | 25.5 | 11.0 | 73.0 |
| 1971 | 29.9 | 22.5 | 9.2 | 61.6 |
| 1972 | 36.4 | 32.7 | 12.3 | 81.4 |
| 1973 | 71.4 | 23.4 | 9.4 | 104.2 |
| 1974 | 90.5 | 43.6 | 9.0 | 143.1 |
| 1975 | 41.6 | 30.7 | 9.1 | 81.3 |
| 1976 | 44.1 | 40.7 | 9.2 | 94.0 |
| 1977 | 48.2 | [3] 37.8 | 8.9 | 94.9 |
| | (Unofficial forecasts) | | | |
| 1978 | 50.0 | [4] 42.8 | 9.2 | [5] 102.0 |
| 1979 | 46.0 | 46.8 | 9.2 | 102.0 |
| 1980 | 50.0 | 49.8 | 9.2 | 109.0 |
| 1981 | 46.0 | 53.8 | 9.2 | 109.0 |
| 1982 | 50.0 | 56.8 | 9.2 | 116.0 |
| 1983 | 46.0 | 60.8 | 9.2 | 116.0 |
| 1984 | 50.0 | [6] 62.8 | 9.2 | 122.0 |

[1] Assuming current quota system is maintained as is.
[2] Some quotas currently in force were established during the period covered. Figures show what would have been subject to quota if all current quotas had been in place.
[3] (86.0)
[4] Actual 47.
[5] Actual 106.
[6] (112.8)

UNITED STATES CHEESE [1] PRODUCTION, IMPORTS AND PER CAPITA CONSUMPTION 1953–77 AND UNOFFICIAL FORECASTS [2] FOR 1978–84

| Year | Domestic production | Imports | Per capita consumption (kilograms) | Imports as percent of production (percent) |
|---|---|---|---|---|
| | Thousand metric tons | | | |
| 1953 | 609.6 | 25.4 | 3.1 | 4.2 |
| 1958 | 634.7 | 25.3 | 3.2 | 4.0 |
| 1963 | 740.2 | 37.7 | 3.8 | 5.1 |
| 1968 | 879.2 | 77.3 | 4.8 | 8.8 |
| 1970 | 998.6 | 73.0 | 5.2 | 7.3 |
| 1971 | 1,077.0 | 61.7 | 5.4 | 5.7 |
| 1972 | 1,181.4 | 81.3 | 6.0 | 6.9 |
| 1973 | 1,218.1 | 104.2 | 6.2 | 8.6 |
| 1974 | 1,332.8 | 143.1 | 6.6 | 10.7 |
| 1975 | 1,275.2 | 81.4 | 6.6 | 6.4 |
| 1976 | 1,513.5 | 94.0 | 7.2 | 6.2 |
| 1977 | 1,523.1 | 94.9 | 7.3 | 6.2 |
| | (Unofficial forecasts) | | | |
| 1978 | 1,586.0 | 102.0 | 7.8 | 6.4 |
| 1979 | 1,644.0 | 102.0 | 8.0 | 6.2 |
| 1980 | 1,718.0 | 109.0 | 8.3 | 6.3 |
| 1981 | 1,780.0 | 109.0 | 8.5 | 6.1 |
| 1982 | 1,835.0 | 116.0 | 8.7 | 6.3 |

UNITED STATES CHEESE [1] PRODUCTION, IMPORTS AND PER CAPITA CONSUMPTION 1953-77 AND UNOFFICIAL FORECASTS [2] FOR 1978-84 —Continued

| Year | Domestic production | Imports | Per capita consumption (kilograms) | Imports as percent of production (percent) |
|---|---|---|---|---|
| | (Unofficial forecasts) | | | |
| 1983 | 1,900.0 | 116.0 | 8.9 | 6.1 |
| 1984 | 1,982.0 | 122.0 | 9.2 | 6.2 |

[1] Excluding full-skim American and cottage, pot and baker's cheese.
[2] Assuming current "price break" import system is maintained.

Source: Basic data for 1953-77 from ESCS of USDA and the U.S. Census Bureau. Unofficial forecasts made by FAS with technical assistance from ESCS.

Senator NELSON. I have raised this question with you before but I would like to have your answer in the record.

Starting in 1953, the per capita consumption of cheese was very dramatically increased for the United States, from 3.1 kilograms in 1953 to 7.3 kilograms, according to this chart, in 1977 and projected to 9.2 kilograms in 1984, which represents a threefold per capita increase in the consumption of cheese.

When you look at that chart, the figures on imports as a percentage of production has been rather consistent, starting at 4.2 percent in 1953, 4 percent in 1958 and 8.8 percent in 1968; 7.3 percent in 1975; 6.2 percent in 1976 and 1977.

The figures have been fairly consistent for most of the last 20 years or so, with some slight variations here and there, for example, when Nixon allowed a large importation, as you recall, back in 1974.

So, under current law, the percentage of imports in the market has remained rather stable even though the imports have gone from 61,000 tons in 1971 to 106,000 tons in 1978. The trade agreement, of course, provides for 111,000 tons.

Under the current law, of course, numerous countervailing duties are suspended. The dairy industry argues that they should not have to face subsidized cheese from Europe; that, if the countervailing duty, which has been in suspension, were allowed to go into effect, it would significantly reduce the importation of cheese from Europe.

Cheese consumption in America has increased almost threefold since 1953 as a consequence of the efforts of the dairy industry itself, of which the dairy market is a beneficiary.

If you put the countervailing duty in effect, it would dramatically or significantly reduce the amount of cheese coming in.

That, I think, is the basic argument made by the dairy industry.

What is your response to that?

Mr. STARKEY. Senator, we looked very carefully at this question before we entered into negotiations with our trading partners. I think the statistics you cited are certainly correct.

Imports have risen but consumption and domestic production have risen at an equal, or more rapid rate, so that the domestic dairy industries, when you look at the absolute quantities involved, have been the principal beneficiary of the expansion of demand in this market.

We looked very carefully into this subsidy question and came to the conclusion, after considerable study, that what would have occurred if countervailing duties had been applied, would simply

have been a shifted sourcing of supply. We would have imported less, perhaps, from some of the European countries that have very high support systems and have to pay subsidies to get it down to the world market price.

We would have imported more from countries like Australia and New Zealand who, seeing a vacuum in our market, would have jumped into the void and dramatically expanded their exports to us.

Senator NELSON. Is it your view that they could have filled the gap?

Mr. STARKEY. Yes, sir. They could have filled the gap but if they knew they would not have competition in some of the price rate cheeses, they would have gone into those categories and probably significantly overfilled the gap.

Senator NELSON. It is Australia and New Zealand that would be the competitors in this situation, that would fill the gap because of their lower cost of production?

Mr. STARKEY. They would be the primary beneficiaries and competitors. Also, some of the European countries in the context of countervailing duty waiver agreements, eliminated their subsidies but still managed to expand their sales to the U.S. market.

Australia and New Zealand would have been the main beneficiary but Norway, with the Jarlsberg cheese, could have expanded their sales to this country, too.

Senator NELSON. I want to ask for a response to this issue from the dairy industry when their representatives testify, so I would want to be sure that you have had the opportunity to make whatever comments you wish on the issue.

Does that cover the subject matter, as far as you are concerned?

Mr. STARKEY. Yes.

Senator NELSON. One further question for the record, which possibly you have answered in writing. If, in the future, the President believes that there is a specific need to increase cheese imports for a specific time, what would be the procedure under section 22 of the Agriculture Adjustment Act?

That is to say, No. 1, given a quota of 111,000 tons, if the President said there is a need for an additional 5,000 tons this year, what is the precise procedure that is followed?

No. 2, is that simply a temporary addition to the quota?

That is to say, if an increase is granted, it is granted only for the amount requested from and approved by the ITC. Does it, or does it not, permanently change the 111,000 ton quota?

Mr. STARKEY. Any future increases of that type will come under the current procedures of section 22, that is, the Secretary of Agriculture would advise the President that he felt that additional imports were desired for a temporary period or for a longer period.

The President, if he agreed with that, would direct the ITC to make an investigation. The ITC would then look at the facts of the matter, make recommendations to the President and the President would decide, in fact, what would happen.

A case would have to be made——

Senator NELSON. You say the President would decide. Would there not have to be a hearing before the ITC with the dairy industry, and others, having an opportunity to appear and testify?

Mr. STARKEY. There certainly would, except under the circumstances after the next 3 years where you would have an emergency situation and action could be taken without an appearance before the ITC.

You will recall only the regular ITC procedures can be used unless there are truly extraordinary circumstances. That means for the period of time any increase would be made with the full views and comments of all interested parties, including the dairy industry, which would be very vitally concerned and interested.

Senator NELSON. The increase would only be for the period of time requested and the amount requested?

Mr. STARKEY. Yes.

The case has to be made on its merits. You cannot argue that an increase is needed and make it a permanent increase. The argument has to be made on the merits of the situation.

Senator NELSON. I will also ask the dairy industry to respond to that question.

Thank you.

Senator RIBICOFF. Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

I simply want to thank you, Ambassador Strauss, and your negotiating team. As I regard, it is one of the best jobs that I have seen in my 5 years of public service.

Mr. STRAUSS. Thank you very much.

Senator BRADLEY. All of us are very proud of you and your team. I know it is a terrifically complex area. You put up with a lot of strife and turmoil and a lot of handwringing and lots of problems, and I want to thank you for all that you've done and I am equally thankful to you. You also set yourself a high standard against which your future performance in this area and other areas will be judged.

I think that, too, will be very helpful for the country.

The bottom line is just to personally thank you.

Mr. STRAUSS. You are very kind. I appreciate it more than you know.

Thank you very much, Senator.

Senator BAUCUS. We in Montana are directly interested in some areas and some other States are interested. We are not a manufacturing State so we do not have some of the same problems that other States have, so we are probably not as fully cognizant of the work that you have undertaken.

Nevertheless, from our perspective—and, more importantly, the national perspective, trying to fit all the different pieces together, I think you have done a great job, even though we are also disappointed in Montana that wheat and meat are not dealt with more satisfactorily.

Mr. STRAUSS. Thank you so much.

Senator RIBICOFF. Senator Dole?

Senator DOLE. Mr. Chairman, I apologize for being late, we had a Judiciary Committee hearing.

I would ask that a very complimentary statement concerning Ambassadors Strauss and McDonald be made a part of the record, if they have no objection.

Mr. STRAUSS. I have no objection, Senator Dole.

[The statement of Senator Dole follows:]

STATEMENT OF SENATOR BOB DOLE

Mr. Chairman: I would like to join my colleagues in welcoming Ambassadors Strauss and McDonald and this very distinguished group of representatives of American industry, labor, and agriculture. We are indeed honored by the presence of all of you, and I look forward to hearing your views.

The bill before us, the Trade Agreements Act of 1979, is the most extensive piece of trade legislation which the Congress is likely to consider for some years to come. I commend our negotiators, the many private sector advisers, and colleagues here and in the House for their arduous efforts to produce this package of trade agreements and trade legislation. Bob Strauss and his staff deserve enormous credit for managing to achieve international agreement in some areas of great sensitivity both here and in foreign countries. I think my colleagues on the Finance Committee also deserve some credit for devising provisions which could help various American trade interests within the terms of the new trade agreements.

I hope this process has produced a sound trade package which will benefit our overall national interests. I think we all realize that this package will not cure our trade deficit or our broader problems of inflation, energy, and a sluggish economy. Like many others, I wish that more could have been done to enhance our export opportunities, but I realize that, in a negotiation, that would have involved giving more to the other side as well, at a time when many industrial and agricultural groups would have great difficulty in adjusting to still more import competition.

Some sectors of our economy will face problems if we approve this package. In two obvious examples, our dairy farmers will confront increased cheese imports, and domestic distillers will face increased competition from imports. Tariff reductions and elimination of Buy America restrictions for some government supply contracts will lead to increased competition for other groups. Obviously, we must be attentive to the problems and be prepared to take appropriate legislative action.

I know Ambassador Strauss can and will also point to much which is positive in the package. I have heard from several groups—farmers, the aircraft industry, the chamber of commerce—who are supportive of this package. I know we will hear from others today who favor the bill, as well as some who have legitimate concerns. A common question for those on both sides of this issue is how vigorously will the executive branch pursue and enforce our rights. We need vigorous action, heretofore often lacking both to advance our exports and to protect domestic industries from unfair foreign trade practices.

I thank the Chairman for this opportunity to make these remarks, and I look forward to the views of our distinguished witnesses.

Senator DOLE. Just very quickly, I want to associate myself with the remarks and questions raised by my distinguished colleague from Wisconsin, Senator Nelson. Perhaps when we hear the dairy witnesses later, we can elaborate on that.

There is another area where we have heard discussion from time to time about increasing the meat quotas from Japan and the EC. You indicated you had a foot in the door. Is there any chance to get the door all the way open, or get two feet in the door?

Mr. STRAUSS. Senator, I am more than cautiously optimistic on that. I really do think that the breakthrough has been made there for the first time. I think that situation has turned around a good deal and it has liberalized.

I guess 2 years from now we have a renegotiation coming up with Japan and I suspect, if folks like you and the members of this committee and your staff keep working as you worked with my office and me, we will do a lot of good there.

There is another good thing there, Senator. Prime Minster Ohira is going to be of help to us there. He has problems, but he understands our frustrations.

He spent a very constructive day before you and the members of this committee, so I am very optimistic. I think we can do a lot better.

I am not satisfied with what we did. I am pleased that we got as much as we did. We got more than I thought we were going to get, many times, but there is a long road to go there. If we just stay with it, we will get there.

Senator DOLE. Along that line, there has been a lot of frustration with Japan because of the trade deficit that remains a strong concern. I know another Texan, Governor Connally, brings people out of their seats when he says they can sit on the docks in Yokohama in their Toyotas and watch their Sonys.

I think that hits a responsive chord with a lot of people that he addresses—maybe it is just the normal Texas ability to get people to respond.

But I think the thing that concerns some of us is whether there will be some progress. After we pass the trade package, is everything going to end again and go back to zero?

Mr. STRAUSS. Senator, I think the members of this committee have expressed grave concern about the trade reorganization bill, and justifiably. I respectfully disagree about the way they are going about it.

That is their business, not mine. They misplace the emphasis, in my opinion.

We just got started with this negotiation. If we do the things that our trade reorganization program presents—and I think will be enacted—we can go from there. We are suffering from 20 to 25 years of neglect here. We all had a part in this.

We have to turn it around and Senators Roth and Ribicoff and all the members of this committee have been concentrating on that reorganization.

We are going to change the export thrust of this country. My judgment is that our whole export operation will be changed. We will have our ability to enforce. That will be changed; it will be moved to other agencies.

My judgment is we will probably have a newly structured kind of Trade and Commerce Department. I am not sure. I think that will happen with a strongly built up STR coming out of it.

I think we will remove some of the authorities from some of the other agencies and put them in here. I do not know that, but I believe that is what will take place. I think that will meet our concerns, or begin to.

We will have better coordination, a new trade policy committee that will coordinate this better in ways that will make us perform more efficiently.

We work very hard on reorganization, as we have done on MTN. Your concern is right. I hope our response will be legitimate and responsible.

Senator DOLE. Much of it must come from Congress, too, but it seems to me that there is going to need to be some assurance that we are going to open up Japanese markets or reduce that deficit in other ways. There is a little feeling of protectionism around and it seems to me some of that feeling is coming from the farm States, because of the foreign barriers placed in the way of our agricultural exports.

I know the value of the Japanese markets. A lot of our products go there. I am not certain that it is generally understood, particu-

larly in view of the large surplus Japan has in our bilateral track, and what appears to be Japan's closed doors to some of our products. It makes it difficult for those of us who want to support that effort to remedy our deficit through export expansion and world trade liberalization to do so.

Mr. STRAUSS. As you know, I have been in your home State a couple of times recently, all through that area. If we are going to keep up doing the kind of business we have to do and moving the kind of product we have to move in your area, the answer to it is not shutting off trade and going into protectionism; the answer to it is to open those markets that you are talking about.

We are on the right track. We have to get market access for our products. I think we have made some progress, and the answer is not in turning inward; the answer is reaching outward.

There are other things we need to do and other agencies that need to encourage research and development. We need some tax incentives, possibly.

All these things need to be looked at.

This is not necessarily an administration position; this is my position. I think the administration will go along with anything that is responsible.

Senator DOLE. Finally, stating the problem and asking for a simple answer, it is pointed out to me by the staff that the Treasury Department has made a preliminary finding that Dexadrine and modified potato starches being exported to the United States are receiving subsidies of over 130 percent from the European Community.

Since that preliminary finding, the European Community Council of Ministers have approved an increase in the production from 10 units of account to 14 effective August 4. The rate of potato starch imported from the European Community has more than doubled during the last year.

Now the administration is planning to cut the duty by 60 percent. Corn refiners and producers have a direct interest in the problem, because reduced starch prices reduce the prices of their products.

How are we going to address this problem?

Does this not demonstrate a less than stringent adherence to the principles of the subsidies code by the European Community and can we at least consult with the European Community on the problem now?

Mr. STRAUSS. The answer to your question is in countervailing and we get at that. This new trade bill will enable us to deal with this kind of problem much better and get quicker, with more effective responses.

I am not familiar with the particular situation, but I think you described the kind of situation that Senator Heinz spent so much time on working with us, taking the lead. I think we can treat it better and more effectively.

Senator DOLE. Maybe I will spell it out in more detail later. I will not take the time of the committee.

Mr. STRAUSS. We will get you an answer on that specific case. I am not familiar with it.

Senator DOLE. Thank you, Mr. Chairman.

Senator RIBICOFF. Senator Long?

Senator LONG. Mr. Strauss, I think we have squeezed all the service out of you as Special Trade Representative that we are going to get for some time to come, so I am not counting on much more out of you until the time you take on some other responsibility.

How are you getting along with Mr. Begin and the Arabs over there in the Middle East?

Mr. STRAUSS. As well as I am with Senators Ribicoff and Roth this morning.

Senator RIBICOFF. If the chairman would yield, just to give you a little carrot, I have talked to Senator Roth and with Chairman Long and the ranking minority member, Senator Dole, and under the leadership of Chairman Long on Thursday we will go ahead in the Finance Committee and vote on whether to order the bill reported this Thursday, but the report will not be filed until the President sends up his trade plan proposal.

So we will be voting on MTN legislation on Thursday.

Mr. STRAUSS. On the floor?

Senator RIBICOFF. No; it has to go to the committee first, but it cannot go on the floor until the report is filed. So you are halfway there.

Mr. STRAUSS. I understand that.

Senator LONG. Why do you not just send some kind of recommendation up here, even if it is wrong?

Mr. STRAUSS. Senator, you know, I am thinking very seriously about doing that. You would recommend me right out of office.

Senator RIBICOFF. We are going to rewrite it anyway. Just send something up.

Mr. STRAUSS. I think they just reported me out of 2 weeks vacation that I was looking forward to.

I thank you for that, whatever it is. Whatever I got, I appreciate that.

Senator LONG. I would like to get to another subject. It is not in the pending bill, but I think that you usually have enough guts to say what you think about something that may cause problems down the line.

At some point, if we are going to be as competitive as our European competitors are, we are going to have to make our tax system more parallel to theirs. The value-added tax is the only tax I know of where you can use that tax as a form of export subsidy, by refunding the tax on goods when the goods leave the country.

Then when other countries ship something in your direction, you can impose the tax on their goods coming in your direction. So you lighten your product going in their direction and burden their product coming your way.

It is a pretty slick trick, but it is completely legal, under GATT. I thought we ought to try to change the advantage other countries have by using this system, but it was very clear to me early in the game you were not going to be able to change that. Those countries had you stuck with it, and they were not going to give up their advantage.

If that is the case, it seems to me we ought to do the same thing as that Kentucky colonel who told about the duel that he had with

the sorry, no-count neighbor of his. He explained afterward to a friend that when he went to the duel, he stepped off 10 paces and turned around, and that scamp was behind a tree.

His friend asked, "What did you do?"

He answered, "Quite naturally, it throwed me behind a tree too."

It seems to me that the part of the social security tax that applies on the employer has about the same impact on the public as an equivalent value-added tax. If we take off that employer social security tax put some tax cuts in where they could best be used to stimulate new production and stimulate new capital formation —if we then had a 10-percent value-added tax, it would really help us to compete with these other countries and neutralize the advantage that those European countries are going to have over us otherwise.

It means that it would be 10-percent cheaper moving goods into foreign commerce, and goods coming in here from other countries would be 10 percent more expensive. All we would be doing would be equalizing the advantage. If we are going to have to live with other countries having that value-added tax arrangement, it seems to me that we should neutralize their advantage by having the same thing ourselves.

I would like to know your news. The President cannot fire you now; you are going to be leaving anyway.

Mr. STRAUSS. That is right, sir.

Let me answer that. There is a three-part answer.

In the first place, technically, unless I am corrected by my colleagues, there is nothing in this legislation that would prevent or impair us in any way from doing what you are talking about.

The second thing, I would say, I have heard expositions of value-added tax that are quite appealing. That is really not a trade issue; that is a domestic tax policy.

Senator LONG. I just want to thank you, Ambassador Strauss and Ambassador Wolff and Ambassador McDonald, for what you have done.

Mr. STRAUSS. I was talking to somebody yesterday. The value-added tax is one of the things I presume—from what I heard you say and Chairman Ullman say—that we are going to be hearing about for the next couple of years. I realize that there are those who are not sure that it would help us competitively in our trade policy.

Some think it might work to a competitive disadvantage. That should not affect the domestic tax policy in my judgment.

That is my offhand reaction to it. The value-added tax has a great deal of appeal.

I was with you in Geneva the first time we ever thought of that. I think you have had it in the back of your mind for quite awhile, Senator Long, and Senator Ribicoff, I think your eyes lit up when you saw it. Maybe you have been thinking about it for a long time.

I remember sitting there when it came up. Since then, I have followed it with a good deal of interest.

Senator LONG. I can not help but think when the other fellow has that tax and we do not, he has a big competitive disadvantage. Am I not right that it is completely legitimate and according to Hoyle for them to do what they are doing?

Mr. STRAUSS. That is exactly right, not a thing in the world for them to do it and not a thing wrong with your having such a domestic tax policy.

Senator LONG. The wisdom of the President and the Congress. What we do is not important at all unless the House is willing to go along with it and the President will sign the bill. I appreciate what you have done in that regard, in the negotiations, that you have protected our interests.

Mr. STRAUSS. Thank you.

Senator RIBICOFF. Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman.

I would like to join in the congratulations to Mr. Strauss and all he has accomplished and I apologize for being late.

Mr. Strauss, as I understand it, under these agreements there will be, in the costume jewelry area, which is of great interest to our section of the country, costume jewelry being jewelry that sells at a retail at, say, $15, less than $20, in that area, and that is going to undergo a very drastic cut of some 60 percent over the 8 to 10 years in the future. That is the way I understand it.

Is there anything that I have misunderstood in this that you, or Ambassador McDonald, could comment on?

Mr. STRAUSS. What you have stated is entirely accurate. Costume jewelry has historically had a very, very high tax. We have cut our tax, our tariff, and we have also negotiated some very substantial tariff cuts and it should work to our advantage.

We are, I think, a positive exporter of costume jewelry and we have cut about half in the cheaper areas, Ambassador McDonald tells me, of what we cut in the more expensive ones.

We are a positive exporter. We got some pretty good tariff cuts and we gave some pretty good tariff cuts. I do not think anybody is overly distressed about it, as they balance out. There may be some certain specific areas where they are concerned about it, depending on the specific company.

Senator CHAFEE. That was the other part of my question: Did we receive the reciprocal cuts from the other nations of a substantial nature?

Mr. STRAUSS. Let Ambassador McDonald speak to that. I think we got substantial ones. Whether they were fully reciprocated in each instance, I do not know.

Mr. MCDONALD. I believe we received the equivalent of formula cuts across the board from the others. That is to say, depending on the height of their current tariff vis-a-vis ours.

We receive the full reciprocal concessions of the kind that the formula called for. I do not know the figures offhand for your State but I was in New York City, in Senator Moynihan's territory about 10 days ago, and just to give you an indication that might have some application, they have about a $200 million positive export of jewelry, value-added jewelry products, from New York City alone.

We believe that the balance of trade with the cheaper and the higher priced goods was quite favorable for the United States. We felt we had accomplished quite a service for our jewelry industry, which is a big one, and growing one, for us.

Senator CHAFEE. Thank you.

Obviously, we will be getting into that deeper as we go along.

Are you at all familiar with the optical frame situation?

Mr. STRAUSS. Yes, sir.

Senator CHAFEE. Have you discussed that previously here? It is in Massachusetts. Some is in Senator Ribicoff's State. It is of concern to us.

How did that work out?

Mr. STRAUSS. Could we get you a written reply on that where it would be more accurate, Senator Chafee? I just have forgotten what it is. I do know there was activity.

Senator CHAFEE. It is my understanding that various substantial cuts were given on our tariffs on optical frames. The question comes whether we got reciprocal cuts.

Mr. STRAUSS. I know we were given some cuts. You are right. I will get you some information. Let's make a note to do that this afternoon.

[The material to be furnished follows:]

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATION,
*Washington, D.C.*

Hon. JOHN H. CHAFEE,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR CHAFEE: This is in response to your request at the July 11th hearings for further details on tariff negotiation results on optical products, particularly eyeglasses and frames.

The United States now has among the highest tariffs of any developed country on optical elements and frames. The majority of these imports are from the European Community, with less developed countries also supplying a significant share of the rest of the imports (almost 15 percent). Most of these imports in this product sector from developing countries now enter duty free under the generalized system of preferences.

As you can see from the enclosed table presenting line-item tariff results, major countries categorize products in the sector differently. This makes a direct comparison of across-the-board tariff reductions difficult. Generally speaking, these countries roughly followed formula reductions on these products. In order to guage the trade relevance of these reductions, the tariff cuts on these products taken together are weighted according to the actual trade flows in each category. Viewed on this basis, U.S. tariffs were cut by 51 percent, with a 40.5 percent depth of cut by Canada to the United States, a 43.5 percent cut by the EC on U.S. imports, and a 49.8 percent reduction to the United States by Japan.

Throughout the negotiations, the United States sought the greatest reductions by our trading partners in those products where the United States has the greatest competitive advantage, particularly in the area of light polarizing material, plastic shapes, and high quality optical lens and prism material.

I hope this information is of use to you in your considerations of the overall MTN results.

Sincerely yours,

ROBERT S. STRAUSS.

Enclosure.

EC TARIFF REDUCTIONS

[Dollar amounts in thousands]

| BTN number and description | Current rate (percent) | Final rate (percent) | 1976 imports |
|---|---|---|---|
| 90.01A—Unmounted lenses, prisms, mirrors and other optical elements, other than such elements of glass not optically worked | 14.0 | 7.5 | $32,304 |
| 90.01B—Unmounted sheets or plates of polarizing material | 9.0 | 5.8 | 4,120 |

## EC TARIFF REDUCTIONS—Continued

[Dollar amounts in thousands]

| BTN number and description | Current rate (percent) | Final rate (percent) | 1976 imports |
|---|---|---|---|
| 90.03—Frames and mountings, and parts thereof, for spectacles, pince-nez, lorgnettes, goggles and the like | 7.5 | 5.1 | 42,572 |
| 90.04—Spectacles, prince-nez, lorgnettes, goggles and the like, corrective, protective or other | 9.5 | 6.0 | 18,693 |

## CANADA TARIFF REDUCTIONS

[Dollar amounts in thousands]

| Tariff number and description | Current rate (percent) | Final rate (percent) | 1976 imports |
|---|---|---|---|
| 32700-1—Eyeglasses and lenses, n.o.p. | 17.5 | 10.2 | $11,344 |
| 32701-1—Shapes of glass or plastic for use in the manufacturing of spectacle and eyeglass lenses | 17.5 | 10.2 | 6,955 |
| 32705-1—Contact lenses and interior chamber implants for the human eye | 0 | 0 | 806 |
| 32800-1—Spectacle and eyeglass frames and parts thereof, n.s.p. | 15.0 | 9.2 | 20,411 |
| 32805-1—Parts, unfinished, for the manufacture of spectacle and eyeglass frames | 5.0 | 0 | 30 |
| 32810-1—Parts, unfinished, for use in the manufacture of spectacle and eyeglass frames | 5.0 | 0 | 917 |
| 93903-83—Cellulose plastic plates or sheets for use in the manufacture of spectacle and eyeglass frames | 15.0 | 12.5 | 419 |
| 93907-4—Plastic shapes, unfinished, light polarized, coated or not, for use in the manufacture of eyeglasses | 17.5 | 12.5 | 435 |

## JAPAN TARIFF REDUCTIONS

[Dollar amounts in thousands]

| BTN number and description | Current rate (precent) | Final rate (percent) | 1976 imports |
|---|---|---|---|
| 90.01.01—Unmounted spectacle lenses of glass, optically worked | 7.5 | 4.9 | $7,422 |
| 90.01.02—Unmounted optical elements of any material, other than such elements of glass not optically worked | 10.0 | 4.8 | 6,584 |
| 90.01.03—Unmounted sheets or plates of polarizing material | 10.0 | 4.8 | 689 |
| 90.03.01—Frames and mountings, and parts thereof, for spectacles, pince-nez, lorgnettes, goggles, and the like made of or combined with precious metals, metals plated with precious metals, or Bekko and other | 20.0 | 14.0 | 27,027 |
| 90.03.0201—Frames, excluding those made of metals, celluloid, or synthetic resins | 7.5 | 4.9 | 153 |
| 90.03.0202—Other frames and mountings and parts thereof, for spectacles, pince-nez, lorgnettes, goggles, and the like | 10.0 | 7.0 | 9,271 |

JAPAN TARIFF REDUCTIONS—Continued

[Dollar amounts in thousands]

| BTN number and description | Current rate (precent) | Final rate (percent) | 1976 imports |
|---|---|---|---|
| 90.04.01—Spectacles, pince-nez, lorgnettes, goggles, and the like, corrective, protective, or other, combined with precious metals, rolled precious metals, metals plated with precious metals, or Bekko | 20.0 | 8.2 | 2,719 |
| 90.04.02—Other spectacles, pince-nez, lorgnettes, goggles, and the like, corrective, protective, or other | 10.0 | 8.0 | 5,245 |

U.S. TARIFF REDUCTIONS

[Dollar amounts in thousands]

| TSUSA and description | Current rate (percent) | Final rate (percent) | 1976 imports |
|---|---|---|---|
| 708.01—Unmounted ophthalmic lenses, prisms, mirrors, and other optical elements | 9.5 | 5.7 | $16,686 |
| 708.41—Lorgnettes | 15.0 | 7.2 | 20 |
| 708.43—Other eyeglasses, goggles, and similar articles all the foregoing whether used for corrective, protective, or other purposes, valued not over $2.50 per dozen | 15.0 | 7.2 | 1,359 |
| 708.45—Other eyeglasses, goggles and similar articles all the foregoing whether used for corrective, protective, or other purposes valued over $2.50 per dozen | 15.0 | 7.2 | 73,603 |
| 708.47—Frames and mountings and parts thereof, for eyeglasses, lorgnettes, goggles, and similar articles all the foregoing whether used for corrective, protective, or other purposes | 15.0 | 7.2 | 80,384 |

Senator CHAFEE. Thank you very much.

Mr. STRAUSS. Let me respond a little bit further to Senator Long and be certain that he fully understands that I said that there is absolutely no problem with the value-added tax.

I said there are some questions about economists differing; they think that maybe the exchange rates might wash out some of the benefits that we would receive. But as the Senator knows, strictly as a trade item, there is no question in my mind that the valve-added tax is a positive. It would be a positive thing.

Senator LONG. An advantage?

Mr. STRAUSS. That is correct.

Senator LONG. There may not be much advantage if you were just adding it on on top of the other taxes they paid anyhow. It might not serve much purpose.

But on the other hand, if you were substituting it for some of the taxes that we already levy, especially some of those that have to be passed on in the price of the product for the consumer, then it would be an advantage.

Mr. STRAUSS. If it has a justified domestic tax reason, then it ought to be passed.

Senator LONG. You think it should be judged purely on the basis of whether it is a good domestic tax?

Mr. STRAUSS. I personally tilt in favor of it being a good trade tool. I am just saying to you there are others who would testify to the contrary. If there is not that much difference, it should not have a negative impact on the bill.

Senator LONG. I understand that. Please understand, I am not worrying about what other people are going to testify to. We will meet that when the time comes.

Thank you very much.

Mr. STRAUSS. Thank you very much.

Senator RIBICOFF. Ambassador Strauss, I would guess, and you would probably hope, that this is your last appearance before this committee on STR. I do want to compliment you for the Senate and the people of the United States for the outstanding job that you have done for this country as STR representative.

You set an example that any public servant could aspire to. Not only have you been a great Ambassador, but you pulled together a great team, and I know how hard they have worked and how supportive they have been, both at home and abroad.

Ambassador McDonald, Ambassador Wolff, and your general counsel, Dick Rivers, you have pulled together a small team of able, dedicated men who day-in, day-out, have slogged through one of the most difficult periods or negotiations in the history of our country and all of you should be proud of what you have achieved for the Nation.

Alan Wolff has resigned, so I would say soon that we would not have Alan Wolff with us. Ambassador McDonald and yourself and, I am sure, Dick Rivers, will be through with us until this measure reaches the floor and final action is taken, but on behalf of the entire committee and the American people, my congratulations and thanks to you and your entire staff.

Mr. STRAUSS. Thank you.

Senator NELSON. Mr. Chairman, I should like to endorse what Senator Ribicoff and others have said and, in particular, thank Ambassador Strauss, as well as Ambassadors Wolff, McDonald, and Mr. Starkey, because I would guess that you would agree that I and my staff have imposed upon your time and your staff at greater length than anybody else on the committee in examining the dairy aspects of this agreement, because it was a matter of great concern to us. We met with Ambassadors Wolff and McDonald, and we met several times with Mr. Starkey. We submitted several series of questions. We have always received answers.

We have gotten a good deal of clarification concerning the problems that we thought existed, beginning with Ambassador McDonald's meeting at the House Agricultural Committee several months ago with representatives of the dairy industry. So I just wish to say that you and your staff have been enormously cooperative. There are those who are not satisfied with the total agreement, but I think you have done as well as could be done and, in terms of your responses to our request for information and answers, your staff has been superb, and I appreciate it.

Mr. STRAUSS. Thank you, sir.

Senator LONG. Let me just agree with what has been said about you by Senator Ribicoff and Senator Nelson and brag for a moment. When we passed the 1974 Trade Act, I made quite a fight to say that the job of STR would have to be a Cabinet-level job. That really created a lot of consternation and gnashing of teeth—I thought it was just about to sink the White House. By the time they got through, it looked like they were going to go insane down there, that we would disturb the whole table of organization, and get all confused who sits where at the dinner table and every kind of other thing.

I persevered on the matter, and I was supported by Senator Ribicoff and Senator Nelson and others, so we managed to make this a Cabinet-level job and that also upgraded one notch your able assistants. I think that my position on that matter was vindicated by the fact that it helped us to get ourselves a man whom I believe is the most talented man President Carter has brought with him, Ambassador Strauss, and your service has proved that point.

I think the record will demonstrate we could not have gotten a first-class man like Bob Strauss to take that job if I had not done what I did—upgrade the job and give it the recognition it deserved.

I feel that in doing the fine job you did, you proved me right on the matter, I did want to thank you for that.

Mr. STRAUSS. Thank you, Senator Long. I appreciate what you and the other members have said very much. I must say with respect to that Cabinet status, I hope a lot of folks will agree you were right. I am not sure that my other colleagues in the Cabinet would agree with you

Senator RIBCIOFF. Thank you very much.

Mr. STRAUSS. Thank you very much.

[The prepared statement of Mr. Strauss follows:]

PREPARED STATEMENT OF AMBASSADOR ROBERT S. STRAUSS, SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to discuss with you the results of the Tokyo round of the Multilateral Trade Negotiations. I welcome this opportunity not only because I strongly believe that these agreements merit your support, but also because of the essential role you and other concerned members of Congress have played throughout the negotiation of these agreements.

Simply stated, I believe these agreements successfully conclude the most ambitious, most comprehensive attempt to revise the rules of world trade since the initial GATT agreement over 30 years ago. They reflect American and international recognition that world commerce has changed during the last few decades. They reflect a commitment to inject new competitiveness into our international trading position. But even more improtant, they reflect a commitment to a climate of fair opportunity and efficient production in international trade—a climate from which all sectors of our economy, and all regions of our country, will benefit.

I attribute much of our success in these negotiations to the prominent role played by members of this Committee, members of the House Ways and Means Committee, concerned members of Congress in both the Republican and Democratic parties, and the private sector. The Trade Act of 1974 has proved to be a remarkably effective mechanism for insuring the full participation of the designated Members of Congress and private sector advisers in the negotiating process.

The breadth of support for the agreements reflects the range of advice we received during the negotiating process. Today I am pleased to announce to this Subcommittee that in a letter sent yesterday to Congressional leaders, 14 of our nation's foremost economists have expressed their strong support for these agreements. This is a truly bipartisan group. Its members have served under five presidents and across three decades and possess intimate knowledge of our nation and its

trade position. The group includes the two immediate past chairmen of the Federal Reserve Board, seven former chairmen of the Council of Economic Advisers, three other past members of the Council, a former Secretary of the Treasury, and a Nobel laureate. I would like to ask that their letter be included in the record of these hearings.

In the negotiation of a major international trade agreement, we have never had a more open flow of information and advice within our country. This exchange, involving all concerned parties, provided the expertise and support for us to negotiate the best possible deal for our country. Such open consultation is a classic example of the Executive and Legislative branches working together, with full discussion of all issues, to achieve truly constructive results.

Those results mark our most effective response to new world economic conditions. The world economy is bigger than ever before and more important to us than ever before.

International trade has increased tenfold in recent decades, to the point where it is a $1.3 trillion business.

Our stake in world trade has grown enormously. In 1969, our export totalled $37.3 billion. In 1978, our exports totalled $143.7 billion—an increase of nearly 400 percent in only nine years.

But not all that has happended in international trade is good news.

We are painfully award of how decisions OPEC makes in Geneva affect the prices of gas, heating oil, and electricity for homes and cars more than 4,000 miles away in Hartford, Dallas, and Los Angeles, and every other city, town and village in America.

We are painfully aware of the effects of subsidized industries and economic nationalism on our ability to compete fairly and successfully in foreign markets.

We need to compete in foreign markets and we are willing to compete. But right now this nation exports 8 percent of our GNP—a small figure compared to the 14 percent of GNP that Japan exports, or the 27 percent of GNP that West Germany exports.

We are not competing as successfully as we could because we have not been allowed to compete fairly. As tariffs become lower and lower, nations have erected more subtle barriers to trade which prevent American products from penetrating foreign markets.

These agreements give us the tools to knock down those barriers. Through these agreements, we can meet our need to export more, and we all know how vital that is.

In these negotiations, we continued the tariff-lowering process begun in earlier negotiations. We lowered tariffs by about a third, on the average. These selective reductions will be phased in over the next eight years. We obtained important concessions from Japan and the European Community on specialty products so important to us, such as poultry, citrus, beef, and computer and communications equipment.

But the most significant achievements of the Tokyo round, I believe, are the agreements governing non-tariff barriers to trade. Those agreements, popularly known as codes of conduct, attack for the first time the distortions and problems caused by non-tariff barriers. The codes produce much-needed reform of the international trading system by providing, for the first time, a single language, and a single set of rules of govern world trade.

One of our key achievements is an agreement on Government Procurement based on the principle of reciprocity. As this Committee is aware, under the Buy America Act, firms in other nations have had extensive opportunities to bid for our government purchases at only a slight disadvantage. Our firms have not had similar opportunities abroad—in fact in most places we were just plain shut out. Under the Government Procurment Code, for the first time, American firms will have equal opportunities to bid on purchases made by foreign signatory governments. Those countries that creater no new opportunities will get no new opportunities. The Government Procurement Code opens a market now estimated at up to $20 billion for American businesses.

Another major achievement is our agreement on product standards. Our American product standards protect our consumers' health and safety and our environment, but many foreign product standards serve only to protect markets from American goods. This Code prevents much of this discrimination against American producers.

The Subsidies Code will allow us, for the first time, to take quick, meaningful action against the effects of subsidized products on our domestic and export markets.

The Customs Valuation Code prohibits arbitary customs practices which prevent our products from entering foreign markets at fair prices.

Over the long-term, these agreements will help fight inflation by lowering the trade barriers which drive costs up in this country and around the world. Even more important, the agreements offer a major opportunity to restore the international competitiveness of American industry by significantly expanding export opportunities.

The studies made of these agreements have reached a range of conclusions on their impact—but each has been positive overall despite widely varying assumptions. They have concluded that the agreements will increase export income for American agricultural producers by up to half-a-billion dollars annually.

The most recent studies I have seen, based on data straight from the negotiating table, conclude that there will be significant gains in jobs from the tariff cuts and the Government Procurement Code alone. And those studies do not even include potential job gains or economic benefits from the other codes of conduct.

In short, with effective implementation and monitoring, the agreements will mean an ever-expanding role in world markets for American agriculture and business.

They can mean more jobs, better jobs, and better pay for all American workers and more goods at a better price for consumers.

For every extra $1 billion we sell in export markets, we will gain 50,000 jobs, $2½ billion in GNP, and $400 million in government tax revenues.

For us to take advantage of these agreements, we will need a sustained effort like the one that brought us this far—we must, and we will have it.

As we finalized these agreements, we devoted a good deal of time and attention to the question of reorganizing our government's trade structure. As you know, this is an important element of the trade picture that has President Carter's personsal attention and commitment.

Recommendations have already been submitted to the President for his approval. With his trip to the Economic Summit and the subsequent attention he has been devoting to energy and economic problems, he has not yet been able to give this issue the thoughtful consideration it deserves. He has indicated to me that we will soon be reviewing the options with him so that his proposal might be forwarded to the Congress.

While I obviously cannot discuss the specific details, I can offer some general observations. First, I expect that the changes proposed will be of some magnitude and will go far toward achieving our common goal of a more unified and effective trade structure. Second, I expect the proposals to emphasize the necessary improvement in policy coordination on trade, more diligent pursuit of our international rights to fair trade, and better follow-through to obtain the benefits of the Tokyo round agreements. These are each goals that I know are of utmost concern to members of this subcommittee.

The Tokyo round will, as I have outlined, benefit all sectors of our economy. But I want to conclude on a word of caution. This is an impressive achievement, but it represents only the first few chapters in a book that we are just beginning to write—a book on a new American approach to international trade.

Writing the next chapters will require a strong and persistent commitment from each of us—executive branch and Congress, public and private sectors.

Senator RIBICOFF. We have a long list of witnesses and I think that our plans will be to go until 1 o'clock and then we will adjourn over until tomorrow at 2:30 in Room 2221 of this building, so that those of you, you can figure out, and each witness will be given five minutes, and those witnesses who are down on the list could feel comfortable about leaving now, if you so desire, and return tomorrow at 2:30.

Your statements will be placed in the record as if read.

[A brief recess was taken.]

Senator ROTH. Please proceed.

## STATEMENT OF PAUL DeLANEY, ATTORNEY, ON BEHALF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. DELANEY. Mr. Chairman and members of the subcommittee, we first wish to thank you for providing us this opportunity to testify today and stress how important we think it is that the

committee has offered interested parties in the private sector an opportunity to give our views.

I am Paul H. DeLaney, Jr., international trade counsel to the Washington law firm of Mason, Fenwick & Lawrence. I am appearing today on behalf of the U.S. Chamber of Commerce.

I have with me Beth Perkins who is the executive director of the Multilateral Trade Negotiations Task Force; also Mr. Gordon Crony, executive director of the Chamber's International Services Committee.

We wish to stress that our testimony, of course, is based on the interest of a large group of companies that comprise the U.S. Chamber of Commerce.

The National Chamber supports this legislation and urges the committee to proceed with the approval of the Trade Agreements Act of 1979. We request that our full statement be included in the record, Mr. Chairman, and, of course, I will only summarize our points today.

Our principal message today is that the passage of S. 1376 is essential to the maintenance of an open world trading system in which the U.S. economy can prosper. We wish to stress, however, that the Tokyo round and the multilateral trade negotiations trade agreement package as presented to the committee is essentially an opportunity, as the chairman has stressed earlier today, without adequate implementation of these agreements, without the necessary reorganization of the Government from a trade policy perspective.

It is to be expected that the United States will not obtain many of the benefits that otherwise would derive under these trade agreements.

We have a few specific suggestions regarding the legislative history on the bill. Under the codes as fully implemented in terms of price and benefits to the United States, we can expect new opportunities for foreign government procurement, further stringency in terms of international bills, governing subsidies under the subsidies code; greater certainty regarding the subsidies evaluation code; procedures that would assist in removing discriminatory aspects on technical standards; reduction of industrial tariffs; overall entry of 30 percent greater access to foreign markets for agricultural products, and overdue improvements in the GATT machinery for dispute settlement.

I wish to stress again as the committee has raised these points, how strongly the chamber and all of its members feel about implementation. Although we do not have a specific recommendation for you, we do wish to stress the importance of having an office in the Office of the President and to have the necessary resources to carry out his responsibilities.

Furthermore, we think there should be continued private sector involvement in this process and on the matter of advisory committees, we wish to point out to the committee, we think that it is extremely important that these advisory committees remain as representative as possible of the entire economy and that would include consumer wholesale distribution and retail interest as well.

On the matter of injury and the question of material injury that was such an issue before this committee and the House Ways and

Means Committee, we support the present language in the bill, but if there is to be any further implementation in the legislative history, we urge you to adopt the language that we understand will appear in the House Ways and Means Committee report.

On the matter of tax practices that have been mentioned today, we think it is unfortunate that the Congress was unable to deal with questions of indirect taxes, particularly the subsidies code. We think the Congress should direct the administration further negotiations on these issues. This would include the questions involving domestic international sales corporations and tax practices of the Dutch, the Belgians, and the French under the GATT panel determinations. We think it is important for the committee to document that the subsidies code in no way impairs or affects the U.S. international domestic sales operations.

On other issues that we think are important, there will be testimony later in the day by the joint industry working group on customs reform and the chamber supports these remarks.

There is a separate topic that we wish to have included in the testimony today. We have a prepared testimony on services.

Senator RIBICOFF. Mr. DeLaney, your entire statement will go into the record as if read. We are going to have to be strict on the 5-minute rule because we have a long list and the committee members have conflicts with the excess profits tax that will be coming up, so your statement will go in as read.

Mr. DELANEY. Fine.

Senator RIBICOFF. Senator Roth?

Senator ROTH. No questions.

Senator RIBICOFF. Senator Heinz?

Senator HEINZ. No questions.

Senator RIBICOFF. Senator Baucus?

Senator BAUCUS. No questions.

Senator RIBICOFF. Senator Chafee?

Senator CHAFEE. No questions.

Senator RIBICOFF. Thank you very much.

[The prepared statement of Mr. DeLaney follows:]

PREPARED STATEMENT OF PAUL H. DELANEY

I am Paul DeLaney, International Tax and Trade Counsel to the Washington, D.C. firm of Mason, Fenwick & Lawrence. I am appearing on behalf of the Chamber of Commerce of the United States, as a member of the International Trade Subcommittee. With me is Beth Perkins, Director of the National Chamber's Trade Negotiation Information Service. The National Chamber represents a membership of over 81,000 small, medium and large businesses, 1,275 trade associations, over 2,600 state and local chambers of commerce and 42 American chambers of commerce overseas.

The National Chamber is pleased to have the opportunity to express its support of S. 1376, a bill to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes. Our principal message to you today is that passage of S. 1376 is essential to the maintenance of an open world trading system in which the U.S. economy can prosper, and that the agreements offer significant potential benefits to all sectors of our economy—producers as well as consumers; employers, as well as employees.

However, the ultimate value of the agreements will depend entirely on how they are implemented, both at home and abroad. We urge the U.S. government to take the lead in pursuing vigorously international observance of the agreements which have been so painstakingly negotiated.

Finally, the National Chamber has some specific suggestions for clarifications and expressions of congressional intent that we believe should be included in the legislative history of this bill.

BENEFITS TO THE UNITED STATES

Too often U.S. firms have encountered an array of formidable tariff and nontariff barriers to their products in international markets. The far-reaching multilateral trade negotiation (MTN) agreements will reduce these barriers. Once they are fully implemented, the agreements will provide a number of advantages to U.S. business and agriculture, including:

The opportunity to compete on a nondiscriminatory basis for potentially lucrative foreign government procurement contracts;

A stronger competitive position through international rules limiting government export subsidies;

Greater certainty in exporting, resulting from the establishment of uniform and less arbitrary customs valuation systems;

Procedures to minimize the negative effect on trade of discriminatory health, safety and technical standards;

An average reduction in foreign industrial tariffs of around 30 percent; and

Greater access to foreign markets for farm products from reduced agricultural tariffs and increased quotas.

The agreements will also make long overdue improvements in the GATT machinery to settle international trade disputes and protect U.S. rights.

INTERNATIONAL IMPLEMENTATION

While the National Chamber is pleased with the results of the Tokyo Round of multilateral trade negotiations, and firmly convinced that the national interest requires speedy congressional approval of the nontariff agreements, it is important to recognize that the United States did not get everything it wanted out of the negotiations and that the agreements that were reached are not a panacea for our international trade problems. This is why it is important that passage of the Trade Agreements Act of 1979 be accompanied by a reorganization of the U.S. government to administer trade policy effectively.

Effective administration will require a firm commitment from the President to make international trade and improved U.S. export performance a national priority. At a minimum, there must be a central coordinating function within the Executive Office of the President. Adequate staff and other resources must be reallocated to ensure vigorous protection of U.S. rights under the MTN agreements. In this connection, private sector involvement in monitoring implementation of the agreements by other countries will be essential. The National Chamber pledges to use its network of business contacts around the world to assist in this effort.

PRIVATE SECTOR ADVISORY COMMITTEES

We welcome the provisions of S. 1376 that grant the President authority to continue a system of private sector committees to advise the government on trade policy. The advisory committees proved extremely useful during the Tokyo Round negotiations in providing our negotiators with essential information to evaluate the likely impact of various measures on different sectors of the economy. While the post-MTN advisory system will need to be consolidated and streamlined somewhat, it is important that the advisory committees remain as representative of the entire economy as possible.

Section 1105 of S. 1376 provides that any sectoral, functional or general policy advisory committees should "be representative of all industry, labor, agricultural, or service interests (including small business interests)." Notably lacking from this list are consumer, wholesale, distribution and retail interests. The Finance Committee should remedy this oversight in its report on the bill by clarifying that Congress expects all interests, including consumers, wholesalers, distributors and retailers, to be represented on all relevant committees of the new advisory structure.

INJURY DEFINITION

As this committee is well aware, defining the "material injury" requirement for imposing countervailing or antidumping duties was one of the most difficult tasks in drafting the MTN implementing legislation. The National Chamber is satisfied with the language in the bill, which we believe needs no further elaboration. If, however, the Committee feels that additional clarification of the definition is necessary in the legislative history, we would recommend adoption of the language we understand was agreed to in the House Ways and Means Committee report on H.R. 4537:

". . . Under the agreements and in the implementing legislation injury that is inconsequential, unimportant, or immaterial would not constitute 'material injury.' In the Committee's view, the Commission's decisions from January 3, 1975 to the

present have, on the whole, been consistent with the material injury test of the legislation and the agreement. The Committee intends for that standard to continue.

"However, this statement does not indicate approval of all the affirmative or negative decisions of the Commission with respect to the issue of injury, as judgements as to whether the facts in a particular case actually support a finding of injury are for the Commission and the courts to determine."

### CERTAIN TAX PRACTICES

It is unfortunate that in the Tokyo Round, U.S. negotiators were not successful in dealing with a variety of direct and indirect tax measures used by various GATT member states. Congress should direct the administration to engage promptly in further negotiations to resolve these issues. The tax systems of various countries will undoubtedly be involved in any such discussions, including the U.S. Domestic International Sales Corporation (DISC) and the tax practices of France, Belgium and the Netherlands, which were held by GATT panels to be in violation of GATT obligations. U.S. negotiators have not been able to obtain any action or changes from these European countries on the GATT panel determinations.

Although a footnote in the subsidy code specifically provides that the status of DISC is not affected by the code, certain administration officials have suggested that DISC violates the new code. The implementing legislative history should make it clear that, pending successful conclusion of such negotiations, it is the understanding of the United States that the subsidy code does not prejudge certain direct tax practices, including DISC, which are the subject of the pending cases under GATT.

### OTHER ISSUES

One of the major benefits of the MTN agreements will be the establishment of a uniform international customs valuation system. While S. 1376 does a generally good job of providing for implementation of the customs valuation code in the United States, there are a few minor points which need to be clarified in the legislative history. Our recommendations on these matters are incorporated in the testimony of the Joint Industry Working Group on Customs Reform, with which the National Chamber is associated.

Another topic for which both further negotiations and clarification in legislative history are needed is the whole area of service industries. The Tokyo Round unfortunately was unable to make any real progress in reducing barriers to trade in services, an increasingly important sector for the United States in international trade. I refer the Committee to a separate statement on services by Ronald K. Shelp, which the national Chamber is submitting for the record of these hearings.

Finally, it is regrettable that it was not possible to complete codes on safeguards and commercial counterfeiting in time to be included as part of the MTN package. Congress should encourage the administration to redouble its efforts to conclude satisfactory negotiations on both codes. In particular, a more comprehensive safeguards code, which covers intra-industry voluntary restraint agreements and provides protection against unwarranted use of selective safeguard actions, will be essential to controlling protectionist pressures in the future.

### CONCLUSION

It is clear that the MTN agreements will generate business and create jobs in U.S. industries that are directly involved in exporting. But the fact that smaller companies that supply materials, services or components to exporting companies will also gain from improved export opportunities is often overlooked. Consumers and industries which depend on foreign raw materials and imported components will benefit from the greater availability and lower prices that reduced trade barriers bring. Finally, we all have a stake in the healthier U.S. economy that will result from a more open and expanding world economy.

Swift passage of S. 1376 is essential, however, not only because of the potential benefits that the nontariff MTN agreements offer, but also because of what failure to pass the legislation would mean. Reaching agreement among the world's major trading partners on such sensitive issues in a time of serious world economic problems and mounting protectionist pressures was not easy. The agreements to reduce trade barriers are precarious. A rejection of the package by the United States, the first country to go through the formal approval process, would destroy the delicate international consensus that has been achieved and induce each country to resort to its own unilateral trade policies. The inevitable result would be a significant increase in trade barriers with adverse social and economic consequences for the U.S. and other nations.

We stress again the need for the United States to take the lead in implementing these new international trade agreements, and we urge the Congress to direct the administration to press on with the reorganization of the U.S. government to effectively administer trade policy.

There will be those who are not content with one part or another of the agreements. Certain interests may urge Congress to reject the nontariff agreements because they do not want their own tariff protection reduced and would prefer to see the whole package fail. However, it is important to remember that the MTN agreements must be taken as a whole. There can be no amendments. During the course of the negotiations, U.S. negotiators made a substantial effort to take all sectors of the economy into account. This has produced a generally balanced result which offers major potential advantages to the entire economy. For these reasons, we respectfully urge you to support S. 1376 and to push for its enactment as soon as possible.

Senator RIBICOFF. Mr. Robert Hampton?

You may proceed, sir.

## STATEMENT OF ROBERT N. HAMPTON, VICE PRESIDENT FOR MARKETING AND INTERNATIONAL TRADE, NATIONAL COUNCIL OF FARMERS COOPERATIVES

Mr. HAMPTON. Thank you.

Senator RIBICOFF. Your statement will be inserted into the record as if read.

Mr. HAMPTON. I would like to preface my comments in support of the Trade Agreements Act and the bill before the subcommittee by emphasizing our judgments regarding the effectiveness and importance of this bill are based not upon the limited short-term gains that we see for American agriculture from the results of the round but far more importantly on the matter of the potential benefits which you, Mr. Chairman, pointed out here that we can hope for through the new trading companies and other accomplishments of the round if this matter can be implemented and enforced effectively.

And we strongly support your comments and that of Mr. Roth and other members of the subcommittee earlier to the effect that we must have better coordination than we have had in recent years. We certainly emphasize the lack of adequate attention for trade policy issues over a period of years, even though we have been in the midst of important multilateral negotiations. We believe we must have this important added coordination.

Our concerns with the reorganization that may be necessary to accomplish that is that we maintain the role of the U.S. Department of Agriculture in its very good programs of promotion for exports of agricultural products and we want to be sure that in the process of reorganizing and becoming better coordinated to implement the results of this round, that we keep before us always the need for avoiding some major new Cabinet bureaucracy.

So we are going to be prepared to comment at more length on that in further hearings, as you know, that will be coming up within the next 2 or 3 weeks.

Again I want to emphasize that we believe that there are some substantial accomplishments that will result from the round through the continued implementation and improvement of the trading codes that we have started. Subsidies are a matter of great concern.

I would just like to simply add a quick note from the formal statement I have here indicating that our support for this Geneva

trade package is also predicated on the understanding that our negotiators and other trade leaders will continue to press for improvements through legislative history and followup negotiation with our trading partners which will deal with these key needs.

No. 1, provision for prompt and effective enforcement of the subsidy countervailing duty code which will fully assure U.S. dairy and other U.S. agricultural interests of prompt relief against unfair subsidy competition. No. 2, continuing efforts to minimize any detrimental effect of additional cheese imports on U.S. dairy farmers. No. 3, a consideration which has been uppermost in U.S. farm interests in this round and in our trade needs for many years, namely, improved access abroad for U.S. agricultural exports which face discriminatory tariffs or other unfair trade barriers.

And No. 4, avoidance of any future international grain agreements not in conformance with the recommendations of the Grain Agricultural Technical Advisory Committee, GATAC.

And with that brief comment I want to pay my thanks and my congratulations and that of my organization to the fine work of the negotiating team led by Ambassador Strauss and to the fine, classic example as he put it, of the kind of coordinated and cooperative effort between the administration and trade leaders and congressional leaders that has resulted in what we think is a very noteworthy accomplishment.

Senator RIBICOFF. Thank you very much.

Are there any questions from any of the members of the committee?

Thank you, sir.

[The prepared statement of Mr. Hampton follows:]

PREPARED STATEMENT OF THE NATIONAL COUNCIL OF FARMER COOPERATIVES

Mr. Chairman and members of the International Trade Subcommittee, I am Robert N. Hampton, Vice President, Marketing and International Trade of The National Council of Farmer Cooperatives. Representing the off-farm business interests owned and controlled by more than two million American farmers. The National Council of farmer Cooperatives must reconcile the views of the many farm commodity groups affected in different ways by various details of the MIN agreements to be implemented by S. 1376.

In addition, we have consistently reflected the prevailing overall view of U.S. agriculture for many decades; namely, that fairer international trading rules along with worldwide reduction of trade-distorting measures such as subsidies and discriminatory standards would benefit our farmers, our nation, and the world.

We strongly support S. 1376 as an important step toward more open and fairer world trade and expanded U.S. agricultural exports. We believe that in the long run, the balance of trade benefits favorable to U.S. farmers can be substantial to the extent that provisions of the subsidy and other trading codes are aggressively and effectively implemented. In addition, shorter term net annual gains for U.S. agriculture have been estimated at about $356 million, in the recently issued report of professor James Houck which is part of the Tokyo-Geneva Round studies made for this subcommittee.

We would like to call special attention to another of these June 1979 MIN studies for the Subcommittee on International Trade, that of Professor John Jackson of the University of Michigan, formerly General Counsel of the Office of The Special Trade Representative. Professor Jackson cautions that the new trading codes, while representing an important step forward, are so complex that they represent only a beginning and we must redouble our efforts to improve GATT (General Agreement on Tariffs and Trade) rules, especially on dispute settlement procedures. He concludes "It would be dangerous indeed to view the MIN process as a job finished, to see the dispersal of experienced talent, and to hope that the new complex, intricate, and ambiguous tangle of international rules which has come out of the MIN could now be put on the shelf, like a wound up clock, to operate by itself. It will take

great skill and resources, both within the U.S. Government and at the international level, to keep these MIN results from becoming merely another addition to the useless debris left strewn on the international landscape, such as the unfortunate 1948 ITO charter, the stillborn 1955 Organization for Trade Cooperation, the Kennedy Round Grains agreement, and the Kennedy Round American Selling Price agreement."

The following policy statement of the National Council reflects our position as approved by the NCFC delegate body in January 1979:

*Expansion of foreign trade in farm products.*—The National Council of Farmer Cooperatives encorses the ogjectives of expanded world trade and encouragement of market opportunities abroad for American agricultural products. We recognize the special importance of expanded farm markets for our balance of payments and consequent benefit to the national economy.

We encourage multilateral and balanced trade negotiations to reduce world trade barriers. However, we recognize that the lowering of barriers which now limit world trade may create serious economic dislocations and that adjustments to trade patterns must normally come about through careful and gradual reduction of trade barriers.

Under GATT (General Agreement on Tariffs and Trade) or other international trade negotiations, expanded trade to benefit all countries is possible only if offers on trade and other issues by all trading partners represent comparable concessions. Maximum trade benefits should be based on encouragement of production and trading patterns which are consistent with the principle of comparative advantages of all countries. This principle of equal treatment must continue to be the keystone of the U.S. trade agreement policy.

We also strongly encourage the U.S. and all major trading nations to agree on the principle that nations shall not export the costs of their internal policies, as an important prerequisite to meaningful negotiations toward trade expansion. National farm policies to protect and improve farm income should be designed in such ways as to further promote international trade.

The National Council recommends continuation of Presidential authority to enter into further trade agreements based on reciprocity. Many forms of non-tariff barriers, such as quotas, embargoes, unrealistic inspection procedures, and lack of uniformity of grade regulations and tolerances. hamper efforts to achieve such reciprocity and severely limit U.S. export opportunities. Negotiations toward trade agreements should be focused on reduction of such nontariff barriers, particularly the variable levy system widely used by the European Community (EEC) and various quotas and other trade barriers such as those of Japan.

We are opposed to the minimum import price and unfair export subsidies of the EEC and request that U.S. negotiators press vigorously for the removal of their trade-restrictive effects. Such undue protectionism on the part of the EEC reduces opportunities for worldwide relaxing of trade barriers, and limits growth of world markets with the accompanying economic benefits of specialized production.

The National Council is concerned over increasing use of international marketing subsidies which are disruptive of long-established United States markets. Such practices lead to chaotic marketing patterns which tend to allocate resources on a political rather than on economic basis. We recommend that United States agencies or negotiators imvolved in such matters view such practices wherever they exist as a serious disruption of attempts to increase world on a fair and equitable competitive basis.

We also deplore those unilateral increases in tariffs of introduction of other trade barriers which have been made since the termination of the Kennedy Round negotiations. We urge that prompt and positive action be taken by the U.S. to offset trade loses and damaging effects to our balance of trade through such unfair practices.

We recognize the need for sharper difinition of our national goals for food and fiber requirements. We encourage the development of plans to insure a fair and appropriate balance of agricultural products for domestic and export use. Such plans should include a strong monitoring system for worldwide products and, as a last resort, export licensing arrangements could be used in times of threatened world shortages. These arrangements should not involve abrogation of contracts which are the vital links holding our world trading system together. We oppose export controls for political purposes that are disruptive to agricultural markets.

Trade agreement bargaining which is limited to farm products alone would be ineffective. All commodities, farm or otherwise, must be considered an integral part of the broad spectrum of international trade and related issues. If we are to grant import concessions on industrial goods, or make concessions on other monetary, economic or political issues, farm products must be part and parcel of the total package for which we, in turn, must secure concessions.

Following the completion of the Kennedy Round of trade negotiations, we worked aggressively with congressional and administration leaders and with many agricultural and other groups to gain passage of the Trade Act of 1974 which made possible these broad, precedent-setting world trade negotiations. Our primary goal has been to gain more open and fairer access to markets abroad, and we believe that orderly and expanding trade in world markets would be seriously jeopardized by a failure of the Tokyo Round.

While the short-term gains for U.S. agriculture in the Geneva agreements have been quite limited, there are important potential long-term benefits in the more significant "non-tariff barrier" negotiations. Our negotiators led by Ambassador Strauss have worked hard and conscientiously to bring these talks to a successful conclusion in the face of extremely difficult economic and political circumstances. Like any negotiation, the Tokyo Round involves costs along with benefit, and all U.S. sectors would like less costs and far more benefits. In the world of hard reality, however, the Tokyo Round should not be judged in terms of "wishes" or sometimes inflated expectations. Instead, we should ask how good the results from Geneva are in these terms: (1) "How near have we come to the maximum possible net benefits from this round?"; and (2) "What would be the alternative, or the consequences to U.S. and world trade and to our long-term national welfare, if no broad agreements are reached at this time?"

In our view, our trade negotiators have done a remarkable job in concluding these talks with substantial potential benefits to the United States, especially so in view of reluctant attitudes and difficult political pressures on the part of some of our most important world trading partners. Ambassador Strauss and his team deserve high marks for accomplishing a step which we believe can be viewed in the future as a historic breakthrough in progress toward a more open world trading system, and a landmark in developing the worldwide cooperative framework which is so vital to dealing with the tremendous economic and political problems facing us today.

We appreciate and applaud, too, the important consultative and advisory role which members of the subcommittee and other key congressional leaders have played throughout the talks. The keen and continuous interest and the congressional recognition of the urgent national importance of the Tokyo Round have been a source of strong reassurance to those of us in the private sector who are constantly aware of the threats as well as the potential benefits of these talks. Congressional interest has encouraged the open and responsive attitude which the trade negotiator's office has shown to the various and sometimes conflicting sector concerns. We are pleased to see that Congress attaches great significance to the importance of this round, as evidenced by these hearings and the vast amount of effort which this committee and other groups are now devoting to trade issues and the Geneva agreements.

Our strong support for the Geneva trade agreement package, based on the assumption that effective implementation and continuing improvements of the trading codes will continue to strengthen its essential thrust, is not primarily because of the very modest net agricultural benefits from tariff cuts and other short-term gains. These so-called "bottom-line" short-term benefits are not the most important aspect of the Tokyo Round, though they are often misperceived as such.

The major results of the MTN will be in the potential for improvement of GATT trading codes, including improved institutional arrangements and procedures for consultations and dispute settlement. Furthermore, there are alarming risks of trade deterioration or world economic disruption in the event of failure in the Tokyo Round. Such failure could lead, directly and indirectly, to serious damage to our farm and agricultural sector, and to the U.S. and the world economy.

Our support for the Geneva package is also predicated on our understanding that U.S. trade negotiators and other trade leaders will continue to press for improvements, through legislative history and follow-up negotiations with our trading partners, which would deal with these key needs: (1) Provision for prompt and effective enforcement of the subsidy/countervailing duty code which would fully assure U.S. dairy and other U.S. agricultural interests of prompt countervailing duty relief against unfair subsidy competition; (2) continuing efforts to minimize any detrimental effects of additional cheese imports on U.S. dairy farmers; (3) improved access abroad for U.S. agricultural exports which face discriminatory tariffs or other trade barriers; and (4) avoidance of any future international grain agreements not in conformance with the recommendations of the Grain Agricultural Technical Advisory Committee (ATAC).

In summary, The National Council of Farmer Cooperatives is strongly favorable to continuing world trade negotiations toward more open markets with fairer access abroad for U.S. farm and other products. We view the MTN Geneva Agreements

package as a strong and useful step in that direction. However, a modest but very commendable success in the Tokyo Round will be only a major building block, not the capstone, of an improved international trading system. Further bilateral and multilateral negotiations must be sought to further improve access for American products abroad and to deal with inequities and abuses which will continue to persist, such as the use of unfair subsidies and other such trade-distorting measures. The codes of the Tokyo round offer us an important means of continuing to work for this fairer and more open world trading system.

We should emphasize, however, that the benefits of the various codes can be no greater than the major trading countries' intent to adhere to the spirit as well as the specifics of the codes. Furthermore, it is important that the United States continue to exercise leadership and initiative in protecting our interests under these codes, through consulting and dispute-settling procedures. We urge this committee and other congressional trade leaders to emphasize in these deliberations and throughout the development of the legislative history for the "Trade Agreements Act of 1979" the need for strong administration of these provisions which promote our agricultural and our national interests.

We appreciate the opportunity to present our views on this urgent matter, and request that you include the attached copy of our News Release of 22 June 1979 in the hearing record on S. 1376.

NATIONAL COUNCIL OF FARMER COOPERATIVES STRONGLY BACKS TRADE PACT LEGISLATION

WASHINGTON, June 22.—The National Council of Farmer Cooperatives today announced its strong support for a landmark trade bill, The Trade Agreements Act of 1979, introduced in Congress this week.

The bill would implement U.S. rights and obligations under agreements reached by nations representing over 90 percent of world commerce during recent multilateral trade negotiations in Geneva, Switzerland.

In a letter to members of Congress, NCFC President Kenneth D. Naden praised prompt endorsement of the bill by the House Ways & Means Committee, and called for its early passage. The bill has, in effect, been under consideration by the Senate Finance and House Ways & Means Committees since the agreements were signed by GATT (General Agreement on Tariffs and Trade) nations in Geneva on April 12.

Naden said that while U.S. farmers would realize only modest immediate benefits from the agreements, they offer potential for substantial long-range expanded trade. He added that maximum benefits could be achieved only through effective implementation of subsidy, standards, and other international codes for fairer trading practices.

"Furthermore," said Naden, "if we don't successfully conclude this round of negotiations, we face serious dangers of continued rising protectionism. That, in turn, could lead to trade disruptions which would be very damaging to U.S. agriculture, our nation, and the world economy."

The NCFC chief executive praised the outstanding work of the U.S. trade team led by Ambassador Robert S. Strauss. Naden said that successful conclusion of the agreements were due in large measure to Strauss' exceptional leadership, diligence, and effective negotiations.

"Ambassador Strauss' achievements, made possible by President Carter's strong initiatives and support, are a tribute to his great ability to work closely with congressional leaders, public advisors, his negotiating counterparts, and heads of state," Naden said.

The cooperative leader noted that conclusion of this trade agreement doesn't represent a full solution to world trade problems. But, he said, it's an important step toward a fairer and more efficient trading system which will serve us well.

Naden stressed the need for strong enforcement programs, and improved coordination of U.S. trade policy and negotiations. He also called for greater monitoring and coordinating authority for the Office of Special Trade Representative, which "has served agricultural and national interests so well."

The NCFC spokesman cautioned that the U.S. must seek to further improve subsidy and other codes to deal with unfair trade problems still faced by agriculture and other industries. He cited the need for fairer access of some U.S. commodities to Japanese and European markets, unfair import competition faced by U.S. dairy producers, and export subsidy problems which the U.S. often faces in competition for markets abroad.

Senator RIBICOFF. Mr. Robert Lewis.

## STATEMENT OF ROBERT G. LEWIS, NATIONAL SECRETARY AND CHIEF ECONOMIST, NATIONAL FARMERS UNION

Mr. LEWIS. Thank you, Mr. Chairman.

I would appreciate it if you could put my full statement in the record.

Senator RIBICOFF. Without objection.

Mr. LEWIS. I will summarize as briefly as I can.

The farmers union supports passage of the Trade Agreements Act of 1979. We feel that Congress has no realistic choice but to approve the multilateral trade agreements. In doing so, it should be recognized that it represents a vote for continuation of our international trading system rather than a vote of satisfaction for the results of this particular phase in the development of that system.

It must be recognized that these agreements fall far short of satisfying the legitimate needs and the equitable rights of farmers. Two outstanding needs we feel must urgently be met.

First, the need of American dairy farmers for compensation for the burden placed upon them by the denial of effective enforcement of the countervailing duty statute and the large increase in the cheese import quota.

The trade agreements mean that our competitors will be able to subsidize their product into our market and place their farmers, who are receiving more for their milk than American farmers receive, in a position where they can take part of our market away.

We feel that the reality for the dairy farmers has been overlooked by the negotiators. It is milk that farmers sell. It is not cheese. And when Mr. Starkey says that he is satisfied that American farmers will enjoy a large share of the growth of the market for cheese, he is ignoring the fact that it is milk that farmers sell, and that dairy farmers have looked to the expansion of consumption of cheese as a way to provide a market for that milk which has lost its outlet through the diminishing demand for butter and to a substantial extent for nonfat dry milk.

Total milk production, and the total market for domestic milk in this country today are less than 10 years ago. We are losing our market for milk and we need to have the right to shift to cheese as an outlet in order to satisfy the need for income for farmers.

It should be borne in mind also that dairy farmers receive no compensation in the way of trade adjustment assistance for their loss of income due to imports. It must be kept in mind that it is not price that is important. The price at which imports of cheese come in is not the important aspect. It is the volume that comes in that takes away part of the market for the farmer's milk, shifts it into the price support program, creates a Government expenditure that becomes an excuse for reducing the level of price support to the dairy farmers, and thereby creates an injury to them.

We think the compensation that is due to dairy farmers is an increase in the minimum level of price support on milk and its products.

Second, there is a need for immediate administrative action to raise the prices of grain. Grain exports from the United States account for almost half of our huge $30 billion a year of agricultural export earnings. Our grain faces import barriers, the equivalent

of tariffs, amounting to 200 percent or more. Now, contrast 200 percent import barriers against our grain in Japan and in Europe of more than double the value of the grain at the American farm, with an average of tariff barriers around only 5 or 6 percent that will remain for manufactured goods exported by American industry when this agreement is fully in effect.

We receive no reduction whatsoever in the barriers against our exports of grain and we did not receive an international agreement to raise grain prices, and we have not yet received action by the Government to raise grain prices, which are now among the very lowest in the world and far below the farmers' cost of production.

Thank you, Mr. Chairman.

Senator RIBICOFF. Thank you very much.

Any questions? Senator Nelson.

Senator NELSON. Mr. Lewis, I would appreciate your response to the question I raised with Mr. Starkey on the proportion of the U.S. cheese market held by imports. I made the point that the figure on imports as a percentage of domestic production has remained fairly close to 6 percent or 7 percent for a good many years. Imports have been running along in the 6-percent area, up as high as 7 percent or a little more in some years, but since 1974 the figure has been 6.4 percent at the highest. I would like to know what your view is of the trade agreement, given that it obviously is impossible within the Congress to reject the agreement, impose countervailing duties under current law, and put a quota on cheese out of Australia and New Zealand

This is my question: If the situation remained as it is today, and that is to say continuing the price break system, with the tonnages steadily increasing—having reached 106,000 metric tons last year and probably reaching 111,000 in a year or two—is or is not the dairy industry better off under this new agreement than it would be under the price break system with countervailing duties in suspension?

Mr. LEWIS. Well, the countervailing duty system will be in suspense only until the temporary suspension expires——

Senator NELSON. But under the trade agreement the countervailing duty statute as currently configured would, in effect, remain in suspension.

Mr. LEWIS. Under the agreement it will remain in suspense, that is right. But we are comparing the condition of dairy farmers under this agreement with what they could expect under the existing law and the rights they have under section 22.

Senator NELSON. I understand that and I would think that would be the ideal situation, but of course that is not going to happen. And in fact the farmers union is endorsing that it not happen because they are endorsing the trade agreement. Therefore, if they endorse the trade agreement and it is adopted, there is no countervailing duty. So what I am asking is given the options that are present, not what you and I would like to see representing dairy people, but given the options that are present, are you not better off under the trade agreement than you are under the current law in which it is under suspension and you are using the price break system?

In other words, your organization is endorsing the agreement and therefore there is not going to be any countervailing duty if your position prevails—and it is going to prevail—and therefore, you have to look at where you are at versus where you have been going for the last 15 years?

Mr. LEWIS. Senator Nelson, we endorse the agreement. We think that the world trading system would be dealt a very severe and dangerous blow if we didn't have it.

Senator NELSON. I understand.

Mr. LEWIS. The agreement imposes an unfair burden on dairy farmers. The dairy farmers are being asked to swallow subsidized imports that will take away part of their market and create political pressure on the administration to reduce the level of price support. And that will reduce the dairy farmers' income, notwithstanding what everybody says about continuing to share a growth in that market for cheese.

It is the milk that is displaced that counts.

The processors are more concerned about specific products. But in the last analysis it is milk that farmers are paid for.

I think the dairy farmers are entitled to compensation for approval of the trade agreements, which we feel is in the public interest; but we feel that dairy farmers are entitled to compensation for being forced to pay an unfair share of the price for that benefit to the public interest.

Senator NELSON. Well, that gets around to the dairy support price question.

Mr. LEWIS. It certainly does.

Senator NELSON. Thank you.

Senator RIBICOFF. Thank you very much.

[The prepared statement of Mr. Lewis follows:]

PREPARED STATEMENT OF ROBERT G. LEWIS, CHIEF ECONOMIST AND NATIONAL SECRETARY, NATIONAL FARMERS UNION

The Farmers Union supports passage of the Trade Agreements Act of 1979 S. 1376.

In a statement to Ambassador Robert Strauss, the Special Trade Representative, National President Tony Dechant expressed the views of the Farmers Union in these words:

"The Congress has no realistic choice but to approve the Multilateral Trade Agreements.

"In doing so, it should be recognized that it represents a vote for the continued existence of the world trading system that has been constructed under American leadership in the long decades since enactment of the first Reciprocal Trade Act of 1934, rather than as an expression of satisfaction with the outcome of this particular phase in the development of that system.

"The consequence of rejection of the agreement might very well be to set off a chain of events similar to those that followed enactment of the Smoot-Hawley Tarriff Act of 1928 which led to collapse of the world trading system and to the Great Depression.

"It must be recognized, however, that these agreements fall short of satisfying the needs and the equitable rights of American farmers. Two outstanding and immediate needs must be faced:

"1. The need of American dairy farmers for compensation for the burden placed upon them by the denial of effective enforcement of the countervailing duty law and the large increase in the cheese import quota; and

"2. Positive action to raise the prices received by American grain farmers.

"Both needs can be addressed by action in respect to domestic price support programs of the United States, completely independent of any understandings or requirements of consent from any other country.

"In the longer run, much remains to be done before the rightful role of Amercian farmers in feeding the world's growing population, and to be equitably compensated for their labor, investment, management, and risk, will be properly defined and secured. Approval of the agreements by the Congress is by no means the end of the task. At best, it marks only a beginning."

The appropriate remedy for the injury that will be suffered by dairy farmers under the agreements, we believe, is to increase the price support for milk to 90 percent of parity. This view was expressed by delegates to the 77th Annual National Convention of the Farmers Union in Kansas City, Missouri, on March 11-14, 1979, in these words:

"The trade agreements negotiated under the Multilateral Trade Negotiations (MTN) will provide for permanent suspension of effective enforcement of countervailing duties against subsidized imports of dairy products, and will increase the annual import quota for cheese to approximately 400 percent of the quantity likely to be imported annually if the existing countervailing duty law is enforced in good faith. This severe burden on dairy farmers would not be balanced in any way by other provisions of the MTN agreements, and dairy farmers whose incomes are impaired thereby would not be eligible for any of the trade adjustment payments and other benefits that are available to workers and corporations that would be injured in imports.

"We recommend that the National Farmers Union oppose approval by Congress of any weakening of the present countervailing duty law as proposed in the MTN agreements unless and until the injury to dairy farmers that would result is offset by raising the minimum price support level for dairy products to 90 percent of parity."

Delegates of the Farmers Union's national convention also specified measures which we believe are required in order to overcome the lack of adequate provisions in the MTN agreements in respect to trade in grains.

American grain farmers originate nearly half of American agriculture's huge $30 billion-a-year in export earnings. Tariff duties or their equivalent are imposed on American grain by practically every importing country at up to 200 percent or more of the farm value. American grain farmers receive the lowest level of government price support in the world. Throughout the last three years, the marketing system in our country has held prices received by farmers substantially below the cost of production including a fair return on the farm family's labor and investment. The reserve program and bi-lateral arrangements such as the one in effect already with the Soviet Union are designed and we fear likely to be used so as to suppress the prices received by American farmers even in the face of world shortage.

But our grain farmers received no relief at all from import barriers through these trade negotiations. Neither did they receive the benefit of an international grains agreement to raise the grain export price, which was the approach recommended by the Farmers Union.

In contrast, American industrialists received tariff cuts averaging 46 percent from Japan and 34 percent from the European community, reducing the remaining tariffs against their goods to a miniscule average of about 5 percent and to zero for many items.

The remedy for the disappointing failure of the MTN in respect to trade in grains was stated by the Farmers Union convention delegates as follows:

"Negotiations to reach an international wheat agreement have collapsed.

"Farmers Union urgently requests the Congress and the Administration to appoint a commission to reach an agreement with Canada, Australia, and Argentina on the world market share of wheat for each country and on a minimum price. This price must be high enough to return to farmers a reasonable profit above the cost of production.

"We call on Congress to provide direction to the President to negotiate for the early establishment of an international commodity agreement affecting international trade in wheat and feed grains. A new international grains arrangement should provide for:

"(a) All trade in grains to be conducted at prices within a range approximating 90 to 110 percent of parity, which would reflect increases in production costs since the negotiation of the International Grains Arrangement of 1967, as well as the costs of maintaining world food reserves and food aid;

"(b) World grain reserves to be maintained by importing and exporting countries;

"(c) Expanded and improved food aid programs to be carried out by both exporting and importing countries with the goals of providing for emergencies, promoting economic and market development, and generating employment for the world's hungry; and

"(d) Equitable sharing among exporting and importing countries of the cost of and responsibility for adjusting market supplies to maintain prices, reserve stocks, and food aid.

"We recommend that international commodity agreements be considered also for other agricultural products widely traded in international markets, particularly sugar, dairy products, coffee, cocoa, edible oils, broom corn, sotol, and other fibers."

Norwithstanding the desirability of establishing an International Grains Agreement as recommended by the Farmers Union convention, substantial improvement in the level of price support for American grain farmers can and should be made immediately by administrative action under existing domestic price support legislation. Action to raise price supports for wheat and other grains is a matter strictly of domestic price support policy, and does not require the consent nor approval of any other country. We recognize that this is the province of the Executive Branch, and that such a matter exceeds the jurisdiction of this Committee. Nevertheless, we urge Committee members to use their individual influence toward that objective.

In his statement, Mr. Dechant noted that "much remains to be done before the rightful role of American farmers in feeding the world's growing population, and to be equitably compensated for their labor, investment, management, and risk will be properly defined and secured". The NFU convention delegates specified a broad approach to this task which we commend to the Committee for its consideration for future action, as follows:

"We favor negotiation with other countries for measures to further expand international trade. The primary goal of United States farmers and ranches in such negotiations is the expansion of opportunities for the impoverished people of the world to sell their goods and services in the markets of the developed countries to earn foreign exchange so they can buy food and other urgent necessities.

"Expansion of agricultural exports is the primary purpose of Public Law 480 (Food for Peace), of which the full legal title is "Agricultural Trade Development and Assistance Act". The development of two-way trade, as a means of enabling poor and hungry people to get jobs and earn money to buy food, is fully consistent with the humanitarian purposes of the Act.

"We object to allowing the burden of adjustment to trade policy changes to fall exclusively upon the farm/ranch producers or the workers and investors in industries who are partially displaced in our markets by imports, and we favor positive measures of adjustment assistance which will lift this burden and enable them to share equitably in the economic advantages of trade expansion.

"We oppose the use of export restrictions or embargoes on agricultural commodities as a price-depressing measure.

"In the event export embargoes or other restrictions of exports are imposed on any agricultural commodity, producers should be guaranteed prices as much above 100 percent of parity as will be sufficient to offset the shortfall below parity prices of returns to producers during the preceding 12 months."

Senator RIBICOFF. Mr. Robert McLellan.

## STATEMENT OF ROBERT L. McLELLAN, CHAIRMAN, INTERNATIONAL TRADE COMMITTEE, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. MCLELLAN. Thank you, Mr. Chairman and members of the committee.

I am Robert McLellan, vice president of FMC Corp. I am a former Assistant Secretary of Commerce. My appearance here today is on behalf of the National Association of Manufacturers (NAM) as chairman of the NAM International Trade Committee.

I am accompanied by Lawrence Fox, vice president for international affairs of NAM and also a former Deputy Assistant Secretary of Commerce.

My own company is a diversified producer of machinery and chemicals with 1978 sales of over $2.9 billion, including exports of approximately a half billion dollars. FMC's manufacturing operations employ 46,000 people in 33 U.S. States and 14 foreign countries.

From NAM's point of view, the most important objective of the MTN negotiations has been the effort to create rules that, if followed, will establish appropriate conditions of competition in world markets based to the maximum extent on free market competition. In common parlance, this subject generally is referred to under the heading, "Non-tariff barriers" to trade (NTB's).

The heart of the nontariff barriers problem relates to the acceptance by governments of constraints on their actions which alter and distort trade by government fiat. The growth of public sector involvement in the production of goods, and the growth of public sector influence on consumption generally throughout the world, means that, increasingly, governments are making decisions as to what types of goods are bought and sold. Technical specifications, performance standards, purchasing rules and supply subsidies have been designed to favor home producers over competing foreign firms.

Governments have, therefore, acted to strengthen their private sector enterprises in their competitive position, often utilizing various forms of domestic subsidies to provide capital, improve infrastructure and support research and development. In some instances, Government support of a new industry or the expansion of an existing industry includes assurances of a domestic market and leads to manufacturing capacity well in excess of local needs.

The result, of course, may be the substitution of domestic products for imports and the creation of domestic capacity which can be utilized only through exports which then are often subsidized in various ways by governments, either directly or indirectly.

The codes of conduct negotiated in the MTN are designed to address these problems and, in fact, do constitute a major step forward in establising a world trade system under the General Agreement on Tariffs and Trade (GATT) which recognizes the realities of the role of governments in today's world trade.

NAM recommends that the Congress act favorably on the trade package now before it. With certain reservations, we believe that the codes of conduct negotiated with respect to the major nontariff barriers which confront American trade are sound and represent major improvements n the GATT system. The most important codes concern Government procurement, subsidies and countervailing duties, technical standards, customs valuation, and trade in civil aircraft.

The most important area in which agreement has not as yet been achieved relates to a multilateral import safeguard system under the GATT. A more effective GATT mechanism is required to defend American trade interests against increasingly common trade restrictions. For example, industry-to-industry agreements like the arrangement reached between the steel industries of Japan and the Common Market, currently need not be reported to the GATT.

We are recommending that the GATT rule on import controls be broadened to cover all types of such controls, including orderly marketing agreements and so-called voluntary export controls, and that all existing and future export or import restraints of whatever nature, whether governmental or private in character, be notified to the GATT.

NAM urges the Congress to establish the negotiation of such a code as a priority of the highest importance, and believes that the President's Special Trade Representative should be directed to complete such a negotiation for the multilateral safeguard code without delay.

Two other areas for further negotiation are also important: improvement in the harmonization of the tax treatment of exports and imports, and a code dealing with trademark counterfeiting.

In selecting these subjects for comment, NAM is not unmindful of the importance of the agreements reached to expand American trade in farm products, nor are we suggesting that the tariff reductions across the board are of minor significance. It is simply our wish to focus attention on the codes of conduct which will play a major role in the coming years to establish a higher degree of openness in world markets in accordance with free market conditions, that is, market access for U.S. goods under rules known in advance and which are in accordance with an established rule of law.

The final benefits of these trade agreements to the U.S. economy will be realized, of course, only if we are able to fully and effectively implement in practice the items agreed to on paper. Successful implementation of the MTN package requires two types of actions. First, there must be prompt and cooperative action by Government and private industry to follow up on the new export opportunities opened up by the trade agreements—both through the reduction of foreign tariffs and the elimination of nontariff barriers in areas such as Government procurement.

Second, there must be effective enforcement of the internationally agreed trade standards outlined in the agreements. Too often in the past, the United States has been lax in opposing unfair foreign trade practices. We can be certain that other nations will not hesitate to bring complaints and press actions under the new procedures and this country can afford to do no less.

Both these aspects of implementation raise the question of U.S. Government reorganization of the international trade area. I do not believe there is any government in the world which has its trade functions and authority so scattered and poorly coordinated as the current U.S. structure.

And I speak from personal experience in trying to administer the trade laws.

Perhaps when this country ran a consistent trade surplus in an expanding world economy, we could afford the luxury of such disorganization. As we face the third consecutive year of a trade deficit running over $25 billion, the cost is no longer tolerable.

I would compliment you on the strong position you have taken on the need to receive the administration's recommendations for reorganization of the executive with regard to trade administration. I won't go into further details on the concept here because our International Committee Chairman will testify specifically on the subject next week before your Senate Governmental Affairs Committee.

I would hope, however, that this is a subject that will receive congressional action this year.

With that, Mr. Chairman, I will conclude my remarks.

Senator RIBICOFF. Thank you very much. Any questions?
[The prepared statement of Mr. McLellan follows:]

PREPARED STATEMENTS OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. Chairman and members of the Committee, I am Robert McLellan, Vice President of FMC Corporation. I am appearing today on behalf of the National Association of Manufacturers (NAM) as Chairman of the NAM International Trade Committee. As you know, NAM is a voluntary, non-profit association of over 12,000 business firms, large and small, located in every state of the nation. The Association's member companies account for about 75 percent of American industrial output and provide about the same percentage of the nation's industrial jobs. My own company is a diversified producer of machinery and chemicals with 1978 sales of over $2.9 billion, including exports of more than a half billion dollars. FMC's manufacturing operations employ 46,000 people in 33 U.S. states and 14 foreign countries.

The successful conclusion of the Multilateral Trade Negotiations in Geneva and the submission by the Administration of the Trade Agreements Act of 1979 (S. 1376) culminate many years of negotiation to improve and make more certain the conditions under which world trade takes place. The last previous worldwide trade negotions, the so-called Kennedy Round, was completed in June of 1967 and brought about a reduction of world tariffs, but very little improvement in the general framework of international law governing trade between countries. One of the major objectives of the Trade Act of 1974, from NAM's point of view the most important objective, has been the creation of a rule of law establishing appropriate conditions of competition in world markets based to the maximum extent on free market competition within agreed international rules. In common parlance, this subject generally has been referred to under the heading "non-tariff barriers" (NTBs).

From our standpoint, the heart of the NTB problem relates to the acceptance by governments of constraints on their actions which alter and distort trade by government fiat. The codes of conduct negotiated in the MTN are designed to address this problem, and in fact to constitute a major step forward in establishing a world trade system under the General Agreement on Tariffs and Trade (GATT), which recognizes the realities of the role of governments in today's world in connection with trade.

NAM recommends that the Congress act favorable on the trade package now before it. With certain reservations which we will refer to later, we believe that the codes of conduct negotiated with respect to the major non-tariff barriers which confront American trade are sound and represent major improvements in the GATT system. The most important codes concern government procurement, subsidies and countervailing duties, technical standards, customs valuation and trade in civil aircraft. The most important area in which agreement has not as yet been achieved relates to a multilateral import safeguard system under the GATT. Two other areas are also important: improvement in the harmonization of the tax treatment of exports and imports, and a code dealing with trademark counterfeiting.

In selecting these subjects for comment, NAM is not unmindful of the importance of the agreements reached to expand American trade in farm products, nor are we suggesting that the tariff reductions across the board are of minor significance. It is simply our wish to concentrate this brief testimony on the codes of conduct which will play a major role in coming years to establish a higher degree of openness in world markets in accordance with free market conditions, i.e. market access for U.S. goods under rules known in advance and which are in accordance with an established rule of law. We will state how we think greater certainty and fairness in the conditions of world trade can be achieved through these agreements and how we believe the U.S. Government, working with American industry, can organize efforts to achieve the implementation of the goals of these agreements.

Our comments, of course, will be focused on manufactured goods, which last year totalled about $95 billion and constituted two-thirds of our exports—and which for the indefinite future will remain the key to successful performance in the U.S. trade account. If we are to pay for the huge oil import bill, which is now running over $50 billion a year, obviously manufactured goods exports must be the principal additional source of new foreign exchange earnings.

I would like to emphasize the changed trading conditions which now prevail throughout the world from those which existed at the time of the establishment of the GATT in the late 1940s. Most importantly, the GATT concept, which is a concept based on open competition in relatively free markets in which tariffs and import quotas were the principle obstacles to trade, has been replaced in major part

by a world in which governments are frequently the main actors in determining what is bought and sold in the international marketplace. Governments act to enhance the foreign exchange position of their countries, often to earn the necessary foreign currency to pay for the increased costs of oil and other energy sources, but increasingly with emphasis on broader economic objectives. We are now in an age of slower economic growth throughout the industrialized world, where the Keynesian vision of the ever-growing economic pie has been replaced by a more stark reality of slow growth, higher unemployment, unacceptable levels of inflation, and the social problems associated with these conditions. Under such circumstances, most countries have come to view exports as a means of dealing with domestic economic problems, especially to achieve higher rates of employment and growth, and are in fact intervening in the economies of their countries very actively to achieve these ends. Consequently, trade which has played such an important role in increasing the standard of living throughout the world in the post-war period, is increasingly the target of governmental policy, often described as "industrial policy" or policies of "positive adjustment." The GATT system prior to the MTN simply had not been brought up to date to take into account this increased interventionist role of governments. The MTN codes of conduct tackle this problem in a comprehensive way and introduce a number of important legally binding commitments on governments regarding the techniques and limits of economic intervention insofar as the trade interests of other countries are concerned. The major MTN codes of conduct covering government intervention affecting trade, which are contained in the trade bill before this Committee, are described below. The U.S. national interest in these codes is also defined.

### THE ROLE OF GOVERNMENTS IN TRADE

Governments now are major purchasers of manufactured goods and services. The growth of public sector enterprises, and the public sector more generally throughout the world, has meant that increasingly governments are making decisions as to what type of goods are bought and sold—notably, advanced technological communications systems, civil aircraft and other transportation equipment, energy production and distribution systems, data processing and electronic means for storing and utilizing facts and figures.

Additionally, governments act to strengthen private sector enterprises in their competitive position, often utilizing various forms of domestic subsidies to provide capital, support for research and development, and additions to infrastructure to enhance the competitiveness of such private sector enterprise. Often, technical standards are used in defining the nature of the equipment to be used in such enterprises, and the technical specifications and standards setting procedures are designed to favor home producers over the producers of competing goods in foreign countries. In some instances, the private sector companies are assured markets for their products which have been developed entirely with government support, i.e., the private sector companies know in advance that the national airline of the country concerned will buy its airplane, or the national telephone and telegraph system will buy the communications equipment produced, etc. Often the government support of a new industry or the expansion of an existing industry contemplates the establishment of a manufacturing capacity well in excess of local needs. The result, of course, under these circumstances, may be the substitution of domestic products for imports, the meeting of domestic market demands entirely from domestic production and the creation of domestic capacity which can be utilized only through exports. Under these conditions, exports are often subsidized in various ways by governments, either directly or indirectly. Government-to-government agreements often create the framework for these exports, especially to the developing countries, including the oil-producing countries.

In this light, the three most important codes of conduct which have been negotiated in the MTN are interrelated and deal with government procurement, subsidies and technical standards. The MTN package of agreements provides a meaningful first step in dealing with each of these categories of government intervention in determining the direction and flow of trade.

### GOVERNMENT PROCUREMENT

At the present time, there is no effective rule in the GATT or elsewhere with respect to government procurement practices. The MTN agreement on government procurement establishes a system hereby the signatory countries to this agreement undertake commitments to have designated public sector enterprises make their purchases above the minimum threshhold level of about $175,000 available to international bidding as well as domestic bids. Reciprocally, of course, the U.S. Govern-

ment at the Federal level is required to undertake a corresponding commitment. Small business and minority business set-asides in the U.S. are not affected, i.e., such procurement can be given a preference by American government agencies to American small and minority business heretofor.

The introduction of a systematic opening of government purchasing to international bids and scrutiny is an extremely important step from the standpoint of opening up world markets to U.S. goods. As governments have taken up a bigger role in the economy of their respective countries, obviously their purchases have become a more important part of total purchase goods and services. Since governments frequently buy advanced types of equipment, the opening up of such markets to U.S. goods is extremely important. Thus, the government procurement code replaces in the signatory countries a system mainly of administrative discretion in purchasing with a system of open bids.

The government procurement code will not be self-enforcing, of course, and it will be necessary for American industry to take advantage of the new market opportunities and to bring complaints to the U.S. Government for submission to the GATT in the event that violations of the code appear to take place. Also, a number of important public sector enterprises are exempted by one country or another, and in the future the U.S. Government should press for the inclusion of additional public sector activities of other countries in the product areas covered by the code. Other countries will press the U.S. for similar treatment, of course. An incentive is supplied to countries to sign the agreement if they wish to have access to government purchases in the U.S., since reciprocity will be required from industrialized countries generally and in time from the advanced developing countries also. Annual reports on the implementation of the code should be undertaken through the GATT Secretariat to make certain that the purpose of the government procurement code is in fact being carried out.

### SUBSIDIES

In the past the GATT has had a rule against subsidies in the case of manufactured goods, but in general this rule has been of limited applicability and related only to export subsidies. The new code with respect to subsidies and countervailing duties not only includes export subsidies and defines and illustrates such export subsidies more fully, it also includes so-called domestic subsidies to industry when such subsidies can be determined by having a significant effect on the trade of other countries.

The inclusion of domestic industrial subsidies is an extremely important step forward from the standpoint of U.S. export interests. As I have previously indicated, industrial policy as it is now carried out in most industrialized countries and in virtually all of the developing countries utilizes to a greater or lesser extent domestic subsidies to industry. Under the new code of conduct, such subsidies where they can be demonstrated to have a significant trade distorting effect will come under the jurisdiction of the GATT and can be the subject of appropriate counter action by governments, primarily through the use of countervailing duties.

In order to achieve this advance in dealing with both internal subsidies and export subsidies more fully, the agreement calls upon the U.S. to adopt a so-called injury test as a condition of the application of countervailing duties in the U.S. It seems to us that this is an appropriate price for the U.S. to pay for the establishment of an adequate system of control over the use of subsidies in world trade. The implementation of U.S. countervailing duty law in many respects will be speeded up and made more certain and thus should provide more prompt and adequate relief to domestic American industries adversely affected by imports entering the American market under conditions of foreign subsidization.

As in the case of government procurement, the subsidy-countervailing duty code requires careful implementation and calls for improved government-industry cooperation to make certain that foreign subsidies adversely affecting our trade are identified and carefully documented and presented to the GATT for adjudication.

### TECHNICAL STANDARDS

The drawing up of specifications for machinery, testing equipment, and other complex pieces of equipment used in modern industrial societies is an important aspect of the development of an integrated world economy. It is important that the development of such standards and specifications employ objective procedures and not serve as an instrument of disguised preference to domestic manufacturers. Under the technical standards code, the drawing up of specifications will take place around the world on a more open and systematic basis. U.S. industry for example, will be able to participate more actively in the setting of new standards which are

currently being drawn up in the European Community, as well as elsewhere. Certain procedural changes will be needed in the U.S., but these changes should not be disturbing to U.S. industry since the U.S. system already generally permits foreign producers or governments to present their views in the official standards setting procedures used in this country. Appropriate exceptions are made with respect to military specifications.

In addition to the setting of standards, the subject of testing to determine whether standards have been met is also important. A more adequate system has been developed whereby standards can be determined to have been met within the country of production rather than as is frequently the case now, being required to be determined in the national laboratories of the improting country. This more objective approach to testing for standards compliance should be helpful in facilitating the export of American machinery and equipment.

### OTHER CODES OF CONDUCT

Important codes of conduct affecting our trade have also been negotiated in the fields of customs valuation, import licensing procedures and the purchase of civil aircraft. In addition, procedures for the handling of international trade disputes have been greatly improved and other steps to help ensure a fair and open international trading system have been agreed upon.

Unfortunately, however, it was not possible to agree on a code of conduct with respect to import controls—the so-called multilateral safeguard system. NAM urges the Congress to establish the negotiation of such a code as a priority of the highest importance, and believes that the President's Special Trade Representative should be directed to complete such a negotiation for the multilateral safeguard code without delay. We understand progress has been made toward agreement but major issues remain to be settled.

At the present time, great deficiencies exist in the GATT with respect to the imposition of import controls and a more effective GATT mechanism is required to defend American trade interests against increasingly commonly used trade restrictions. Under Article 19 of the GATT, only government-imposed restrictions on imports are required to be reported to the GATT. Thus, industry-to-industry agreements need not be reported and in fact have not been reported to the GATT. An example of this major deficiency in the GATT is the arrangement reached between the Japanese steel industry and the steel industry of the Common Market with respect to exports of carbon steel from Japan to Europe. The consequence of this agreement, of course, was to divert steel to the U.S. market which might otherwise have gone elsewhere. Under U.S. antitrust laws, American industry is not permitted to participate in such arrangements nor are we recommending that the antitrust laws be amended in this respect. We are recommending, however, that the GATT rule with respect to import controls be broadened to cover all types of such controls, including orderly marketing agreements, so-called voluntary export controls and other forms of export or import restraint which nominally take place without the active participation or authority of governments. In fact, of course, governments are aware of the actions of their industries in this regard, prefering to cast a blind eye and thus avoid reporting such agreements to the GATT. NAM urges that the multilateral safeguard system be the subject of a new code, that existing export or import restraints of whatever nature be notified to the GATT, and that all future agreements whether governmental or private in character also be notified to the GATT. In this way, the trade interests of the U.S. as well as other countries not participating in such trade restraining agreements can be defended in the GATT in accordance with the provisions of the new code.

*Trademark code.*—It is also regrettable that it was not possible to complete the negotiation of a code protecting trademarked goods, as for example "Levis" jeans. Increasingly the pirating of trademarked goods has become a problem in world trade and this matter should also be addressed by further negotiations as promptly as possible.

*Harmonization of taxes affecting trade.*—Trade performance can be enhanced greatly through various forms of taxation. Some forms of taxation create little or no problems in international trade, whereas others may distort trade and advantage one country over another. The treatment of taxes in relation to goods crossing the border, investment incentives designed to affect production and trade, and other aspects of taxation in relation to trade constitute an inportant area where international practice is no longer adequately dealt with under the rules of the GATT. The basic GATT rule with respect to taxation which permits the remission of indirect taxes on exports while forbidding the remission of direct taxes on exports does not in our opinion reflect the realities of the business world. It is not appropriate at this

time to undertake a more detailed exposition of the differential trade aspects of a value-added tax system and other forms of indirect taxes on goods and services.

A number of countries, including European countries and Canada, have complained about the American use of the DISC. We understand that agreement on subsidies-countervailing duties does not require the American elimination of the DISC. Nevertheless, we believe the long run interests of the U.S. in trade would be well served by a systematic approach in the GATT to the whole subject of taxation in relation to trade and we urge that such an effort be undertaken in the GATT at the earliest practicable time. It is recognized that this calls for a major effort and one likely to require a protracted period of time. In this connection, it would also be appropriate, we believe, for the Congress and private groups in the U.S. to examine the value-added tax and other forms of taxation widely used in other countries but not generally used in the U.S.

## IMPLEMENTATION OF THE MTN PACKAGE

The final benefits of these trade agreements to the U.S. economy will be realized, of course, only if we are able to fully and effectively implement in practice the items agreed to on paper. Successful implementation of the MTN package requires two types of actions. First, there must be prompt and cooperative action by government and private industry to follow-up on the new export opportunities opened up by the trade agreements—both through the reduction of foreign tariffs and the elimination of non-tariff barriers in areas such as government procurement. Recently there has been a growing recognition of the national priority improtance of export expansion objectives. The MTN package offers many new export opportunities if pursued along with the simultaneous elimination of so-called self-imposed U.S. export barriers, the continued improvement of export credit financing arrangements and other supportive export expansion activities.

The second element to successful implementation of the MTN package is effective enforcement of the internationally-agreed trade standards outlined in the agreements. Too often in the past the U.S. has been lax in opposing unfair foreign trade practices. We can be certain that other nations will not hesitate to bring complaints and press actions under the new procedures and this country can afford to do no less.

## REORGANIZATION

Both these aspects of implementation raise the question of U.S. Government reorganization in the international trade area. I do not believe there is any government in the world which has its trade functions and authority so scattered and poorly coordinated as the current U.S. structure. Indeed, nearly all major developed countries centralize these functions in one high-level ministry to direct their nation's trade policy. Conversely, the U.S. relegates its international trade objectives to second, third or fourth level importance in various departments scattered throughout the federal bureaucracy. This non-system results in poorly coordinated programs, often conflicting policy and a weakened international negotiating position. Perhaps when this country ran a consistent trade surplus in an expanding world economy, we could afford the luxury of such disorganization. As we face the third consecutive year of a trade deficit, running over $25 billion, the cost is no longer tolerable.

A growing number of Congressmen have recognized the necessity of governmental trade reorganization and several, including distinguished members of this Committee, have offered very constructive proposals to correct this deficiency. Additionally, the Administration is submitting its own reorganization proposals to the Congress.

NAM strongly supports consolidation of the government's international trade and investment functions into a Cabinet-level Department, with an appropriate interagency coordination mechanism. I will not go into detail on this concept here, since NAM International Committee Chairman William Wearly (Chairman and Chief Executive Officer, Ingersoll-Rand Company) is scheduled to testify specifically on the subject next week before the Senate Governmental Affairs Committee. However, I would state that, in our opinion, the MTN package cannot be implemented effectively, nor can other related trade objectives be achieved, without a far-reaching consolidation of trade functions and authorities.

## CONCLUSION

The problems cited in our testimony regarding the future of U.S. trade under the new GATT rules are in no way intended to indicate lack of confidence in the proposed codes or lack of confidence in the ability of U.S. industry to produce and sell more goods for export. The successful conclusion of the Multilateral Trade

Negotiations is one of the major accomplishments of the post-war period in the international economic field.

But we must not conclude that the negotiation and the NTB codes do the entire job. They just make it possible to do the job. Implementation is key, and this calls for a new form of industry-government cooperation and interaction.

Finally, it must be recognized that steps in our domestic economy must be taken to strengthen the U.S. industrial base. Control of inflation and solutions to the energy problem are essential, of course. consistent with these goals and supportive of them are policies designed to enhance our industrial base by increasing our competitiveness both at home and in foreign markets. The essential features of such an industry strategy call for realistic investment, depreciation, and R & D tax policies—all to restore U.S. productivity to its former levels and beyond if possible. Improved trade performance—in relation to imports as well as to exports—can materially strengthen the dollar, and thus reduce inflationary pressures and further new investment in our industry.

Thus, approval of the Trade Agreements Act of 1979 is an important step forward to dealing with basic American economic problems—but this step must be followed by several other steps of truly major dimensions.

Senator RIBICOFF. Mr. Patrick Healy.

## STATEMENT OF PATRICK B. HEALY, SECRETARY, NATIONAL MILK PRODUCERS FEDERATION

Mr. HEALY. Mr. Chairman, the National Milk Producers Federation is pleased to have this opportunty to comment on the results of the multilateral trade negotiations and their effect on the dairy producing industry in the United States.

Among the major issues the federation has concerned itself with is the maintenance of effective limitations on the import of dairy products into the American market. In the absence of such limitations this market would quickly become the dumping ground for world dairy surplus. Most nations which produce a sufficiency of any one item erect barriers to prevent their domestic markets from being flooded with that item from abroad.

In this instance neither the United States, the Common Market, nor any other producing nation acts any differently. Each nation uses different devices but nonetheless each nation uses effective devices.

We here in the United States, we have quantitative import restrictions, quotas. And they are effective. The Common Market, on the other hand, uses a system of variable import levies. These levies, price, production incentives, and other devices designed to fit Common Market production to Common Market demand are part of what is known as a common agricultural policy.

Our negotiators in Geneva were told the common agricultural policy is a European domestic policy and is not negotiable. We here in the United States have a complex of legislation which will provide a sufficiency of food for the American people. It is our common agricultural policy. It too is a broad, many-faceted device. It includes our price support program, it includes our system of import quotas, it includes our ability to collect countervailing duties. And I submit that our common agricultural policy is our business and should not be negotiable.

It is a matter of national domestic public policy. Unfortunately our negotiators in their anxiety to negotiate and faced with the refusal by other nations to make their domestic policies a subject of negotiation, Mr. Chairman, agreed to negotiate our domestic policies away.

Currently we have quotas which allow for the importation of 57,000 tons of cheese. In 1977, the last normal year of world trade between the United States and other nations, we imported 79,000 tons of cheese. The new quotas provide for the importation of 111,000 tons of cheese.

These new quotas are being hailed as a great achievement because they put a cap on the amount which can be imported but the absolute fact of the matter is that the new quotas almost double current quotas and are some 40 percent above our 1977 imports. So they are not a real achievement for American agriculture and are in fact a real achievement for negotiators from other nations.

The 1977 imports exceed the quotas because of a subterfuge heretofore agreed to between the United States and exporting nations. Certain varieties of cheese have been allowed to enter our market provided they were priced at 7 cents above the American support level for cheese. This was the latest in a long list of evasion tactics developed to circumvent the quota system upon which we rely in this country.

This time again, as in times past, each of these evasion tactics has eventually been graced with a quota. This time, however, instead of merely covering the price break cheese, they have far exceeded the level of imports, including the price break cheese. I venture that again now, as in the past, the new quota will merely be a new base from which other more innovative evasion techniques will be developed and used to escalate the quotas again and again.

Our current law requires that whenever any nation pays a subsidy so as to assist the export of any commodity to the United States, the Secretary of the Treasury is required to collect a countervailing duty equal to that subsidy in addition to all other duties due. This has been quite an effective tool. It was used in 1974 to stop the rash of imports which virtually ruined the dairy farmers' price in this country. It will never be used again. The new system negotiated in Geneva allows for the use of subsidies. It provides a system for keeping a check on those subsidies. But nonetheless, recognizes their use provided they do not significantly undercut domestic markets for the product.

Now it is true that Members of Congress and members of this committee, particularly Senator Nelson—he took the leadership on it—have prevailed upon the administration to simplify and hasten redress under the countervailing duty law. Nonetheless, even the improved system, which is significantly better than that originally propoed, is a far cry indeed from the protection the American dairy farmer enjoys under the law as it exists today.

Mr. Chairman, I would ask that my more complete statement be included in the hearing record.

Senator RIBICOFF. Without objection your entire statement will be in the record as if read. Any questions?

Senator Nelson?

Senator NELSON. Yes; for clarification purposes. Mr. Healy, you say cheese imports have doubled since 1977?

Mr. HEALY. No, sir, I said that the new quotas are almost double the current quotas. The new quotas are just at 40 percent above the 1977 total imports.

Senator NELSON. Isn't that because they have put almost everything under 85 percent?

Mr. HEALY. Well, about 85 percent of the imports will be under quota, but, the 1977 imports were about 79,000 tons of cheese, of quota cheese. The new quotas will be 111,000 tons, which is just at 40 percent above what has come into this country every heretofore. So we were not merely putting a cap on it.

We are putting a cap on at a much higher rate than normal imports have provided.

Senator NELSON. Well, that is true, although this year the actual imports, I understand, did hit 106,000 metric tons.

Mr. HEALY. Well, Senator Nelson, in 1978 you will remember that the waiver of the countervailing duty was to expire on January 3, 1979. So in the last quarter of 1978 all of the people rushed to get their imports in before that waiver expired.

Senator NELSON. Do you think that is special circumstances?

Mr. HEALY. Oh, yes, you only have to look at the first quarter imports of 1979 to find the proof because they were dramatically reduced during the first quarter of 1979, just about making up for the increased imports in the last quarter of 1978. Yes, sir.

Senator NELSON. I still raise that question. Given the practical impossibility of having what we would like to have, representing dairy people, since the trade agreement obviously is going to be approved and therefore will not be the countervailing duty——

Mr. HEALY. Exactly.

Senator NELSON [continuing]. Under that circumstance what is your view of this agreement? I am not saying——

Mr. HEALY. Well, from the standpoint of the American dairy farmer, and that is who I speak for, it is a very bad thing. In 1978, the year just passed, we in the dairy industry achieved absolute equilibrium. We marketed off farms exactly the amount of milk for which there was commercial demand. Under these agreements we are going to take in about 1¼ billion pounds more milk.

In the short run the Secretary of Agriculture will have to buy the domestic milk that is displaced by that increased import. In the long run we are going to have to shake out, put out of business enough American dairy farmers so that we can adjust our production to accomodate this stuff that is coming from abroad.

It will displace about 1,500 American dary farmers. And I do not come before the Congress to endorse measures which will do just that.

You know there is something I would like to say, Senator. I have listened to Ambassador Strauss and his colleague when they came before you this morning and when they came before the Agriculture Committee about 2 weeks ago. I listened to you discuss dairy imports with him. I listened to the chairman and Senator Moynihan discuss the garment industry. I listened to Senator Chafee discuss costume jewelry and eyeglass frames. And in every specific that I have heard discussed with the Ambassador, in every specific he always has declared, well, on that we had to give a little in order to get this rare good thing which is the whole. And if the whole is the sum of all of its parts, how do we make such a good thing out of so many defective parts?

And I just wonder if maybe in this instance too the emperor has no clothes.

Senator NELSON. Well, I didn't get a chance to read your full statement. Does your organization take a stand for or against the trade agreement itself?

Mr. HEALY. Against it, Senator.

Senator NELSON. You took a stand against it?

Mr. HEALY. Yes, sir.

Senator NELSON. All right. Excuse me, one more question. Did you wish to specifically respond to any of the questions I raised with Mr. Starkey?

Mr. HEALY. You talked to Mr. Starkey about what cheeses were coming in. I think there is an understanding that the cheeses that are coming in are those exotic high priced table grade cheeses that have no effect. As you point out to him this morning, the grinders are coming. There is a category, the biggest increase in cheese imports is in a category under the tariff schedule called NSPF, not specifically provided for.

This is what is termed in the trade industrial block, which is merely a carrier for fat, milk fats and milk solids, that go into the processing plants. So by far the big part of the new imports will be cheeses that come in at the price making level. They go in to compete with the barrel curd that is made in the Wisconsin plants for example and hold the prices low. So the dairy farmer is indeed going to pay inordinately for this great good trade agreement that we have negotiated.

Senator NELSON. Well, Mr. Starkey's response to that was that they would want to sell their most expensive cheeses. And your response is?

Mr. HEALY. Well, my response is that the schedule of increased imports which Mr. Starkey has given me tells me that new cheese that is coming are the standard varieties which go into the price-making level, the cheddars, the Swiss, the Swiss grinders, the industrial block.

These things that go into the processing plant. Mr. Starkey has told me that there will be a new list shortly, but just as of the immediate past days it has not been available.

I am working from what has been given to me by STR and his list is not in accordance with this generally accepted thing that is being told.

Senator NELSON. Thank you very much.

[The prepared statement of Mr. Healy follows:]

STATEMENT OF PATRICK B. HEALY OF THE NATIONAL MILK PRODUCERS FEDERATION

The National Milk Producers Federation is a national farm commodity organization representing dairy farmers and the cooperative dairy marketing associations they own and operate throughout the United States. Since its founding in 1916, the Federation has worked toward the development of legislation and government programs which will provide the basis for a national food policy. This includes the assurances needed by producers to make the commitment necessary to bring forth the product demanded by the consumer and the stability of market essential to a strong agriculture.

Among the major issues the Federation has concerned itself with is the maintenance of effective limitations on the import of dairy products into this market. In the absence of such limitations, this market would quickly become the dumping ground for world dairy surplus. Such a situation would render totally ineffective the marketing programs farmers have developed through their investment in and com-

mitment to their cooperative marketing associations. It would negate the effectiveness of the dairy price support program which the Congress has enacted as a means of assuring the domestic production of adequate milk and milk products to meet present and anticipated future demand. It would, ultimately, result in consumer reliance on more costly imported products for a basic element of the national food supply.

Since the earliest discussions of the Nixon Round of multilateral trade negotiations, the dairy farmers of this nation have been gravely concerned that the outcome would mean significant damage to their industry. Other major dairy producing nations have long argued that the import limitations maintained by the United States are a trade barrier of the most noxious type. There are those in this country—in our own government—who are all too willing to accept this argument either on the basis of misplaced philosophic attitudes or simply for the purpose of making a "deal."

The so-called Flanigan Report which emerged in 1972 set forth a negotiating strategy which would use the U.S. dairy industry as the bargaining chip to gain concessions in other areas. While that report has been repudiated as the basis of policy by this and previous administrations and it has been shown to be totally devoid of any legitimacy on an economic or any other basis, the results of these trade talks do indeed represent implementation of this philosophy.

## U.S. DAIRY POLICY

The dairy industry is a major element of the nation's agriculture. In 1978, the sale of milk and cream yielded $12.7 billion in farm income, making it the second leading source of cash income on the nation's farms. When one considers the value of livestock sold off dairy farms either as been or veal or as a breeding stock, the total assumes even greater proportions.

In recognition of the central role of dairying, both on the farm and as a essential element of nutrition, several basic programs have been established to assure adequate supplies of milk and milk products from domestic production. While the Federation and its membership is concerned with a wide range of policy issues, there are five primary areas which are deemed basic to the dairy industry. These include:

1. The dairy cooperative marketing association and the laws providing authority for farmers to join together for the joint marketing of their production;
2. The dairy price support program which provides a minimum degree of price assurance to the dairy farmer so as to bring about the milk production demanded in this market;
3. The Federal milk market order program authorized by the Agricultural Marketing Agreement Act which provides structure to the major milk markets of the nation;
4. The system of import restraints which permits the basic government programs and the marketing efforts of farmers to function effectively; and
5. The combination of local, state and Federal regulations which assure the integrity, safety and wholesomeness of the milk and dairy products offered in our markets.

Each of these policy elements is an essential part of the fabric that has permitted the American dairy industry to develop as a highly efficient, modern operation capable of meeting the demands of a highly complex and changing market. The individual elements of this policy are interdependent. Disruption or misapplication of one element can and does have serious implications in other areas. While the basis of the comments presented in our statement will be toward the effect of imported dairy products on this market, we will make numerous references to the effect of such actions on other policy areas.

The central factor in the marketing of milk in the United States is the cooperative marketing association owned and operated by the dairy farmer. Most of the nation's dairy farmers market their milk through one of the 500 dairy cooperative associations farmers have organized and developed under the authority of the Capper-Volstead Act of 1922.

Cooperative marketing represents the effort of the individual farmer to exert some control over his product after it leaves the farm. It is a self-help effort aimed at assuring him a market and providing him the best possible return for his product. The development of this marketing system has not been easy. It has not been automatic. It represents the commitment of hundreds of thousands of individual businessmen and women—dairy farmers—to a joint effort. Their investment in time and money has been toward the development of marketing organizations that can and do meet the demands of the most complex agricultural marketing task this nation faces.

Consider the problem of marketing a bulky, highly perishable product that is produced on thousands of farms in every part of the nation every day. This requires the assembly, on a daily average, of more than 330 million pounds of product. It means transporting the product to processing plants. The product must be processed quickly to preserve its quality. And the processing must result in the wide variety of products ranging from fluid milk to butter and nonfat dry milk demanded by the consumers.

Cooperatives operations participate in this process in varying degrees. Some assemble bulk fluid milk from their members' farms and sell it to bottling plants and other processors. Some maintain a full range of processing capacity of their own. The bulk of the butter and nonfat dry milk produced in the United States is through cooperatively owned plants. A high percentage of United States' natural cheese production flows from cooperative plants.

Because of their basic position in the marketing of milk, any actions which have substantial effect on the domestic market for milk and dairy products are felt most acutely by the dairy cooperative marketing association. The ultimate impact, of course, is on the dairy farmer himself, but the impact in such a case becomes a double burden for the cooperative member as he is called on to carry the load both as a producer and as a member of the cooperative which has the basic responsibility in our marketing system for maintenance of market balance and stability.

The dairy price support program authorized by the Agricultural Act of 1949 provides a minimum degree of price assurance so as to induce the domestic production of adequate supplies of milk to meet the needs of this market. This is accomplished through a system under which the Commodity Credit Corporation stands ready to purchase any butter, nonfat dry milk, and Cheddar cheese of stated qualities offered to it at previously announced prices. These purchase prices are intended to be sufficient to permit the processing plant to meet its costs and return at least the announced price support level to the farmer.

It has long been recognized that the ability of the United States to develop and maintain domestic agricultural programs such as the dairy price support program would be seriously undermined if this market could be used as a dumping ground for surplus production of other nations. As a result, Section 22 of the Agricultural Adjustment Act was approved in 1935 to provide the basis for increased tariffs or import quotas on agricultural imports which interfere with or threaten to interfere with the effective operation of a domestic price support or similar program.

Even before this, however, Congress had enacted the Countervailing Duty Statute which was designed to prevent injury to domestic industry by the export subsidy programs of other nations. Simply put, this law requires the Secretary of the Treasury to collect an additional duty, equal to any bounty, grant, or subsidy, on any product which enters the United States with the assistance of such bounty, grant or subsidy. This statute is simple and straightforward in its expression. It is mandatory in its application.

The first dairy product import restraints under Section 22 were established in 1953. Prior to that, limitations had been maintained under other authorities, including the War Powers Act. Since 1953, a fairly comprehensive system of import restraints have been developed, not because of the growing degree of protectionism sought by the industry, but because of the ingenuity of exporting nations in exploiting loopholes in established quotas or in developing products which would successfully evade those limitations.

The present quota system covers the so-called fat products such as butter and butter-oil, dried milk products and cheeses. In the case of cheese, there are quotas on Blue Mold, Cheddar, Other American, Edam and Gouda, and Italian cheeses. In addition, a "pricebreak" quota system has been established for Swiss and Gruyere-Process cheeses and two basket categories of cheese. Under the "pricebreak", imports are subject to quota if valued at less than the Commodity Credit Corporation purchase price for Cheddar cheese plus seven cents (currently $1.23 per pound). Imports of cheese in these tariff classifications valued over this level are nonquota. Current quota levels are shown in the attached table expressed in both metric tons and thousands of pounds. (Exhibit A).

A point which cannot be emphasized too strongly is that Section 22 and the import restraints imposed under its authority are basic elements of domestic food policy. The sole basis for action under Section 22 is the impact imports have on the operation of a domestic price support or similar program. In the absence of such impact, there is no authority to limit imports. On the other hand, in the absence of the authority of Section 22, price support programs of the United States would quickly become support programs for the world market. Such a situation would greatly increase government costs of the programs and inevitably raise cries for their termination due to these costs.

## MTN RESULTS AND THE DAIRY INDUSTRY

The legislation implementing the multilateral trade negotiations agreements which is now before the Congress is the outgrowth of more than five years of negotiations. Much was claimed for these negotiations as the United States entered into them. They would provide the basis for a new era of "free trade." They would be the forum through which trade barriers would be removed. They would serve to significantly expand U.S. market access and thus help in reducing the balance of payments deficit that has reached $5 billion a year in 1972.

The Congress is now faced with reviewing and approving or rejecting a legislative package which will have major and lasting effects on domestic industry and agriculture. No longer is the key phrase "free trade." It is now "fair trade." A subtle difference perhaps, but seemingly one that admits the negotiations have fallen far short of announced goals. No longer is there discussion of the removal of trade barriers. Now the talk is of introducing discipline in their management. The balance of payments question has become many times more difficult, but there is little evidence that the results of the trade negotiations will have significant effect upon it.

The legislation before the Committee is not subject to the normal legislative process. The fact that it must be accepted or rejected in the form presented with absolutely no amendment has presented a most difficult problem for both the Committee and for those sectors of the economy that will be affected by the trade negotiations.

Members of the Committee have made major efforts to have provisions included in the legislation which would limit the impact of the trade talks on domestic industry. In the case of the dairy industry, the procedure intended to prevent price undercutting in this market by subsidized cheese imports which were developed by Senator Nelson is an improvement over what would exist if we were to rely on a countervailing duty statute requiring proof of injury. It is not, however, a replacement for the countervailing duty statute as it has existed.

But these efforts have come after the fact and have had to conform to the basic agreements reached by our trade negotiators. The fact is that there has been very limited opportunity to lessen the impact or to improve the results of the trade negotiations.

Much has been said of the value of these agreements. It should be noted, however, that most of this has been in general, nonspecific terms. In the case of agriculture, it is said that gains in terms of $3 billion worth of agricultural exports are involved. But one must be extremely cautious and searching in accepting such claims. The $3 billion represents the 1977 export value of farm commodities on which concessions of some sort have been granted by the various nations. We cannot measure the value of the concessions gained.

On the other hand, the dairy industry is fully aware of the price being exacted from it for the United States' presence at the negotiating table.

The dairy industry will be affected by three specific actions taken as part of these talks:

1. An expansion of cheese and other imports;
2. The nullification of the countervailing duty statute by the specific recognition of the right of exporting nations to employ export subsidies and the addition of an injury test to the U.S. countervailing duty statute; and
3. An International Dairy Arrangement.

In negotiations with the European Community, the United States accepted the EC position that the Common Agricultural Policy with its internal price support provisions, its export subsidy program and its variable levy structure was non-negotiable because the CAP represented internal EC policy. At the same time, the United States negotiated a package which makes basic changes in our domestic policy.

Our comments regarding the trade agreements and the implementing legislation are based on the situation as we know it at this time. We still have not been given the opportunity to fully examine all of the supporting documentation submitted to Congress along with S. 1376, the trade Agreements Act of 1979. This specifically applies to the country allocation and breakdown of the cheese import by type of cheese.

## CHEESE IMPORT EXPANSION

Based on information presently available, the trade talks will mean an expansion of cheese imports of 68.2 million pounds over 1977 levels. This represents an increase of one-third, with most of the additional product entering this market with the assistance of substantial export subsidies. At the present time, cheese import quotas total 127,789,600 pounds. Imports of quota cheeses plus shipments of non-quota varieties resulted in total imports in 1977 of 209.4 million pounds.

It is proposed that the expansion of imports be accompanied by an expansion of coverage of the Section 22 quotas to include all cheeses other than sheep and goat's milk varieties and the soft cured cheeses such as Cammembert and Brie.

The negotiated agreement will result in U.S. cheese quotas increasing to about 244,710,600 pounds. Including the probable level of imports of nonquota cheese, total cheese imports on implementation of the agreement would be 276.4 million pounds. In addition to the expansion of cheese quotas, a 4.4 million pound quota on chocolate crumb has been approved for Australia.

In support of this package, three basic arguments are advanced:

1. The expansion of coverage places a cap on cheese imports so that a known level is being dealt with;

2. Under the present structure, imports of nonquota cheese above the "pricebreak" have been expanding and total imports by the mid-1980's would be as high or higher than if the proposed package is put in place; and

3. Cheese consumption and production in the United States has been expanding and the increased level of imports can easily be absorbed without serious disruption to the industry.

Each of these arguments has basic flaws.

Experience has shown that each new quota level has simply been a new, higher plateau from which to work. In other words, the quotas always rise, they never go down. Illustrative of this is the situation with the pricebreak quotas which were originally established in 1968. In 1972, the pricebreak system was reworked and the quotas "adjusted." These "adjustments" resulted in a 378 percent increase in Swiss cheese quotas, a 242 percent increase for Gruyer-process cheese, and a 62 percent increase in the Other, NSPF category.

In the case of Cheddar cheese, the original quota was set in 1953. In 1966, the quota was raised by 33 percent and in 1967 it was increased again by 261 percent.

In addition to these specific increases, new quota categories have been created to award the ability of exporters to evade established quotas with a share of this market. The quota on Italian cheese not in original loaves resulted when exporters found they could evade the established quota on hard Italian cheese varieties by the simple expedient of cutting the loaves. The great expansion of Swiss imports in the mid-1960's came when the low grade "grinders" Swiss was imported for use in processed cheese products.

The entire system of import restraints on product exhibits such actions. Thus, there is an abundance of historical evidence to support the concern that the new level of imports will be the "cap" only until a new evasion product is developed. Technology and imagination are the only limiting factors is this area and experience has proven there is an abundance of both available.

Our questioning of the real nature of this "cap" takes on greater significance since we understand that the Office of Special Trade Representative steadfastly refused to make a commitment as part of the implementing legislation that this expansion does indeed represent a "cap" or ceiling on the imports of cheese.

To argue that the proposed system will actually mean a lower level of imports in the future than under the present structure, one must assume there is an unlimited market for the cheese varieties presently admitted outside of quota. The fact is that these cheese could come in now if the market would bear the additional quantities. Actually, the level of these imports is more directly related to the strength of the U.S. cheese market than the fact that they can enter without limitation. These imports rise during periods of strong cheese prices in the United States and tend to be stable or even decline on a low market.

This partially explains the expansion of these imports during 1978 when U.S. cheese prices were rising as demand expanded. If one were to apply the same logic to the 1977 import levels, the conclusion would be that this market was shrinking as the level of nonquota imports declined relative to 1976.

*Imports of nonquota pricebreak cheese, 1972-78*

| *Year:* | *Pounds* |
|---|---|
| 1978 | 107,875,000 |
| 1977 | 83,315,000 |
| 1976 | 89,645,000 |
| 1975 | 78,234,000 |
| 1974 | 96,151,000 |
| 1973 | 55,730,000 |
| 1972 | 72,068,000 |

As the above table indicates, the level of imports of pricebreak cheese has fluctuated substantially in recent years. Prior to last year, the 1974 imports had been the highest achieved. To argue that last year's expansion is an indication of an expansion trend is to ignore what has taken place.

Further, the expansion of 1978 featured another aspect that totally eliminates the year as a basis of valid comparison. By mid-October, it has become clear that Congress would not act to extend the countervailing duty waiver before it expired on January 3, 1979. This meant that the Department of Treasury would have to take some action to collect the countervailing duties that would be due on imports entering the country after that date. There began a rush to get as much product as could be managed into the country (with the aid of the export subsidies) before the authority expired. Imports of the nonquota pricebreak cheese in November and December, 1978 were 157 percent of the level of imports for these products during the same months of 1977.

To prove this was not mere coincidence or a further exhibition of the expanding demand and market for these products, one need only look to what happened in the first three months of 1979. On January 3, the Department of Treasury did, indeed, announce that it would require importers to post bond or make cash deposits equal to the estimated countervailing duty liability on imported cheese. Depending on the variety of cheese and the country of origin, this liability ranged from 20 cents to over $1.50 per pound. For January, February and March of 1979, the total imports of the nonquota pricebreak products were almost 50 percent below the same months of 1978. In other words, much of the increase in imports that has been described as natural growth was merely the scramble by importers and by exporting nations to assure themselves the benefit of the export subsidy without exposure to the risk of countervail.

Arguing that the U.S. industry can easily absorb the additional imports fails to take consideration of the question back to its basic point of impact—the farm. While cheese comsumption has expanded sharply in recent years, this expansion has been met by shifting milk from other products where consumption has declined due to shifting consumption patterns. The fact of the matter, regardless of how it is addressed, is that less milk will be needed off U.S. farms in order to make room in this market for the additional products of less efficient European dairy farmers.

Some data has been circulated by the administration arguing that this additional import level would result in minimal price reductions at the farm—an estimated 3.5 cents per hundredweight of milk even if the entire increase were put in effect in one action. This is based on a doctoral thesis done at Michigan State University late last year. We have not had an opportunity to assess the thesis, but it apparently is based entirely on an examination of the cheese market. In 1974, a USDA study of the same type examined the effect of imports on U.S. milk prices, but approached the question from the broader standpoint of the market for all manufactured products and the resulting impact on farm milk prices. Since the milk used to produce cheese is equally usable in the production of other products, this is the only valid approach to such a measurement. An updating of the USDA study results in a price impact on the farm of 21 cents per hundredweight for each 500 million pounds of milk equivalent (fat basis) of imports.

1977 imports totaled 1,968 million pounds of milk equivalent (fat basis). The proposed import expansion would add approximately 694 million pounds milk equivalent to that. Measuring the impact on farm income on the basis of the USDA research yields a $355 million negative impact for the expansion alone and an impact of over $1.36 billion for total imports under the level proposed as the result of the trade talks.

The additional imports will displace domestic milk production that would otherwise be made into cheese. This displacement, in the short run, will be accommodated by additional Commodity Credit Corporation purchases of dairy products under the price support program. To accommodate the full extent of the increased imports would add $80 million to CCC costs.

In the longer term, the accommodation must be made on the farm through shrinkage of milk production. The equivalent of 694 million pounds of milk represents the output of some 61,700 average dairy cows at 1978 production levels. This would be the same as putting more than 1,200 dairy farmers with 50 cow herds out of business.

Some have defended the cheese agreement on the basis that the expansion of imports involve primarily specialty type cheese that we produce in very limited quantities in this country or not at all. While we have not received the final, detailed breakdown of the quota expansion, the information provided by the Office of Special Trade Representative and included as Exhibit 1 fully demonstrates that this is not the case.

The pressure for expanded imports comes from two sources. First, nations whose dairy production results in products surplus to their needs seek to find a place to dump that excess. Second, there are those who have been able to make substantial profits from these products, in great measure due to the export subsidies provided on them to assist their entry into the United States.

At the time the countervailing duty waiver agreement was entered into between the United States and the European Community, the Department of Treasury agreed to monitor cheese entries from EC nations on a weekly basis and to report that information by cheese type, including the declared value of the product. A comparison of the declared value plus duty on some of these cheeses for one week in November, 1978 with the wholesale prices for which they were selling in the New York market is revealing.

Imported Blue cheese has an average margin of 29 cents per pound. Edam and Gouda margins were 42 cents. Provolone margins were at a 60 cent rate. Parmesan margins were $1.63 per pound.

These are the returns that are offered on these products simply because an importer holds a license. In some cases, the return exceeds the value of the milk that would go into the product if it were made in the United States. This is the situation which prevails today and the American dairy farmer is being told that more of this is good for his industry and for American agriculture.

An integral part of the trade negotiations has been the development of a subsidies code which will occasion major changes in the U.S. countervailing duty statute. This code seeks to ban the use of export subsidies on non-primary goods. This is not a gain as these subsidies are already banned under the basic articles of the GATT. In the area of agriculture, however, subsidies would be permitted. The U.S. has, in fact, sanctioned the use of the export subsidy as a legitimate tool in international trade in agricultural commodities—quite a different result than the directive set forth in the Trade Act of 1974.

In exchange for this "concession", the United States has agreed to amend its countervailing duty statute to require proof of injury before acting.

The addition of an injury test to the statute reverses the longstanding intent of Congress. This law has always been a means of preventing injury to domestic industry due to the export subsidy programs of other nations. With an injury test, it becomes a statute which permits, even requires, injury.

It has been argued that the injury test to be employed under countervail would be "soft" and that injury could easily be proven. Such assurances are counter to the experience the dairy industry has had in obtaining enforcement of the present, mandatory law. They fly in the face of the experience of other industries that have sought relief under the Antidumping Statute or in obtaining relief under other laws from unfair trade practices or import competition generally. The U.S. has, frankly, been extremely reluctant to provide domestic industry of any type with the full protection of these laws.

Adding an injury test to the countervailing duty statute creates a situation under which a subjective judgment must be made regarding the occurrence of injury. It would be a simple matter for that judgment to be in the negative, at which point the domestic industry is without recourse irrespective of damage.

Arguments that changes in procedures involved in administering the statute will make it more effective and speed action are unconvincing. First, none of the changes—expedited handling, provisional relief—are precluded under present law. The law does not require Treasury to take 12 months to reach a decision; it requires that one be reached in a 12 month period. The law does not bar the suspension of liquidation of duties in a case under investigation. It just has not been done.

These changes could be made now, in all probability without further action by Congress. They do not constitute sound arguments for negating the effect of the statute. A countervailing duty statute with an injury requirement will, with the speed-up procedures suggested, simply be a faster means if saying "no" in situations that require the imposition of countervailing duties at present.

For the dairy industry, the presence of the dairy price program virtually precludes the possibility of proving injury, as CCC will make product purchases sufficient to maintain a price level determined by the Secretary of Agriculture to be sufficient to produce an adequate supply of milk.

The procedure proposed by Senator Nelson recommended by the Finance Committee to prevent price undercutting due to export subsidization of cheeses covered by Section 22 quotas would appear to be an improvement over the countervailing duty statute with the addition of an injury test.

It does provide for expedited handling of complaints and rapid determination on the basis of price undercutting alone. If administered in the straight-forward

manner in which the provision is written, it should, indeed, prevent price undercutting.

The fact remains that the use of the export subsidy has been specifically sanctioned and the U.S. government has officially accepted the position that it is all right to require domestic producers of a product to compete with the treasuries of other nations. A very high percentage of the dairy products entering this market—and this will apply to the increases granted through the negotiations—can do so only with the assistance of substantial export subsidies. The simplest way to explain the results of these trade talks as they apply to the dairy industry is that the United States has agreed to give away a segment of this market and then further agree to permit other nations to use whatever means necessary to make their products competitive in the market.

There is no economic basis for such action. It is something dairy farmers simply do not accept as right or necessary.

## INTERNATIONAL DAIRY ARRANGEMENT

A final feature of the trade package considering the dairy industry is an International Diary Arrangement. This takes the form of a commodity agreement that essentially provides for the exchange of information on production, consumption, prices, stocks, and trade in dairy products by signatory nations. It also requires consultation between signatories to review the world dairy situation and to identify remedies for market imbalances for consideration by member countries.

Both USDA and STR have consistently denied that the agreement, in any way, would impinge on the U.S. ability to determine its own dairy policy—including price support levels, Section 22 quota actions or other moves. It is essential that this is the case. We urge the Congress to assure itself on this point.

As protocols to the arrangement, minimum pricing agreements are provided for certain basic milk products. These establish a minimum price for nonfat dry milk at 19.3 cents per pound, butter at 42 cents per pound, and cheese at 36.3 per pound.

In each instance, the minimum price level is substantially below any realistic commerical price for the product. In the United States, for instance, the CCC purchase prices for product under the dairy price support program are as follows: nonfat dry milk, 79 cents; butter (New York), $1.24 and cheese, $1.16 pound. Since U.S. price levels are at least competitive with nations other than New Zealand, the minimum prices in the agreement represent nothing more than an expression of intent not to subsidize exports below that level.

Based on what we have been able to learn of the agreements, the National Milk Producers Federation has made a careful analysis of the impact this would have on the domestic dairy industry—specifically on the dairy farmer and his cooperative marketing association. The impact is negative. Because of this, the voting delegates at the Federation's annual convention late last year unanimously expressed opposition to any trade agreement which would expand dairy product imports, relegate the countervailing duty statute to a dead letter through the addition of an injury test, and expressed opposition to any package of trade agreements or legislation of which these items were a part. More recently, the Executive Committee of the Federation has again reviewed these questions and again unanimously expressed their opposition to these moves.

We are fully aware that other nations have long argued that the import limitations maintained on dairy products by the U.S. are most objectionable. The fact is that the U.S. has the most open market of any major dairy producing country in the world. Other nations, particularly those most anxious for larger share of this market allow imports on a much more limited basis or ban them completely.

## TRADE POLICY REORGANIZATION

Another area of concern with the legislation now before the Congress is the requirement that proposals be developed and placed before the Congress regarding the reorganization of the international trade functions of the Federal government. Supporters of this concept have argued that the creation of a Department of International Trade or similar restructuring of an existing cabinet agency is the only way the United States can achieve a strong, cohesive trade policy that adequately represents the interests of domestic industry.

We question whether such a reorganization will, in fact, alter the basic attitudes and philosophies that have, at times, made it appear that there is less concern for domestic interests as they apply to U.S. trade policy than for foreign access to our markets certainly, the same people who presently administer our trade laws would, for the most part, continue in this capacity.

In the case of agriculture, we feel it is absolutely essential that the operations of the Foreign Agricultural Service, including administration of the Section 22 program, be retained within USDA. These activities have a direct bearing on the success of other programs of the Department. Close coordination with them and these other activities is essential. It is necessary, therefore, that these operations be retained in USDA.

### CASEIN IMPORTS

Even while we are granting expanded access to this market, the U.S. government is ignoring the expanding problem of casein and caseinate imports and the effect this is having on the dairy price support program.

Historically, casein—essentially, milk protein—has been used for a variety of industrial applications including paint, plastics, adhesives and paper coatings. As technologies have changed and price relationships shifted, that market has been lost to a variety of synthetic products. However, this loss has been more than feed products, generally as a replacement for nonfat milk solids.

There is attached to this statement a copy of a petition of the Federation addressed to Secretary of Agriculture Bergland a year ago requesting the establishment of a Section 22 quota on these products when imported for food and feed use. To date, the only response of the Department of Agriculture has been that there is no problem or if there is, it is not due to casein imports.

We have renewed this request because it is essential as part of the effort to maintain the dairy price support program. It is impossible for dairy farmers to understand how their government can so lightly treat such basic issues. On the one hand we are confronted with the justified concerns over government costs and, on the other, we witness the refusal to take actions which will not only reduce government costs, but improve farm income as well.

### SUMMARY

We have not had access to the material to allow us to fully assess the overall impact of the trade talks. It has not been possible to do this because specific information regarding gains and losses has not been made available. There has been much talk, in general terms, of the great good that will flow from the agreements, however, the lack of specifics that would make it possible to assess the facts of the matter lead us to wonder.

Much has been made of the broad nature of the consultations that went on between industy and government in the preparation for and in the conduct of these trade talks. Congress did, in fact, intend that such consultations take place and that they be serious in nature. We cannot comment on other commodities or other sectors, but in the case of dairy, little, if any, serious consideration was given to the advice received form the advisory committees. Further, it is our understanding that those expert in the dairy area were precluded from commenting on the major provisons of the negotiations as they affect the dairy industry as their views did not coincide with those of the trade negotiators.

The dairy industry is fully aware of the importance of international trade to the U.S. economy in general and to major segments of agriculture specifically. We do not feel, however, that a case can be or has been made for the sacrifice of a significant segment of the dairy industry in exchange for some hope for gain in other areas.

### EXHIBIT A

It is understood that the following is the expansion of cheese import quotas offered by the United States. The data are presented in both metric tons and thousands of pounds.

| Type of cheese | Current quota | | 1977 imports | | Offered by U.S. | |
|---|---|---|---|---|---|---|
| | Metric ton | 1,000 lbs | Metric ton | 1,000 lbs | Metric ton | 1,000 lbs |
| Blue mold | 2,276 | 5,017.0 | 1,569 | 3,354 | 2,500 | 5,511.5 |
| Cheddar | 4,552 | 10,037.5 | 4,203 | 9,337 | 5,595 | 12,334.7 |
| Other American | 2,766 | 6,096.6 | 2,701 | 6,407 | 3,480 | 7,672.0 |
| Edam and Gouda natural | 4,174 | 9,200.4 | 3,293 | 8,251 | 5,680 | 12,522.1 |
| Edam and Gouda processed | 1,429 | 3,151.0 | 477 | 1,064 | 1,429 | 3,150.4 |
| Italian, original loaves | 5,216 | 11,500.1 | 4,310 | 9,803 | 5,966 | 13,152.6 |
| Italian, not original loaves | 677 | 1,494.0 | 595 | 1,343 | 777 | 1,713.0 |

| Type of cheese | Current quota | | 1977 imports | | Offered by U.S. | |
|---|---|---|---|---|---|---|
| | Metric ton | 1,000 lbs | Metric ton | 1,000 lbs | Metric ton | 1,000 lbs |
| Swiss [2] | 9,260 | 20,420.0 | [1] 27,150 | 59,627 | 30,871 | 68,058.2 |
| Gruyere-process [2] | 5,099 | 11,242.0 | [1] 7,492 | 15,280 | 8,052 | 17,751.4 |
| Other NSPF [2] | 18,474 | 40,730.0 | [1] 25,109 | 55,355 | 39,776 | 87,690.1 |
| Other, lowfat [2] | 4,037 | 8,901.0 | 3,014 | 6,645 | 6,207 | 13,684.0 |
| Total | 57,960 | 127,789.6 | 79,913 | 176,466 | [3] 110,333 | 243,240.0 |

[1] 1977 import levels include nonquota imports at above price break levels
[2] Pricebreak categories
[3] New quota level would be 111,000 metric tons, 244.7 million pounds. The detailed breakdown of the full amount is not yet available

In addition to the above, there would be imports of sheep and goat's milk cheeses which in 1977 totaled 11,275 metric tons or 24,856,865 pounds. Also, soft cured cheeses such as Brie and Camembert will not be covered under quota. Imports of these in 1977 totaled 3,100 metric tons or 6,834,260 pounds. Inclusion of these items would bring total cheese imports at the new level to 274,931,255 pounds.

NATIONAL MILK PRODUCERS FEDERATION,
*Washington, D.C., May 10, 1978.*

Hon. BOB BERGLAND,
*Secretary, U.S. Department of Agriculture,*
*Washington, D.C.*

DEAR MR. SECRETARY: The National Milk Producers Federation, on behalf of its member dairy cooperative marketing associations and their dairy farmer members, urges immediate action by the U.S. Department of Agriculture toward establishment of a zero level quota under the authority of Section 22 of the Agricultural Adjustment Act on imports of casein and mixtures of casein, classified as Items 493.15 and 493.16 respectively, under the Tariff Schedules of the United States (TSUS) when such products are imported for use in human food or animal feed.

Except for a limited class of mixtures of casein provided for under TSUS 950.19, these products are not presently subject to any import limitation. This omission of a major category of imports from coverage under Section 22 has stemmed from the historical use pattern of the product. This use pattern has changed substantially in recent years however. There is presently no question that these articles are being imported into the United States under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the operation of the dairy price support program.

CASEIN UTILIZATION

Information on the use of casein in the United States is limited. In the past, it has had broad application in a variety of industrial uses including paper coatings, adhesives, plastics, paints and synthetic fiber production. With the development of synthetic materials and the increased cost of casein, many of these uses have been lost or substantially reduced. As these have declined, use in human food and animal feed has increased.

The major use in animal feed is in milk replacer products for calf and pig feeding. In this instance, casein has largely replaced domestically produced nonfat milk solids.

The greatest expansion has taken place in food uses. A 1977 study by USDA's Economic Research Service estimated that 36 percent of the casein imported into the United States in 1976 entered food use. Major food uses of casein and its products include coffee whiteners, whipped toppings, whipping powders, imitation milk and cheese, instant breakfasts, cereals and baby foods. They are also found as binders in sausages, weiners, and luncheon meats and as protein supplements in bakery products, frozen desserts, soups and dietary foods.

Table 1 provides a tabulation of estimates of casein and caseinate use in the United States for selected years from 1940 to 1976. This clearly indicates the dramatic shift that has taken place from 1940, when food and feed uses were of such insignificance that they could be categorized under "Other," to 1976 when they presented 71 percent of the total.

LEVEL OF IMPORTS

Casein imports in recent years had been relatively stable in the range of 100 to 135 million pounds. an exception was 1975, when imports fell to 58.4 million pounds. Shipments rebounded to 112.1 million pounds in 1976, however, and reached a record 144.2 million in 1977. Table 2 details U.S. production and imports of casein.

Many sources indicated that the increased imports in 1977 were due to trade anticipation of final action by the Food and Drug Administration on amendments to the standards of identity for frozen desserts which would have allowed the use of caseinates as a substitute for whole milk solids-not-fat in ice cream. This proposal was withdrawn late in the year, and FDA has announced that existing standards will continue in effect pending a decision on a public hearing. While anticipation of the FDA changes might have had some influence, current import levels clearly indicate other factors are involved. For the first three months of 1978, imports are 125 percent of the level of January, February and March, 1977 and 175 percent of the comparable period for 1976.

It has been suggested that a major reason for the increase in imports is the current resurgence in the U.S. economy, particularly homebuilding and the increased use of casein in adhesives. There is little evidence to support such an hypotheses. This would be a reversal of a 20-year trend that began with the development of synthetic materials. Further, the advancing price of casein in the last year would only serve to make substitute materials more attractive.

Weekly market reports issued by USDA indicate a continuing strong demand for casein and caseinates in the world market. Over the past four months, repeated references are made to tight supplies, current production being devoted to meeting contractual obligations and further anticipated price increases. This does not indicate a lessening of the rate of imports in the months ahead.

DISPLACEMENT OF DOMESTIC PRODUCT

The primary food and feed uses for these imports result in the displacement of domestic agricultural products, notably nonfat dry milk. This displacement results in increased purchases of nonfat dry milk by the Commodity Credit Corporation in order to effectuate the dairy price support program. A review of nonfat dry milk production, utilization, CCC purchases and estimated displacement is presented in Table 3.

Presently, the Commodity Credit Corporation is making substantial purchases of nonfat dry milk under the dairy price support program despite the fact that domestic production of the commodity is only about one-half what it was 15 years ago.

The consumption decline has been almost continuous over the last ten years. The apparent increase in 1973 must be discounted due to the accounting of imports which places such products in domestic commercial consumption as soon as they are landed. There were substantial import expansions during 1973. However, a survey by the International Trade Commission in September of that year indicated that a substantial portion of the imported product had not been moved into consumption channels (TC Publication 616, October 1973, page 10).

The consumption decline for nonfat dry milk is due, at least in part, to the expanded food use of caseinates in a wide variety of products. As reported by the Economic Research Service of USDA in its Staff Report on Casein (April 20, 1977), "Much of the increase in the use of casein in food and feed products is due to the fact that it is a low cost protein substitute for nonfat dry milk."

This substitution leads directly to added purchases of nonfat dry milk by the Commodity Credit Corporation. The product displaced by imported casein, lacking an alternative market, is directed to CCC under the dairy price support program. This increases the cost of the price support program. More importantly, it interferes with the achievement of the purposes of the price support program.

ADDED COST UNDER PRICE SUPPORT PROGRAM

One hundred pounds of liquid skim milk yields 9.2 pounds of nonfat dry milk or about three pounds of dried casein. If the bulk of the displacement is on the basis of achieving a similar protein content, one pound of casein will replace 2.9 pounds of nonfat dry milk or its equivalent in milk solids-not-fat. Thus, for 1976 when USDA estimates that 79.6 million pounds of casein and caseinates went into food and feed uses, the displacement would have totaled 230.8 million pounds.

As indicated, these imports expanded significantly in 1977. The record levels reached during the year continue to be exceeded as monthly data for 1978 become available. One can assume the industrial use during 1977 was no higher than the 32.5 million pounds for 1976. The sustained decline in these uses in past years alone would support this view.

The increased import levels during 1977, with 32.5 million pounds going to industrial uses and the 111.7 million pound balance being used for food and feed, would mean displacement of 323.9 million pounds of nonfat dry milk or its equivalent. The cost of displacement on the 1977 scale, using the current 71 cent per pound CCC purchase price for nonfat dry milk is $230 million in purchase costs alone. Table 4 presents a review of the costs added to the price support program in recent years due to these imports.

APPLICABILITY OF SECTION 22

It has been argued that the application of Section 22 to these products nay not be appropriate since there is little, if any, commercial casein production in the United States. The statute makes no requirement regarding domestic production of the specific commodity. It directs itself to ". . . any article or articles are being imported or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this chapter . . . ."

The test that must be met is the existing or potential impact of the imports on a domestic price support or similar program. Section 22 was approved by the Congress in order to provide a means of assuring the effective operation of domestic price support programs. In this sense, it is a shield behind which these programs can operate. Without it, the United States would be faced with the prospect of attempting to stabilize agricultural prices for the world as this market became a dumping ground. Recent studies by the U.S. Department of Agriculture have recognized the essential nature of this with regard to the dairy price support program by pointing out that the price support program could not be maintained in the absence of effective import limitations under Section 22.

In this regard, Section 22 is a basic element of domestic agricultural policy. Its aim or intent is to permit the development and operation of effective domestic price stabilization programs. It does provide means of recognizing legitimate markets for imported products in this country. At the same time, however, it is the simplest and most straightforward means of effectuating necessary import limitations. Its effective use cannot be ignored in the continuing effort to maintain a sound dairy price support program.

A further point raised against application of Section 22 in this instance is that these products are classified as chemicals under the Tariff Schedules of the United States. Again, the statute imposes no requirement as to tariff classification or description of the product.

An argument has been made that enforcement of limitations under Section 22 would be difficult since casein for industrial uses is basically indistinguishable from that entering food and feed uses. Since industrial use imports would continue to enter outside of quota, we recognize the need to establish some basis of enforcement. The industrial use provision would be in the nature of an exemption. A system of certification should be adopted whereby importers and users would certify that the end use was indeed an industrial application. Another possible means would be to require imported casein to be denatured in some manner so as to render it unfit for human or animal consumption.

INDUSTRIAL VERSUS FOOD AND FEED USES

Recognition of the differing impact of casein imported for industrial uses and that entering for other applications is accorded in the legislative history of several laws passed by Congress during the period of 1957 to 1962. Public Law 87-606 permanently transferred casein to the duty free list of the Tariff Schedules of the United States. In doing this, however, the duty on mixtures of casein, TSUS Item No. 493.16, was retained. This same action had been taken on a temporary basis in Public Laws 85-257, 86-405 and 86-562. The major point of support for the duty free status for casein was that the product's major use was in industrial production.

On the other hand, the duty on mixtures of casein, primarily caseinates, was retained because these products were imported largely for food uses. Concern was expressed that duty free casein might be converted for food use after entering this country. In that regard, the Senate Finance Committee, in its report on H.R. 9862 (Senate Report 1270, April 14, 1960) stated: "The members of the committee, however, will maintain a continuing interest in this matter, and anticipate that the Department of Agriculture and other interested agencies will watch developments and ascertain to the extent feasible the amounts of imported casein being used for, or converted to, edible uses in competition with domestic agricultural products. Should such large scale uses develop, the committee will want to be made aware of them."

REPRESENTATIVE PERIOD

The assignment of a zero level quota in this instance is appropriate as the historical use of imported casein has been for industrial purposes and quotas are not being sought in this area. As indicated, available data suggest that substantial food and feed use of imported product did not begin until the late 1950's or early 1960's, well after the initiation of the dairy price support program. Selection of a "representative period" after this substantial conversion of use was well underway would, at least indirectly, support a subversion of the dairy price support program.

SUMMARY

At a time when concerns are being expressed regarding the cost of the dairy price support program and the nonfat dry milk inventory which has accumulated, the casein and caseinate imports for food and feed use represent an increasing interference with the operation of the price support program. This interference is represented both in the increased government costs and in continued depression of nonfat dry milk prices which reduces the price of milk to farmers, interfering with achievement of the basic goals of the price support program.

Section 22 was provided for the express purpose of permitting domestic programs to achieve the intended goals. It is a central element of domestic agricultural policy. Its application in the current situation is not only warranted, but required.

In view of the expanding imports of casein and mixtures of casein and the rapidly changing nature of the use of these imports, we urge immediate action by the Department of Agriculture to recommend to the President that he act under the authority of Section 22 to establish a zero level quota on casein and casein mixtures entering this country for food and feed use.

Sincerely,

PATRICK B. HEALY,
*Secretary.*

Attachments.

TABLE 1.—CASEIN UTILIZATION, UNITED STATES, SELECTED YEARS

| Use | 1940[1] | | 1955[1] | | 1967[1] | | 1970[1] | | 1976[2] | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Million | Percent | Million | Percent | Million | Percent | Million | Percent | Million | Percent |
| Food and feed | ([3]) | | 1.0 | 1.3 | 36.1 | 36 | 60–70 | 50 | 40.4 | [4]36 |
| | | | | | | | | | 39.2 | [5]35 |
| Industrial use | | | ([6]) | | | | 60–70 | 50 | 32.5 | 29 |
| Paper | 42.1 | 70 | | | 34.0 | 34 | 70 | | | |
| Paints | 5.4 | 9 | | | ([3]) | | | | | |
| Glues | 6.3 | 11 | | | 10.0 | 10 | | | | |
| Gypsum | ([3]) | | | | ([3]) | | | | | |
| Plastics | 2.1 | 4 | | | 1.5 | 2 | | | | |
| Other | 3.8 | 6 | | | 18.1 | 18 | | | | |
| Total | 60.2 | 100 | 77.5 | | 99.7 | 100 | 131.6 | 100 | 112.1 | 100 |

[1] USDA, Dairy Situation, DS–334, March 1971.
[2] USDA, Staff Report on Casein, Apr. 20, 1977.
[3] Included in Other.
[4] Food.
[5] Feed.
[6] Not enumerated.

## TABLE 2.—PRODUCTION AND IMPORTS OF CASEIN

[United States 1935-77]

| Calendar year | Million pounds | |
|---|---|---|
| | Production | Imports |
| 1935–39 average | 48.1 | 8.2 |
| 1947 | 35.8 | 20.9 |
| 1948 | 14.4 | 40.6 |
| 1949 | 18.3 | 33.1 |
| 1950 | 18.5 | 54.6 |
| 1951 | 21.6 | 43.4 |
| 1952 | 7.5 | 56.8 |
| 1953 | 5.5 | 74.2 |
| 1954 | 5.2 | 59.8 |
| 1955 | 3.1 | 74.5 |
| 1956 | 2.5 | 70.7 |
| 1957 | 1.7 | 74.6 |
| 1958 | .6 | 91.3 |
| 1959 | .1 | 94.5 |
| 1960 | .9 | 92.2 |
| 1961 | .6 | 101.8 |
| 1962 | 1.2 | 95.6 |
| 1963 | 1.7 | 87.9 |
| 1964 | 2.1 | 108.5 |
| 1965 | 3.0 | 91.8 |
| 1966 | 2.7 | 107.9 |
| 1967 | 1.4 | 99.7 |
| 1968 | .8 | 115.1 |
| 1969 | ..... | 116.1 |
| 1970 | ..... | 135.3 |
| 1971 | ..... | 105.9 |
| 1972 | ..... | 105.4 |
| 1973 | ..... | 112.8 |
| 1974 | ..... | 113.3 |
| 1975 | ..... | 58.4 |
| 1976 | ..... | 112.1 |
| 1977 | ..... | 144.2 |

Source: Various USDA Publications.

## TABLE 3.—NONFAT DRY MILK PRODUCTION, COMMERCIAL DOMESTIC CONSUMPTION, CCC PURCHASES, DISPLACEMENT BY CASEIN IMPORTS FOR FOOD AND FEED, 1967–77

| Calendar year | Nonfat dry milk production | Domestic commercial consumption | Net CCC purchases | Casein imports for food, feed | Nonfat equivalent | Adjusted CCC purchases |
|---|---|---|---|---|---|---|
| | | | Million pounds | | | |
| 1967 | 1,679 | 982 | 687 | [1] 35.9 | 104 | 583 |
| 1968 | 1,594 | 1,058 | 558 | [1] 46.0 | 133 | 425 |
| 1969 | 1,452 | 1,042 | 407 | [1] 52.2 | 151 | 256 |
| 1970 | 1,444 | 960 | 452 | [2] 67.7 | 196 | 256 |
| 1971 | 1,418 | 958 | 456 | [2] 57.2 | 166 | 290 |
| 1972 | 1,223 | 853 | 335 | [2] 61.1 | 177 | 158 |
| 1973 | 917 | 1,056 | 37 | [2] 69.9 | 203 | (166) |
| 1974 | 1,020 | 839 | 265 | [2] 73.6 | 213 | 52 |
| 1975 | 1,002 | 668 | 395 | [2] 39.7 | 115 | 280 |
| 1976 | 926 | 743 | 157 | [2] 79.6 | 231 | (74) |
| 1977 | 1,105 | 697 | 464 | 111.7 | 324 | 140 |

[1] 36 percent of imports for 1967, 40 percent, 1968, 45 percent, 1969
[2] 50 percent of imports for 1970, 54 percent, 1971, 58 percent, 1972, 62 percent, 1973, 65 percent, 1974, 68 percent, 1975, 71 percent, 1976

TABLE 4.—INCREASE IN DAIRY PRICE SUPPORT PROGRAM COSTS DUE TO CASEIN IMPORTS, 1967–77

| Calendar year | CCC purchases due to imports (million pounds) | CCC NFDM purchase price (weighted) (price per pound) | Program costs due to imports (million dollars) |
|---|---|---|---|
| 1967 | 104 | $0.1960 | 20.4 |
| 1968 | 133 | .2242 | 29.7 |
| 1969 | 151 | .2335 | 35.3 |
| 1970 | 196 | .2648 | 51.9 |
| 1971 | 166 | .3087 | 51.3 |
| 1972 | 177 | .3170 | 56.1 |
| 1973 | 203 | .3875 | 78.7 |
| 1974 | 213 | .5601 | 119.2 |
| 1975 | 115 | .6070 | 69.8 |
| 1976 | 231 | .6240 | 144.0 |
| 1977 | 324 | .6715 | 217.6 |

Senator RIBICOFF. Mr. Charles Carlisle.

## STATEMENT OF CHARLES R. CARLISLE, VICE PRESIDENT, ST. JOE MINERALS CORP.; APPEARING ON BEHALF OF A COALITION OF 33 INDUSTRIAL AND LABOR ORGANIZATIONS, ACCOMPANIED BY STANLEY NEHMER, PRESIDENT, ECONOMIC CONSULTING SERVICES

Mr. CARLISLE. Good afternoon. I am Charles Carlisle, vice president of St. Joe Minerals Corp. Today I am appearing on behalf of an ad hoc coalition of 33 industrial and labor organizations, listed in attachment 1 to our testimony, that has been working for almost 2 years for an effective implementing bill for the Subsidies/Countervailing Duty Agreement negotiated in Geneva.

With me is Mr. Stanley Nehmer, president of Economic Consulting Services. Mr. Nehmer has had extensive experience with the trade statutes. I propose to submit my complete statement for the record, and I will summarize it.

Senator RIBICOFF. Without objection.

Mr. CARLISLE. My testimony will be very brief and will be confined to title I of S. 1376, that section of the Trade Agreements Act of 1979 which amends the countervailing and antidumping duties laws.

On balance, we favor the enactment of title I. Our negotiators in Geneva did a good job of laying the groundwork for the many excellent provisions contained in this bill written in fact by the members of this panel, by the Ways and Means Committee and by the administration.

Our concerns about the countervailing duty statute have been largely met; time periods for investigation have been shortened and proceedings will be more open. The current wide latitude of the administering agency's enforcement discretion will be curtailed by the strict definitions of subsidies and offsets, by the rules for terminating investigations and by the requirements for verifying information received from foreign parties.

I do wish to address briefly certain key amendments to the countervailing duty statute, starting with the question of an injury

test. Our coalition started from the position that there should be no injury test imposed on domestic industry in countervailing duty cases because subsidization of exports is a per se violation of fair trade concepts.

Indeed, some of the members of the coalition still maintain this position. We reluctantly came to the position that such a test would be acceptable, but only if it were no more stringent than that imposed under the Antidumping Act since 1975.

We understand that the injury definition incorporated in S. 1376 is intended to be no more stringent than the current Antidumping Act test. On the basis of that understanding we consider the injury definition incorporated in the bill to be acceptable.

I should add that that test is reasonable but by no means easy.

Second, we are very pleased with the limitation placed on the use of offsetting adjustments to the amount of a countervailing duty. The Treasury Department has abused its discretion by reducing duties in questionable ways.

Third, the countervailing duty law will, for the first time since its inception, define what constitutes a subsidy. This is a most important achievement which also will reduce the administering agency's enforcement discretion and will more clearly delineate unacceptable domestic or internal subsidies, such as regional development grants and the covering of losses of state-owned enterprises.

My final specific comments are about terminating investigations. Under the present law there are no provisions for terminating cases in countervailing duty cases. Fortunately, this matter also has been dealt with in a satisfactory way in the bill.

I now come to a subject of paramount importance, one that you have discussed this morning. While many of the new provisions should lead to more rigorous enforcement of the countervailing duty statute, a great deal, as you have suggested, indeed depends on the way the statute is administered.

We continue to believe that it is vitally important that the responsibility for enforcing the countervailing and antidumping laws be removed from the Treasury Department. We consider such action to be equally as important as the statute before you.

We cannot stress this strongly enough. We have testified previously about Treasury's questionable practices in administering the countervailing duty statute. Following our testimony before this subcommittee on February 22, we supplied for the record an 11-page list of those questionable practices.

Today the administration was to have forwarded its recommendations on reorganizing the trade functions of the executive branch to the Congress. As you have said, we have not seen that and we will not see it for a couple of weeks.

If that proposal does not include a recommendation for the transfer of Treasury's current enforcement functions, it will be a sad admission on the part of the administration that it does not fully comprehend the damage caused by the Treasury Department to effective enforcement of the countervailing duty statutes. This is a matter our coalition intends to work on further.

In closing I would like to say that many persons in the Congress and the executive branch have done a splendid job on the MTN

and the implementing legislation: Ambassador Strauss and his excellent staff, you, Mr. Chairman, and the members of this committee, on the House side, Mr. Vanik, and the staffs, both of the committees and of the individual members.

The process has worked and the result is outstanding. All of us in the public sector I think, owe all of you in the Congress and the executive branch a great deal indeed.

Thank you.

[The prepared statement of Mr. Carlisle follows:]

PREPARED STATEMENT OF CHARLES R. CARLISLE

Mr. Chairman, my name is Charles R. Carlisle. I am a Vice President of St. Joe Minerals Corporation which has its headquarters in New York City. Today I am appearing on behalf of an ad hoc coalition of 33 industrial and labor organizations (Attachment 1) that has been working for almost two years for an effective implementing bill for the Subsidies/Countervailing Duty Agreement negotiated in Geneva.

With me are Mr. Stanley Nehmer, President of Economic Consulting Services, based in this city, and Mr. Charles Verrill of the Washington law firm of Patton, Boggs and Blow. Both Messrs. Nehmer and Verrill have had extensive experience with the trade statutes and both have represented a number of clients who have filed cases under the 1974 Trade Act and other statutes.

My testimony will be brief and will be confined to Title I of S. 1376, that section of the Trade Agreements Act of 1979 which amends the countervailing and antidumping duties laws.

On balance, we favor the enactment of Title I. Our negotiators in Geneva did a good job of laying the groundwork for the many excellent provisions contained in this bill written in fact by the members of this panel, by the Ways and Means Committee and by the Administration. Our concerns about the countervailing duty statute have been largely met; time periods for investigation have been shortened and proceedings will be more open. The current wide latitude of the administering agency's enforcement discretion will be curtailed by the strict definitions of subsidies and offsets, by the rules for terminating investigations and by the requirements for verifying information received from foreign parties.

I do wish to address briefly certain key amendments to the countervailing duty statute, starting with the question of an injury test. Our coalition started from the position that there should be no injury test imposed on domestic industry in countervailing duty cases because subsidization of exports is a per se violation of fair trade concepts. Indeed, some of the members of the coalition still maintain this position. We reluctantly came to the position that such a test would be acceptable, but only if it were no more stringent than that imposed under the Antidumping Act since 1975.

We understand that the injury definition incorporated in S. 1376 is intended to be no more stringent than the current Antidumping Act test. On the basis of that understanding we consider the injury definition incorporated in the bill to be acceptable.

I should add that that test is reasonable but by no means easy.

We are very pleased with the limitation placed on the use of offsetting adjustments to the amount of a countervailing duty. The Treasury Department has abused its discretion by reducing duties in questionable ways. The definition adopted in the bill will limit the use of offsets to certain taxes and fees and hence much reduce the potential for abuse.

The countervailing duty law will, for the first time since its inception, define what constitutes a subsidy. This is a most important achievement which also will reduce the administering agency's enforcement discretion and will more clearly delineate unacceptable domestic or internal subsidies, such as regional development grants and the covering of losses of state-owned enterprises.

My final specific comments are about terminating investigations. Under the present law there are no provisions for terminating cases in countervailing duty cases. Fortunately, this matter also has been dealt with in a satisfactory way in the bill.

In general, investigations may be suspended if the petitioner withdraws the petition, the exporter agrees to cease exporting, or a foreign government agrees to eliminate the subsidy. The rules governing the agreements should lead to more effective monitoring and enforcement and will open up the proceedings by involving domestic interests to an extent never allowed for previously.

Before I close, and perhaps of paramount importance as the Congress begins to consider the reorganization of international trade functions within the Executive Branch, I would like to mention that while many of the new provisions should lead to more rigorous enforcement of the countervailing duty statute, a great deal indeed depends on the way the statute is administered. We continue to believe that it is vitally important that the responsibility for enforcing the countervailing and antidumping laws be removed from the Treasury Department. We consider such action to be equally as important as the statute before you.

We cannot stress this strongly enough. We have testified previously that Treasury, for example, has frequently missed statutory deadlines, reduced duties in questionable ways, and conducted ex parte meetings with foreign representatives at which allegedly confidential, but often questionable, information has been submitted to the Department. Following our testimony on February 22 before this subcommittee, we supplied for the record an eleven-page list of Treasury's questionable practices.

Today the Administration was to have forwarded its recommendations on reorganizing the trade functions of the Executive Branch to the Congress. I have not seen the proposal. But if it does not recommend the transfer of Treasury's current enforcement functions, it will be a sad admission on the part of the Administration that it does not fully comprehend the damage caused by the Treasury Department to effective enforcement of the countervailing and antidumping duty statutes.

Thank you for this opportunity to present our views.

Amalgamated Clothing & Textile Workers Union, AFL-CIO.
American Apparel Manufacturers Association.
American Footwear Industries Association.
American Pipe Fittings Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Bicycle Manufacturers Association.
Cast Iron Soil Pipe Institute.
Clothing Manufacturers Association.
Copper and Brass Fabricators Council, Inc.
Industrial Union Department, AFL-CIO.
International Ladies Garment Workers Union, AFL-CIO.
International Leather Good, Plastics & Novelty Workers Union, AFL-CIO.
Lead-Zinc Producers Committee.
Luggage & Leather Goods Manufacturers of America, Inc.
Man-Made Fiber Producers Association.
Metal Cookware Manufacturers Association.
National Association of Chain Manufacturers.
National Association of Hosiery Manufacturers.
National Cotton Council.
National Federation of Fishermen.
National Handbag Association.
National Knitted Outerwear Association.
National Knitwear Association.
National Outerwear & Sportswear Association.
Northern Textile Association.
Retail Clerks International Union, AFL-CIO-CLC.
Scale Manufacturers Association, Inc.
Synthetic Organic Chemical Manufacturers Association.
Tanners Council of America, Inc.
Textile Distributors Association.
Valve Manufacturers Association.
Work Glove Manufacturers Association.

Senator RIBICOFF. Mr. Greenbaum will be the last witness this morning. We will resume after Mr. Greenbaum tomorrow afternoon at 2 p.m.

**STATEMENT OF LEE A. GREENBAUM, JR., PRESIDENT, KEMP & BEATLEY, INC., FIRST VICE PRESIDENT, AMERICAN IMPORTERS ASSOCIATION, WASHINGTON, D.C., ACCOMPANIED BY GERALD O'BRIEN, EXECUTIVE VICE PRESIDENT, AIA; AND DAVID PALMETER, COUNSEL**

Mr. GREENBAUM. Mr. Chairman and members of the committee, my name is Lee Greenbaum. I am accompanied by Gerald O'Brien, executive vice president of the American Importers Association; and David Palmeter of the law firm of Daniels, Houlihan & Palmeter.

AIA is a nonprofit organization formed in 1921 to foster and protect the importing business in the United States. As the only association of national scope representing American companies engaged in the import trade, AIA is a recognized spokesman for importers throughout the Nation.

We welcome this all too brief opportunity to present our views on S. 1376, the Trade Agreements Act of 1979, and ask that our full statement appear in the record.

Our board of directors faced a very difficult policy decision because the Trade Agreements Act contains some provisions beneficial to U.S. international trade interests but also proposes an array of shortsighted measures damaging to those interests and of the interests of the American consumer, to the American economy in the long run, and to international peace and prosperity.

The decision adopted by the board was to support passage of the implementing legislation. This decision was reached not because we endorse most of the provisions of the bill, but because we felt that failure to pass the implementing bill would cause more serious disruption to world trade than that which will be engendered by the implementing legislation itself.

We appear before you today to point out what, in our judgment, are the major defects of the implementing legislation, as well as its punitive features directed at American importers. At the same time, we would like to forewarn the Congress of the adverse implications of this legislation for the years ahead.

In the Trade Act of 1974 Congress expressed its concern that barriers to international trade were preventing the development of open and nondiscriminatory trade among nations. Accordingly, Congress authorized the President to enter into trade agreements providing for the harmonization, reduction, or elimination of these barriers and distortions.

The results of those negotiations as they will be implemented into U.S. law are now before us. In addition to those changes which would be required in U.S. law to conform to the negotiated codes, the administration and the Congress have chosen to include drastic revisions in the present countervailing duty and antidumping law as part of the implementing package.

These changes, in major part, represent a giant step backward from trade liberalization and, in our judgment, will create major problems not just for American importers but also for American exporters in the years to come. This is not an example of mature world leadership.

This testimony is not intended to cover all of the provisions of the bill that we find objectionable, but simply to highlight those which we consider most serious.

Our strongest objections center around the changes made in the antidumping and countervailing duty laws. These changes by and large compromise the fairness of the administrative proceedings at the expense of importers and will likely result in increased restrictions on trade with eventual matching restrictions against U.S. exports by our trade partners.

We list the following areas where changes have been made, which we believe are harmful to our international trade interests:

In the antidumping law: (1) Shortened time limits for preliminary determinations; (2) overlapping consideration of injury and final determination of LTFV margins; (3) retroactive suspensions of liquidation; (4) deposit of estimatd dumping duties; (5) expansion of constructed value; (6) expanded discretion to compute foreign market value; and (7) disclosure of confidential information.

In the countervailing duty law: (1) shortened time limits; (2) suspension of liquidation; (3) overlapping of final determination of subsidy and injury determination; and (4) calculation of net subsidy.

We strongly endorse the requirement of a material injury finding in these cases and consider this to be a major improvement over present law. We urge this committee to reject any attempts to compromise the term's definition in the language of the committee's report.

We consider the following to be objectionable provisions:

One, the so-called snapback of textile tariff reductions should the multifiber arrangement not be extended only adds insult to injury. The uneven and, on average, shallow, textile and apparel tariff cuts are meaningless, since the United States will still maintain the highest level of tariff protection of any of our major trading partners.

Two, while we applaud the long overdue elimination of the American selling price method of valuation, the high level conversion of tariffs on low-priced shoes—levels far above those recommended by the International Trade Commission and not subject to Presidential reduction—are a scandalous assault on the Nation's poor.

Three, the authorization to auction import licenses, while limited in its presently proposed application, is an unfortunate precedent, easily expanded at a later date. Auctioning places small importers at an extraordinary disadvantage. The effect of such a scheme is further concentration of an industry once dominated by small companies and reduced competition for those products under license.

Retail and wholesale costs of licensed products will increase further as parties in the United States enter the import transaction chain to broker quota licenses.

This bill was written under the philosophy that U.S. corporations need extensive protection from foreign competition. AIA takes issue with this philosophy and laments the opportunity this bill has rejected to turn our concentration from attempts to prolong the life of yesterday's U.S. industrial structure to a concerted effort to move into tomorrow's high technology industries.

Maintaining market-oriented trade policies requires that our industries adapt to changes in foreign competition, just as they adapt to internal domestic competition. The Nation's interests are not served by freezing resources in industries that are increasingly uncompetitive in the international marketplace.

Government restrictions on imports are Government restrictions on competition—the proclaimed centerpiece of American economic policy. S. 1376 has, on balance, opted for restrictions on competition. The immediate effects may seem beneficial as protected industries reap the benefits of lessened competition; however, the ultimate effect on consumer prices and the increased inability of our industries to compete in international markets may never be traced back to the choices made in writing this bill. Until this causal relationship is recognized, our economy will continue to bear this self-imposed burden.

Senator RIBICOFF. Thank you very much.

[The prepared statement of Mr. Greenbaum follows:]

PREPARED STATEMENT OF LEE A. GREENBAUM, JR.

SUMMARY

*I. Introduction*

On June 28, the Board of Directors of the American Importers Association met to decide what position AIA should take on the implementing legislation before this committee. This decision was a difficult one for us because the Trade Agreements Act which contains many provisions beneficial to U.S. international trade interests also proposes an array of shortsighted measures damaging to those interests and to the interests of the American consumer and to the American Economy in the long run. The decision adopted by the Board of Directors was to support passage of the implementing legislation. This decision was reached not because we endorse most of the provisions of the bill, but because we felt that failure to pass the implementing bill could cause more serious disruption to world trade than that which will be endangered by the implementing legislation itself.

*II. Antidumping and countervailing duty amendments*

Our strongest objections center around the changes made in the antidumping and countervailing duty laws. These changes by and large compromise the fairness of the administrative proceedings at the expense of importers and will likely result in increased restrictions on trade with eventual matching restrictions against U.S. exports by our trade partners. We believe that the changes in the following areas are harmful to our international trade interests:

In the antidumping law:

1. Shortened time limits for preliminary determinations;
2. Overlapping consideration of injury and final determination of LTFV margins;
3. Retroactive suspensions of liquidation;
4. Deposit of estimated dumping duties;
5. Expansion of constructed value;
6. Expanded discretion to compute foreign market value;
7. Disclosure of confidential information.

In the countervailing duty law:

1. Shortened time limits;
2. Suspension of liquidation;
3. Overlapping of final determination of subsidy and injury determination;
4. Calculation of "net subsidy".

We strongly endorse the inclusion of a "material" injury finding in all cases and consider this to be a major improvement over present law.

*III. Other objectionable provisions*

1. "Snapback" of textile tariff reductions;
2. Arbitrarily high footwear ASP conversion rates;
3. Authorization to auction import licenses;
4. Pressure to move the U.S. to a c.i.f. valuation basis;
5. Failure to amend the effective date of annual GSP program changes.

*IV. General comments*

This bill was written under the philosophy that U.S. corporations need extensive protection from foreign competition. AIA takes issue with this philosophy and laments the opportunity this bill has rejected to turn our concentration from attempts to prolong the life of yesterday's U.S. industrial structure to a concerted effort to move into tomorrow's high technology industries.

*V. Conclusion*

AIA strongly endorses certain provisions of this bill, particularly the new valuation law and the addition of a "material" injury test in antidumping and countervailing duty cases. However, we believe the erection of additional "legal barriers" in the bill will have long-range consequences for our domestic economy as well as for our international trade posture.

If retaliatory or defensive actions are taken by our trading partners, the stage will be set for a trade war, but we would hope that the responses of the U.S. will be a revealuation of the provisions of the Codes and this implementing legislation.

Mr. Chairman and members of the committee, my name is Lee Greenbaum. I am president of Kemp and Beatley, Inc. of New York City. My company is an importer, exporter, and domestic manufacturer of table linens. I appear here in my capacity as First Vice President of the American Importers Association (AIA), 420 Lexington Avenue, New York City, and specifically as Chairman of its Trade Policy Committee. I am accompanied by Gerald O'Brien, Executive Vice President of AIA and Michael P. Daniels, of the law firm of Daniels, Houlihan and Palmeter.

The American Importers Association is a non-profit organization formed in 1921 to foster and protect the importing business in the United States. As the only association of national scope representing American companies engaged in the import trade, AIA is a recognized spokesman for importers throughout the nation.

We welcome this opportunity to present our views on S. 1376, the Trade Agreements Act of 1979, to implement the agreements reached in the Multilateral Trade Negotiations (MTN).

On June 28, the Board of Directors of the American Importers Association met to decide what position AIA should take on the implementing legislation. This decision was a difficult one for us because the Trade Agreements Act which contains some provisions beneficial to U.S. international trade interests also proposes an array of shortsighted measures damaging to those interests and to the interests of the American consumer, to the American economy in the long run and to international peace and prosperity. The decision adopted by the Board of Directors was to support passage of the implementing legislation. This decision was reached not because we endorse most of the provisions of the bill, but because we felt that failure to pass the implementing bill could cause more serious disruption to world trade than that which will be engendered by the implementing legislation itself.

We appear before you today to point out what, in our judgment, are the major defects of the implementing legislation as well as its punitive features directed at American importers with severe consequences for U.S. exporters and consumers. At the same time, we would like to forewarn the Congress of the Adverse implications of this legislation for the post Tokyo Round era.

INTRODUCTION

In the Trade Act of 1974, the Congress gave the President an unprecedented mandate to negotiate with our trading partners for the "development of an open, non-discriminatory and fair world economic system." Congress expressed its concern that barriers to international trade were "preventing the development of open and non-discriminatory trade among nations." Accordingly, Congress authorized the President to enter into trade agreements providing for the harmonization, reduction, or elimination of these barriers and distortions.

The results of these negotiations as they will be implemented into U.S. law are now before us. In addition to those changes which would be required in U.S. law to conform to the negotiated codes, the Administration and the Congress have chosen to include drastic revisions in the present countervailing duty and antidumping law as part of the implementing package. These changes, in major part, represent a giant step backward from trade liberalization, and in our judgment, will create major problems not just for American importers but also for American exporters in the years to come. This is not an example of mature world leadership.

This testimony is not intended to cover all of the provisions of the bill that we find objectionable, but simply to highlight those which we consider most serious.

A. ANTIDUMPING

1. *Shortened time limits for preliminary determinations.*—S. 1376 would significantly reduce the time periods for antidumping investigations—especially at the preliminary stage. Under this bill, the time for reaching a preliminary determination of sales at less than fair value (LTFV)—when withholding of the appraisement occurs—would be reduced to 140 days from the date of initiation of an investigation, with an extra 50 days allowed in complex cases. This compares to the present statute which allows approximately 7 months, or in "complicated cases" an additional three months.

These shortened time units are likely to produce an increased number of preliminary affirmative determinations—and consequently, more suspensions of liquidation—wholly apart from the merits of individual cases. This problem is compounded—as the General Accounting Office recognized in its study of the administration of the Antidumping Act—when the cost of production of each producer is an issue. Under the bill, the issues will remain complex, but Treasury will have substantially less time to resolve them.

In a typical case, four or five foreign exporters must furnish responses containing a complex accounting of their business for a six month period; the responses must be delivered to Treasury in the United States; the responses must be verified by Treasury officials visiting each of the responding exporters; and, finally, Treasury must analyze the responses. A single "class or kind" of merchandise which is the subject of investigation may often include numerous different products of different sizes, shapes, qualities, and other features for each of which data must be collected and analyzed. The usual foreign submission normally deals with a number of additional complex issues such as price adjustments or differences in the home and foreign market. Finally, all of these problems are compounded when cost of production is an issue. The net result under the bill is likely to be the inability of Treasury to perform adequately these functions thus increasing the probability that artificial barriers to trade—suspension of liquidation—will be imposed.

2. *Overlapping consideration of injury and final determination of LTFV margins.*—As proposed in the bill, the ITC would begin its consideration of injury immediately upon an affirmative preliminary determination by Treasury. The ITC injury determination would then be due within 120 days after the preliminary affirmative determination or 45 days after an affirmative final determination. This could mean that the final determination of margins would not be known by the ITC and the interested parties until very late in the injury investigation. The amount of the margins is crucial to any examination of the causal relationship between those margins and "material" injury—whether material injury is "by reason of" the LTFV margins. The consideration of causation is an essential element of the injury investigation which the bill may preclude from meaningful considerations.

3. *Retroactive suspension of liquidation.*—While the current Antidumping Act provides for retroactive withholding of appraisement (suspension of liquidation), such action has never been taken. This provision is acknowledged to be an extraordinary procedure for extraordinary circumstances. The proposed Bill defines guidelines for retroactive suspension of liquidation under certain "critical circumstances." The commercial result is likely to be that U.S. importers who rarely are aware whether dumping is occurring will be reluctant to import immediately after initiation of an antidumping investigation because of the uncertainty concerning both the limits of the contingent dumping liability (which is never known for certain, but is absolutely unknown at the time of the initiation of an investigation) and the point at which this liability will be imposed even though there may be no dumping taking place.

4. *Material injury standard.*—The proposed new law defines "material" injury to be "a harm which is not inconsequential, immaterial, or unimportant." In our judgment, this more closely reflects the requirements of the Code than present law. We urge this committee to reject any attempts to compromise this definition in the language of the Committee Report.

5. *Deposit of estimated dumping duties.*—Possibly the most significant substantive change in the antidumping law proposed in S. 1376 is a requirement that estimated dumping duties be deposited once a final dumping finding is in effect. Under present law, dumping duties are not paid until a final assessment of each entry has been made and the actual amount of any dumping duties owing, if any, has been determined. This new requirement for advance deposit of estimated dumping duties, in our judgment, is a backlash from dumping investigations involving television receivers from Japan and the current backlog in assessing dumping duties at the Customs Service. Customs is roughly five years behind in assessing dumping duties on goods subject to antidumping findings.

In virtually all cases, however, dumping ceases after the imposition of a dumping finding because the choice is a simple one between eliminating the margin by, for instance, raising the price (thereby putting the money in the exporter's pocket) or not eliminating the dumping margin (thereby putting the money into Treasury's pocket). The purpose of the Antidumping Act has always been remedial, not punitive, and existing law and practice has been designed, up to now, to encourage an exporter to adjust prices to eliminate any margins. If this is done, no dumping duties need be assessed because the statutory purpose has been accomplished—dumping has been eliminated.

The proposed bill will provide for a grace period of three months following the final determination of injury by the USITC during which the bonding permitted under the suspension of liquidation will be permitted to continue.

This brief period may alleviate, at least in part, some of the punitive aspects of the initial proposal which required the deposit of estimated dumping duties immediately following a final determination. Unfortunately, this is the only provision for time limits in the bill which is permissive and not mandatory and whether, indeed, it can operate to remove the punitive aspects of the bill will depend, in large part, on the administration's willingness to exercise this discretion.

6. *Expansion of constructed value.*—Another important substantive change made by the bill which could adversely affect importers relates to the use of constructed value. Under current law, if price comparisions cannot be made with the home market, Treasury can use constructed value only if price comparisons with products sold in third country markets cannot be made. Under this bill, Treasury is permitted to use either third country or constructed value, at its discretion. Because constructed value requires an addition to the production of 10% for general expenses and 8% for profit—figures which have been recognized by the GAO to be highly arbitrary—constructed value is recognized to be the most arbitrary method of making fair value comparisons for purposes of establishing dumping.

7. *Expanded discretion to compute foreign market value.*—In a further effort to streamline the antidumping procedures, the proposed legislation provides authority for Treasury (or the administering agency) to use averaging or sampling techniques when computing foreign market value. Treasury may "decline to take into account adjustments which are insignificant in relation to the price or volume of the merchandise." As presently structured, the provisions provide absolutely no guidance to the use of discretion by Treasury regarding its ability to disallow adjustments.

AIA believes that importers should have at least the same rights with regard to the amount of duties they must pay as taxpayers have. Each taxpayer has a right to have his taxes assessed on the merits of his individual case, and each importer should have the same rights with regard to the amount of duties he must pay. As in the case with most changes made by this bill to "streamline" antidumping and countervailing duty procedures, the "streamlining" has taken place at the expense of importers.

8. *Disclosure of confidential information.*—The rules for protecting confidential information in both countervailing duty and antidumping proceedings are changed by the bill. At the Treasury Department, material which has been granted confidential treatment now will be disclosed to the representatives of the domestic industry under an administrative protective order. What this means is that all cost data, sales data and any other competitively sensitive information submitted by the exporter will be fully disclosed by Treasury to attorneys or other representatives of the domestic industry. While this order will forbid these representatives from disclosing the information to the domestic industry, we doubt whether Treasury truly will be able to insure the absolute confidentiality of information released under a protective order. This could inhibit cooperation from foreign suppliers and could impede probative investigation based upon the facts.

### B. COUNTERVAILING DUTIES

1. *Shortened time limits.*—Under the present statute, Treasury has six months from the date a petition is filed to issue a preliminary determination concerning the existence of a county or grant, and one year to make a final determination. In the case of duty-free products, the International trade Commission has an additional three months from the final determination to make a determination of injury.

Under the proposed bill, time limits would be shortened significantly while, at the same time, the administrative burden on Treasury will be increased during the preliminary stage by the requirement that all foreign responses be verified. Treasury (or a new administering agency) will have only 70 days following the initiation of the investigation to issue a preliminary determination. During this time, a questionnaire, must be presented in a foreign capital by our embassy; a response

must be prepared by the foreign exporters or government which usually entails a detailed accounting and analysis; the response must be delivered to Treasury; the response must be verified by Treasury officials visiting the foreign country; and last, but not least, Treasury must analyze the response, often with follow-up questions requiring additional answers from a foreign government. The danger is that Treasury will not have adequate time to consider all the information before rendering a preliminary determination in the normal case. Although there is an exception for complex cases, it is feared that the protectionist political climate will deter Treasury from extending the time for a preliminary investigation in situations where this might be necessary.

2. *Suspension of liquidation.*—Unlike present law, the bill requires a suspension of liquidation (withholding of appraisement) on entries made after an affirmative preliminary determination and Treasury will require the posting of bond or other measures to secure the payment of any countervailing duties on these entries. The combination of the shortened time limits, the increased burden on Treasury, and the withholding of appraisement will result in a much more restrictive proceeding which is more likely to yield an increasing percentage of affirmative determinations at the preliminary stage with the resulting barrier to trade in the form of suspensions of liquidation. Suspension of liquidation is a serious barrier to trade and carries a serious commercial impact because, in practical effect, importers cannot ascertain the amount of duty they will be required to pay. In the face of what amounts to an open-ended contingent liability, importers tend to avoid doing business with any exporter whose goods are subject to an order. The effect of this provision is to reduce competition for domestic interests even before any statutory liability has been established.

3. *Overlapping of final determination of subsidy and injury determination.*—As in the case of the proposed new antidumping provisions, there will be overlapping consideration of the final determination of a bounty or grant and injury determination if the preliminary determination is in the affirmative. While the 120 day period for the ITC investigation is longer than the current three months for an injury determination under the Antidumping Act, the commission will have only 45 days following the final Treasury determination. This could cause the same problem which was discussed previously on antidumping cases, namely, that there might not be adequate time or evidence for the ITC to consider adequately the question of causation.

4. *Material injury standard.*—We strongly endorse the concept of a "material" injury finding in countervailing duty cases, and consider this to be a major improvement over present law. Agains, as in the case of the proposed new antidumping provisions, we urge that of this committee conform United States law to the Code and reject any attempt to modify the definition of injury in the Report.

5. *Calculation of net subsidy.*—The proposed legislation expands the concept of a subsidy by limiting the adjustments that may be made to the gross subsidy in order to calculate the net benefit or net subsidy. In general, the bill will restrict the ability of Treasury to determine the true net benefit of a subsidy will result in an overstatement of the amount of subsidy received. One change in practice that will occur because of this provision involves Treasury's treatment of regional aid. Under current Treasury practice, which the Ways and Means Committee attempted to codify, a regional subsidy given in return for proven cost dislocations is not considered a bounty or grant—it does not give advantage but merely equalizes competition.

The provision adopted in the bill, however, specifically ignores any reference to cost dislocations or "verifiable costs" actually assumed to qualify for or otherwise actually receive a subsidy and could prevent Treasury from considering cost dislocations when calculating the net subsidy.

Treasury's current method of analyzing regional assistance by weighing the net benefit resulting from regional assistance against the recipient's export percentage will also end as a result of the bill. Under current practice if the *ad valorem* benefit to exports is relatively high or the percentage of the firm's exportation is relatively high, Treasury considers the regional aid to be a bounty or grant because the preponderant effect of the program is deemed to have shifted to the export market. The economic realism of existing Treasury practice is no longer permitted; an inflexible artifical methodology taking no account of export percentage has been substituted.

### C. SOME OTHER OBJECTIONABLE PROVISIONS

1. The so-called "snapback" of textile product tariff reductions should the Multifiber Arrangement not be extended only adds insult to injury. The uneven and shallow textile and apparel tariff cuts on average are meaningless, since the U.S.

will still maintain the highest level of tariff protection of any of our major trading partners.

2. While we applaud the long-overdue elimination of the American Selling Price method of valuation, we must object to the new tariffs on low priced shoes—tariffs converted to astonishing levels far above those recommended by the ITC as necessary to equalize the loss of ASP protection and tariff levels which will not be reduced in the President's rate reduction proclamation: This generous concession to one industry hurts the poor people of this country and is only another examples of our government's failure to consider the interest of consumers in low-priced imports.

3. The authorization to auction import licenses while limited in its presently proposed application is an unfortuante precedent easily expanded at a later date. Auctioning places small importers at an extraordinary disadvantage. The effect of such a scheme is further concentration of an industry once dominated by small companies and reduced competition for those products under license. Retail and wholesale costs of licensed products will increase further as parties enter the import transaction chain to broker quota licenses.

4. The American Importers Association fails to understand the pressure being exerted presumably to move the United States to a c.i.f. basis for valuation from the present f.o.b. basis. Such a change, if imposed neutrally, would serve no conceivable purpose and would not promote or restrict trade. It would only serve to increase the cost and paperwork burden for U.S. importers and would almost certainly add to inflation. Some of our major port cities, including the Port of New York would stand to lose a substantial amount of business from such a move. Since trade statistics are already being reported on a c.i.f. basis, this country would not obtain an improved statistical reading of our trade transactions.

The bill would achieve a propaganda effect by requiring the publication of trade statistics on a c.i.f. basis several days before the f.o.b. figures are released, thereby "apparently" inflating our trade deficit; such figures are already in balance of payment statistics as reported. We hope that this expensive exercise is the extent of the desires of this Congress on this subject.

5. The changes in the Generalized System of Preferences proposed in this bill are needed and will improve the program. Nevertheless section 1111 raises several curious questions. Why was no change proposed to cure the most serious administrative burden imposed by the Trade Act rules—the severely short time limit for effecting annual changes in dutiable status? Why was the effective date for section 1111 not made concurrent with the annual program change?

Each year changes in duty free eligibility for articles under GSP must be made within 60 days after the close of the calendar year, approximately March 1. The administration can barely meet that deadline and, in fact, this year did not publish those changes until four days after they were effective. Users of GSP, both American and foreign, obviously find it extremely difficult to make business decisions involving potentially affected products.

The problem is purely an administrative one and the STR twice stated publicly that they would seek a statutory extension of the deadline in this bill. We are aware of no opposition to the change and cannot conceive of any reason for opposition to a change intended only to expedite administration and business procedures. Yet the change never made it into the bill.

The amendments made to GSP in section 1111 are effective on April 1, 1980, however. For at least one amendment that date is either unintended or incomprehensible. Under this change, any product now eligible for GSP treatment that exceeds 50 percent of total U.S. imports of that product in calendar 1979 but has a total volume of less than $1 million will become dutiable on March 1, 1980, under the old law and then will become duty-free again one month later when the amendment takes effect (should the President exercise the discretion granted in the section).

We hope that these compoundings of administrative complexity instead of easing the burden on the government and business were a drafter's oversight and an unintended omission and were not intentional. We further hope that this complex bill which was drafted hurriedly and without the benefit of thorough public examination is not replete with such technical errors. We have indicated already that we believe the bill contains conceptual mistakes. Our frustration over section 1111 exemplifies our unhappy hesitation over supporting S. 1376.

GENERAL COMMENTS

Before making our final comments on the bill itself we wish to address where we believe S. 1376 wrongly focuses American thoughts about the effects of our international trade on the U.S. economy and the American citizen.

This bill was written under the philosophy that U.S. corporations need extensive protection from foreign competition. AIA takes issue with this philosophy and laments the opportunity this bill has rejected to turn our concentration from attempts to prolong the life of yesterday's U.S. industrial structure to a concerted effort to move into tomorrow's high technology industries.

Maintaining market oriented trade policies that our industries adapt to changes in foreign competition, just as they adapt to internal domestic competition. The nation's interests are not served by freezing resources in industries that are increasingly uncompetitive in the international marketplace.

In an era of innovation and technological change—where new industries emerge often at the expense of others, we must ensure that our productive resources are channeled into tomorrow's industries, rather than yesterday's.

Restrictions on imports result in higher prices, both for the restricted import and for domestic products which typically follow with matching price increases. A decrease in imports, coupled with higher price levels may well result in increased output and employment in protected industries. However, the higher prices will ultimately lead to a reduction in real consumer incomes, and hence tend to reduce overall real consumption, output, and ultimately, slower employment growth. In addition, these increases to U.S. cost levels render our manufacturers less competitive in the world market, even in those cases in which the now higher priced imports are not directly incorporated into an exportable product.

Government restrictions on imports are government restrictions on competition—the proclaimed centerpiece of American economic policy. S. 1376 has on balance opted for restrictions on competition. The immediate effects may seem beneficial as protected industries reap the benefits of lessened competition, but the ultimate effects on consumer prices and the increased inability of our industries to compete in international markets, among other effects, may never be traced back to the choices made in writing this bill. Until this casual relationship is recognized, our economy will continue to bear this self-imposed burden.

We agree with Professor Melvyn B. Krauss (Wall Street Journal, June 29, 1979) that failure to ratify the trade agreement: "Would be an unmistakable signal of American withdrawal into a protectionist shell, ratification on the other hand only would be a necessary and not sufficient condition for reaffirming America's commitment to a liberal internationl economic order. For the latter, Americans must become convinced of what many more interventionist states only recently have begun to realize; that the real threat of 'new protectionists' subsidies is not so much to international trade but to the economic base of the subsidizing country. It is ironic that protectionists in this country often argue for protectionism on the grounds of a strong America when, in fact, the policies they advocate insure the opposite."

While agreeing with Professor Krauss, the American Importers Association recommends passage of this bill. Nevertheless, we urge you to remember that the necessary work on expanding international trade is not finished upon passage. It has only begun. The United States sorely needs a comprehensive examination of its international trade policies for the remainder of this century.

## CONCLUSION

This testimony is not intended to imply that AIA opposes the entire implementing package. We believe, for instance, that the new Customs Valuation Code with its implementing language is a major improvement over present law, as is the "material injury" requirement for countervailing duty and antidumping cases, if not diluted by Report language.

However, we have chosen to emphasize in this testimony the deficiencies of the proposed bill so as to alert your to the new "legal barriers" to trade it creates. We believe the erection of these "legal barriers" will have long-range consequences for our domestic economy as well as for our international trade posture.

It is ironic, in our judgment, that the Tokyo Round, specifically intended to reduce non-tariff barriers around the world, has set the stage for a new form of protectionism at home. This bill, without raising tariffs or imposing quotas, will seriously disrupt import competition and distort trade.

The United States has a legitimate interest in protecting its market from imports which are subsidized or sold at unfair prices in violation of the Codes. What has happened, however, is that these proceedings have become a nightmare of technicalities and procedural mazes which amount to a new non-tariff barrier to trade. Surely, this was not the intent of the Codes negotiated in Geneva.

Since the bill encourages domestic industries to seek relief from import competition, there will undoubtly be a multiplicity of new cases filed, accompanied, of course, by an increase in government costs to administer these programs. The

administering agency, with shortened time periods for investigations, a heavier caseload, and truncated and difficult procedures to follow, will be forced into more arbitrary decisionmaking. This is unfair both to domestic industries and foreign suppliers. However, given the present protectionist climate, we believe there will be a dramatic increase in the number of affirmative findings.

The mere filing of an antidumping or countervailing duty case under the new law will seriously disrupt imports and lessen price competition. Importers will tend to avoid doing business with any foreign exporter whose goods are subject to an order since they cannot ascertain the amount of duty they will be required to pay in what amounts to an open-ended contingent liability.

If our predictions are correct concerning this bill, and more particularly the changes incorporated into the antidumping and countervailing duty law, we believe that we will see extensive retaliation by trading partners—possibly through the erection of other new "legal barriers", modeled after our own, against U.S. exports.

A multiplicity of antidumping and countervailing duty actions in the United States is bound to be followed by petitions by industry in nations which are our major trading partners. If their procedures parallel those which are embodied in this bill the stage will be set for an escalation of protectionism in the guise of defense against "unfair" trade practices. United States exporters are not unsubsidized, and differential pricing is a common practice among our exporters. In enacting these provisions we believe the Congress should have taken more fully into account our position as an exporting nation.

If retaliatory or defensive actions are taken by our trading partners, the stage will be set for a trade war, but we would hope that the response of the U.S. will be a reevaluation of the provisions of the Codes and this implementing legislation.

Senator RIBICOFF. The committee will stand adjourned until tomorrow afternoon at 2:30.

[Whereupon, at 1 p.m., the hearing was adjourned, the committee to reconvene at 2:30 p.m., Wednesday, July 11, 1979.]

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