

# TRADE REFORM

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## MESSAGE

FROM

# THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

DRAFTS OF PROPOSED LEGISLATION TO PROMOTE THE DEVELOPMENT OF AN OPEN, NONDISCRIMINATORY AND FAIR WORLD ECONOMIC SYSTEM, TO STIMULATE THE ECONOMIC GROWTH OF THE UNITED STATES, AND TO PROVIDE THE PRESIDENT WITH ADDITIONAL NEGOTIATING AUTHORITY THEREFOR, AND FOR OTHER PURPOSES; AND TO AMEND THE FEDERAL TRADE COMMISSION ACT AND THE EXPORT TRADE ACT AS AMENDED TO DEAL WITH UNFAIR COMPETITION IN IMPORTS, TO PROVIDE FOR CLARIFICATION OF LAW, FOR PRIOR FEDERAL TRADE COMMISSION CLEARANCE OF EXPORT TRADE ASSOCIATIONS, AND FOR OTHER PURPOSES



APRIL 10, 1973.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

*To the Congress of the United States :*

The Trade Reform Act of 1973, which I am today proposing to the Congress, calls for the most important changes in more than a decade in America's approach to world trade.

This legislation can mean more and better jobs for American workers.

It can help American consumers get more for their money.

It can mean expanding trade and expanding prosperity, for the United States and for our trading partners alike.

Most importantly, these proposals can help us reduce international tensions and strengthen the structure of peace.

The need for trade reform is urgent. The task of trade reform requires an effective, working partnership between the executive and legislative branches. The legislation I submit today has been developed in close consultation with the Congress and it envisions continuing cooperation after it is enacted. I urge the Congress to examine these proposals in a spirit of constructive partnership and to give them prompt and favorable consideration.

This legislation would help us to:

- Negotiate for a more open and equitable world trading system;
- Deal effectively with rapid increases in imports that disrupt domestic markets and displace American workers;
- Strengthen our ability to meet unfair competitive practices;
- Manage our trade policy more efficiently and use it more effectively to deal with special needs such as our balance of payments and inflation problems; and
- Take advantage of new trade opportunities while enhancing the contribution trade can make to the development of poorer countries.

*Strengthening the Structure of Peace*

The world is embarked today on a profound and historic movement away from confrontation and toward negotiation in resolving international differences. Increasingly in recent years, countries have come to see that the best way of advancing their own interests is by expanding peaceful contacts with other peoples. We have thus begun to erect a durable structure of peace in the world from which all nations can benefit and in which all nations have a stake.

This structure of peace cannot be strong, however, unless it encompasses international economic affairs. Our progress toward world peace and stability can be significantly undermined by economic conflicts which breed political tensions and weaken security ties. It is imperative, therefore, that we promptly turn our negotiating efforts to the task of resolving problems in the economic arena.

My trade reform proposals would equip us to meet this challenge. They would help us in creating a new economic order which both reflects and reinforces the progress we have made in political affairs. As

I said to the Governors of the International Monetary Fund last September, our common goal should be to "set in place an economic structure that will help and not hinder the world's historic movement toward peace."

### *Toward a New International Economic Order*

The principal institutions which now govern the world economy date from the close of World War II. At that time, the United States enjoyed a dominant position. Our industrial and agricultural systems had emerged from the war virtually intact. Our substantial reserves enabled us to finance a major share of international reconstruction. We gave generously of our resources and our leadership in helping the world economy get back on track.

The result has been a quarter century of remarkable economic achievement—and profound economic change. In place of a splintered and shattered Europe stands a new and vibrant European Community. In place of a prostrate Japan stands one of the free world's strongest economies. In all parts of the world new economic patterns have developed and new economic energies have been released.

These successes have now brought the world into a very different period. America is no longer the sole, dominating economic power. The new era is one of growing economic interdependence, shared economic leadership, and dramatic economic change.

These sweeping transformations, however, have not been matched by sufficient change in our trading and monetary systems. The approaches which served us so well in the years following World War II have now become outmoded; they are simply no longer equal to the challenges of our time.

The result has been a growing sense of strain and stress in the international economy and even a resurgence of economic isolationism as some have sought to insulate themselves from change. If we are to make our new economic era a time of progress and prosperity for all the world's peoples, we must resist the impulse to turn inward and instead do all we can to see that our international economic arrangements are substantially improved.

### *Momentum for Change*

The United States has already taken a number of actions to help build a new international economic order and to advance our interests within it.

- Our New Economic Policy, announced on August 15, 1971, has helped to improve the performance of our domestic economy, reducing unemployment and inflation and thereby enhancing our competitive position.
- The realignment of currencies achieved under the Smithsonian Agreement of December 18, 1971, and by the adjustments of recent weeks have also made American goods more competitive with foreign products in markets at home and abroad.
- Building on the Smithsonian Agreement, we have advanced far-reaching proposals for lasting reform in the world's monetary system.
- We have concluded a trade agreement with the Soviet Union that promises to strengthen the fabric of prosperity and peace.

- Opportunities for mutually beneficial trade are developing with the People's Republic of China.
- We have opened negotiations with the enlarged European Community and several of the countries with which it has concluded special trading agreements concerning compensation due us as a result of their new arrangements.

But despite all these efforts, underlying problems remain. We need basic trade reform, and we need it now. Our efforts to improve the world's monetary system, for example, will never meet with lasting success unless basic improvements are also achieved in the field of international trade.

### *Building a Fair and Open Trading World*

A wide variety of barriers to trade still distort the world's economic relations, harming our own interests and those of other countries.

- Quantitative barriers hamper trade in many commodities, including some of our potentially most profitable exports.
- Agricultural barriers limit and distort trade in farm products, with special damage to the American economy because of our comparative advantage in the agricultural field.
- Preferential trading arrangements have spread to include most of Western Europe, Africa and other countries bordering on the Mediterranean Sea.
- Non-tariff barriers have greatly proliferated as tariffs have declined.

These barriers to trade, in other countries and in ours, presently cost the United States several billion dollars a year in the form of higher consumer prices and the inefficient use of our resources. Even an economy as strong as ours can ill afford such losses.

Fortunately, our major trading partners have joined us in a commitment to broad, multilateral trade negotiations beginning this fall. These negotiations will provide a unique opportunity for reducing trading barriers and expanding world trade.

It is in the best interest of every nation to sell to others the goods it produces more efficiently and to purchase the goods which other nations produce more efficiently. If we can operate on this basis, then both the earnings of our workers and the buying power of our dollars can be significantly increased.

But while trade should be more open, it should also be more fair. This means, first, that the rules and practices of trade should be fair to all nations. Secondly, it means that the benefits of trade should be fairly distributed among American workers, farmers, businessmen and consumers alike and that trade should create no undue burdens for any of these groups.

I am confident that our free and vigorous American economy can more than hold its own in open world competition. But we must always insist that such competition take place under equitable rules.

### *The Urgent Need for Action*

The key to success in our coming trade negotiations will be the negotiating authority the United States brings to the bargaining table. Unless our negotiators can speak for this country with sufficient authority, other nations will undoubtedly be cautious and non-committal—and the opportunity for change will be lost.

We must move promptly to provide our negotiators with the authority their task requires. Delay can only aggravate the strains we have already experienced. Disruptions in world financial markets, deficits in our trading balance, inflation in the international marketplace, and tensions in the diplomatic arena all argue for prompt and decisive action. So does the plight of those American workers and businesses who are damaged by rapidly rising imports or whose products face barriers in foreign markets.

For all of these reasons, I urge the Congress to act on my recommendations as expeditiously as possible. We face pressing problems here and now. We cannot wait until tomorrow to solve them.

#### *Providing New Negotiating Authorities*

Negotiators from other countries will bring to the coming round of trade discussions broad authority to alter their barriers to trade. Such authority makes them more effective bargainers; without such authority the hands of any negotiator would be severely tied.

Unfortunately, the President of the United States and those who negotiate at his direction do not now possess authorities comparable to those which other countries will bring to these bargaining sessions. Unless these authorities are provided, we will be badly hampered in our efforts to advance American interests and improve our trading system.

My proposed legislation therefore calls upon the Congress to delegate significant new negotiating authorities to the executive branch. For several decades now, both the Congress and the President have recognized that trade policy is one field in which such delegations are indispensable. This concept is clearly established; the questions which remain concern the degree of delegation which is appropriate and the conditions under which it should be carried out.

The legislation I submit today spells out only that degree of delegation which I believe is necessary and proper to advance the national interest. And just as we have consulted closely with the Congress in shaping this legislation, so the executive branch will consult closely with the Congress in exercising any negotiating authorities it receives. I invite the Congress to set up whatever mechanism it deems best for closer consultation and cooperation to ensure that its views are properly represented as trade negotiations go forward.

It is important that America speak authoritatively and with a single voice at the international bargaining table. But it is also important that many voices contribute as the American position is being shaped.

The proposed Trade Reform Act of 1973 would provide for the following new authorities:

First, I request authority to eliminate, reduce, or increase customs duties in the context of negotiated agreements. Although this authority is requested for a period of five years, it is my intention and my expectation that agreements can be concluded in a much shorter time. Last October, the member governments of the European Community expressed their hope that the coming round of trade negotiations will be concluded by 1975. I endorse this timetable and our negotiators will cooperate fully in striving to meet it.

Secondly, I request a Congressional declaration favoring negotiations and agreements on non-tariff barriers. I am also asking that a new, optional procedure be created for obtaining the approval of the Congress for such agreements when that is appropriate. Currently both Houses of the Congress must take positive action before any such agreement requiring changes in domestic law becomes effective—a process which makes it difficult to achieve agreements since our trading partners know it is subject to much uncertainty and delay. Under the new arrangement, the President would give notice to the Congress of his intention to use the procedure at least 90 days in advance of concluding an agreement in order to provide time for appropriate House and Senate Committees to consider the issues involved and to make their views known. After an agreement was negotiated, the President would submit that agreement and proposed implementing orders to the Congress. If neither House rejected them by a majority vote of all members within a period of 90 days, the agreement and implementing orders would then enter into effect.

Thirdly, I request advance authority to carry out mutually beneficial agreements concerning specific customs matters primarily involving valuation and the marking of goods by country of origin.

The authorities I outline in my proposed legislation would give our negotiators the leverage and the flexibility they need to reduce or eliminate foreign barriers to American products. These proposals would significantly strengthen America's bargaining position in the coming trade negotiations.

#### *Objectives in Agricultural Trade*

I am not requesting specific negotiating authority relating to agricultural trade. Barriers to such trade are either tariff or non-tariff in nature and can be dealt with under the general authorities I am requesting.

One of our major objectives in the coming negotiations is to provide for expansion in agricultural trade. The strength of American agriculture depends on the continued expansion of our world markets—especially for the major bulk commodities our farmers produce so efficiently. Even as we have been moving toward a great reliance on free market forces here at home under the Agricultural Act of 1970, so we seek to broaden the role of market forces on the international level by reducing and removing barriers to trade in farm products.

I am convinced that the concerns which all nations have for their farmers and consumers can be met most effectively if the market plays a far greater role in determining patterns of agricultural production and consumption. Movement in this direction can do much to help ensure adequate supplies of food and relieve pressure on consumer prices.

#### *Providing for Import Relief*

As other countries agree to reduce their trading barriers, we expect to reduce ours. The result will be expanding trade, creating more and better jobs for the American people and providing them with greater access to a wider variety of products from other countries.

It is true, of course, that reducing import barriers has on some

occasions led to sudden surges in imports which have had disruptive effects on the domestic economy. It is important to note, however, that most severe problems caused by surging imports have not been related to the reduction of import barriers. Steps toward a more open trading order generally have a favorable rather than an unfavorable impact on domestic jobs.

Nevertheless, damaging import surges, whatever their cause, should be a matter of great concern to our people and our Government. I believe we should have effective instruments readily available to help avoid serious injury from imports and give American industries and workers time to adjust to increased imports in an orderly way. My proposed legislation outlines new measures for achieving these goals.

To begin with, I recommend a less restrictive test for invoking import restraints. Today restraints are authorized only when the Tariff Commission finds that imports are the "major cause" of serious injury or threat thereof to a domestic industry, meaning that their impact must be larger than that of all other causes combined. Under my proposal, restraints would be authorized when import competition was the "primary cause" of such injury, meaning that it must only be the largest single cause. In addition, the present requirement that injury must result from a previous tariff concession would be dropped.

I also recommend a new method for determining whether imports actually are the primary cause of serious injury to domestic producers. Under my proposal, a finding of "market disruption" would constitute *prima facie* evidence of that fact. Market disruption would be defined as occurring when imports are substantial, are rising rapidly both absolutely and as a percentage of total domestic consumption, and are offered at prices substantially below those of competing domestic products.

My proposed legislation would give the President greater flexibility in providing appropriate relief from import problems—including orderly marketing agreements or higher tariffs or quotas. Restraints could be imposed for an initial period of five years and, at the discretion of the President, could be extended for an additional period of two years. In exceptional cases, restrictions could be extended even further after a two-year period and following a new investigation by the Tariff Commission.

#### *Improving Adjustment Assistance*

Our responsibilities for easing the problems of displaced workers are not limited to those whose unemployment can be traced to imports. All displaced workers are entitled to adequate assistance while they seek new employment. Only if all workers believe they are getting a fair break can our economy adjust effectively to change.

I will therefore propose in a separate message to the Congress new legislation to improve our systems of unemployment insurance and compensation. My proposals would set minimum Federal standards for benefit levels in State programs, ensuring that all workers covered by such programs are treated equitably, whatever the cause of their involuntary unemployment. In the meantime, until these standards become effective, I am recommending as a part of my trade reform proposals that we immediately establish benefit levels which meet these proposed general standards for workers displaced because of imports.

I further propose that until the new standards for unemployment insurance are in place, we make assistance for workers more readily available by dropping the present requirement that their unemployment must have been caused by prior tariff concessions and that imports must have been the "major cause" of injury. Instead, such assistance would be authorized if the Secretary of Labor determined that unemployment was substantially due to import-related causes. Workers unemployed because of imports would also have job training, job search allowances, employment services and relocation assistance available to them as permanent features of trade adjustment assistance.

In addition, I will submit to the Congress comprehensive pension reform legislation which would help protect workers who lose their jobs against loss of pension benefits. This legislation will contain a mandatory vesting requirement which has been developed with older workers particularly in mind.

The proposed Trade Reform Act of 1973 would terminate the present program of adjustment assistance to individual firms. I recommend this action because I believe this program has been largely ineffective, discriminates among firms within a given industry and has needlessly subsidized some firms at the taxpayer's expense. Changing competitive conditions, after all, typically act not upon particular firms but upon an industry as a whole and I have provided for entire industries under my import relief proposals.

#### *Dealing with Unfair Trade Practices*

The President of the United States possesses a variety of authorities to deal with unfair trade practices. Many of these authorities must now be modernized if we are to respond effectively and even-handedly to unfair import competition at home and to practices which unfairly prejudice our export opportunities abroad.

To cope with unfair competitive practices in our own markets, my proposed legislation would amend our antidumping and countervailing duty laws to provide for more expeditious investigations and decisions. It would make a number of procedural and other changes in these laws to guarantee their effective operation. The bill would also amend the current statute concerning patent infringement by subjecting cases involving imports to judicial proceedings similar to those which involve domestic infringement, and by providing for fair processes and effective action in the event of court delays. I also propose that the Federal Trade Commission Act be amended to strengthen our ability to deal with foreign producers whose cartel or monopoly practices raise prices in our market or otherwise harm our interest by restraining trade.

In addition, I ask for a revision and extension of my authority to raise barriers against countries which unreasonably or unjustifiably restrict our exports. Existing law provides such authority only under a complex array of conditions which vary according to the practices or exports involved. My proposed bill would simplify the authority and its use. I would prefer, of course, that other countries agree to remove such restrictions on their own, so that we should not have to use this authority. But I will consider using it whenever it becomes clear that our trading partners are unwilling to remove unreasonable or unjustifiable restrictions against our exports.

### *Other Major Provisions*

*Most-Favored-Nation Authority.*—My proposed legislation would grant the President authority to extend most-favored-nation treatment to any country when he deemed it in the national interest to do so. Under my proposal, however, any such extension to countries not now receiving most-favored-nation treatment could be vetoed by a majority vote of either the House or the Senate within a three-month period.

This new authority would enable us to carry out the trade agreement we have negotiated with the Soviet Union and thereby ensure that country's repayment of its lend-lease debt. It would also enable us to fulfill our commitment to Rumania and to take advantage of opportunities to conclude beneficial agreements with other countries which do not now receive most-favored-nation treatment.

In the case of the Soviet Union, I recognize the deep concern which many in the Congress have expressed over the tax levied on Soviet citizens wishing to emigrate to new countries. However, I do not believe that a policy of denying most-favored-nation treatment to Soviet exports is a proper or even an effective way of dealing with this problem.

One of the most important elements of our trade agreement with the Soviet Union is the clause which calls upon each party to reduce exports of products which cause market disruptions in the other country. While I have no reason to doubt that the Soviet Union will meet its obligations under this clause if the need arises, we should still have authority to take unilateral action to prevent disruption if such action is warranted.

Because of the special way in which state-trading countries market their products abroad, I would recommend two modifications in the way we take such action. First, the Tariff Commission should only have to find "material injury" rather than "serious injury" from imports in order to impose appropriate restraints. Secondly, such restraints should apply only to exports from the offending country. These recommendations can simplify our laws relating to dumping actions by state-trading countries, eliminating the difficult and time-consuming problems associated with trying to reach a constructed value for their exports.

*Balance of Payments Authority.*—Though it should only be used in exceptional circumstances, trade policy can sometimes be an effective supplementary tool for dealing with our international payments imbalances. I therefore request more flexible authority to raise or lower import restrictions on a temporary basis to help correct deficits or surpluses in our payments position. Such restraints could be applied to imports from all countries across the board or only to those countries which fail to correct a persistent and excessive surplus in their global payments position.

*Anti-Inflation Authority.*—My trade recommendations also include a proposal I made on March 30th as a part of this Administration's effort to curb the rising cost of living. I asked the Congress at that time to give the President new, permanent authority to reduce certain import barriers temporarily and to a limited extent when he determined that such action was necessary to relieve inflationary pressures within the United States. I again urge prompt approval for this important weapon in our war against inflation.

*Generalized Tariff Preferences.*—Another significant provision of my proposed bill would permit the United States to join with other developed countries, including Japan and the members of the European Community, in helping to improve the access of poorer nations to the markets of developed countries. Under this arrangement, certain products of developing nations would benefit from preferential treatment for a ten-year period, creating new export opportunities for such countries, raising their foreign exchange earnings, and permitting them to finance those higher levels of imports that are essential for more rapid economic growth.

This legislation would allow duty-free treatment for a broad range of manufactured and semi-manufactured products and for a selected list of agricultural and primary products which are now regulated only by tariffs. It is our intention to exclude certain import-sensitive products such as textile products, footwear, watches and certain steel products from such preferential treatment, along with products which are now subject to outstanding orders restricting imports. As is the case for the multilateral negotiations authority, public hearing procedures would be held before such preferences were granted and preferential imports would be subject to the import relief provisions which I have recommended above. Once a particular product from a given country became fully competitive, however, it would no longer qualify for special treatment.

The United States would grant such tariff preferences on the basis of international fair play. We would take into account the actions of other preference-granting countries and we would not grant preferences to countries which discriminate against our products in favor of goods from other industrialized nations unless those countries agreed to end such discrimination.

*Permanent Management Authorities.*—To permit more efficient and more flexible management of American trade policy, I request permanent authority to make limited reductions in our tariffs as a form of compensation to other countries. Such compensation could be necessary in cases where we have raised certain barriers under the new import restraints discussed above and would provide an alternative in such cases to increased barriers against our exports.

I also request permanent authority to offer reductions in particular United States barriers as a means of obtaining significant advantages for American exports. These reductions would be strictly limited; they would involve tariff cuts of no more than 20 percent covering no more than two percent of total United States imports in any one year.

#### *Reforming International Trading Rules*

The coming multilateral trade negotiations will give us an excellent opportunity to reform and update the rules of international trade. There are several areas where we will seek such changes.

One important need concerns the use of trade policy in promoting equilibrium in the international payments system. We will seek rule changes to permit nations, in those exceptional cases where such measures are necessary, to increase or decrease trade barriers across the board as one means of helping to correct their payments imbalances. We will also seek a new rule allowing nations to impose import restrictions against individual countries which fail to take effective action to correct an excessive surplus in their balance of payments.

This rule would parallel the authority I have requested to use American import restrictions to meet our own balance of payments problem.

A second area of concern is the need for a multilateral system for limiting imports to protect against disruptions caused by rapidly changing patterns of international trade. As I emphasized earlier, we need a more effective domestic procedure to meet such problems. But it is also important that new arrangements be developed at the international level to cope with disruptions caused by the accelerating pace of change in world trade.

We will therefore seek new international rules which would allow countries to gain time for adjustment by imposing import restrictions, without having to compensate their trading partners by simultaneously reducing barriers to other products. At the same time, the interests of exporting countries should be protected by providing that such safeguards will be phased out over a reasonable period of time.

#### *Promoting Export Expansion*

As trade barriers are reduced around the world, American exports will increase substantially, enhancing the health of our entire economy.

Already our efforts to expand American exports have moved forward on many fronts. We have made our exports more competitive by realigning exchange rates. Since 1971, our new law permitting the establishment of Domestic International Sales Corporations has been helping American companies organize their export activities more effectively. The lending, guaranty and insurance authorities of the Export-Import Bank have been increased and operations have been extended to include a short-term discount loan facility. The Department of Commerce has reorganized its facilities for promoting exports and has expanded its services for exporters. The Department of State, in cooperation with the Department of Commerce, is giving increased emphasis to commercial service programs in our missions abroad.

In addition, I am today submitting separate legislation which would amend the Export Trade Act in order to clarify the legal framework in which associations of exporters can function. One amendment would make it clear that the act applies not only to the export of goods but also to certain kinds of services—architecture, construction, engineering, training and management consulting, for example. Another amendment would clarify the exemption of export associations from our domestic antitrust laws, while setting up clear information, disclosure and regulatory requirements to ensure that the public interest is fully protected.

In an era when more countries are seeking foreign contracts for entire industrial projects—including steps ranging from engineering studies through the supply of equipment and the construction of plants—it is essential that our laws concerning joint export activities allow us to meet our foreign competition on a fair and equal basis.

#### *The Growth of International Investment*

The rapid growth of international investment in recent years has raised new questions and new challenges for businesses and governments. In our own country, for example, some people have feared that American investment abroad will result in a loss of American jobs.

Our studies show, however, that such investment on balance has meant more and better jobs for American workers, has improved our balance of trade and our overall balance of payments, and has generally strengthened our economy. Moreover, I strongly believe that an open system for international investment, one which eliminates artificial incentives or impediments here and abroad, offers great promise for improved prosperity throughout the world.

It may well be that new rules and new mechanisms will be needed for international investment activities. It will take time, however, to develop them. And it is important that they be developed as much as possible on an international scale. If we restrict the ability of American firms to take advantage of investment opportunities abroad, we can only expect that foreign firms will seize these opportunities and prosper at our expense.

I therefore urge the Congress to refrain from enacting broad new changes in our laws governing direct foreign investment until we see what possibilities for multilateral agreements emerge.

It is in this context that we must also shape our system for taxing the foreign profits of American business. Our existing system permits American-controlled businesses in foreign countries to operate under the same tax burdens which apply to its foreign competitors in that country. I believe that system is fundamentally sound. We should not penalize American business by placing it at a disadvantage with respect to its foreign competitors.

American enterprises abroad now pay substantial foreign income taxes. In most cases, in fact, Americans do not invest abroad because of an attractive tax situation but because of attractive business opportunities. Our income taxes are not the cause of our trade problems and tax changes will not solve them.

The Congress exhaustively reviewed this entire matter in 1962 and the conclusion it reached then is still fundamentally sound: there is no reason that our tax credit and deferral provisions relating to overseas investment should be subjected to drastic surgery.

On the other hand, ten years of experience have demonstrated that in certain specialized cases American investment abroad can be subject to abuse. Some artificial incentives for such investment still exist, distorting the flow of capital and producing unnecessary hardship. In those cases where unusual tax advantages are offered to induce investment that might not otherwise occur, we should move to eliminate that inducement.

A number of foreign countries presently grant major tax inducements such as extended "holidays" from local taxes in order to attract investment from outside their borders. To curb such practices, I will ask the Congress to amend our tax laws so that earnings from new American investments which take advantage of such incentives will be taxed by the United States at the time they are earned—even though the earnings are not returned to this country. The only exception to this provision would come in cases where a bilateral tax treaty provided for such an exception under mutually advantageous conditions.

American companies sometimes make foreign investments specifically for the purpose of re-exporting products to the United States. This is the classic "runaway plant" situation. In cases where foreign subsidiaries of American companies have receipts from exports to the

United States which exceed 25 percent of the subsidiaries' total receipts. I recommend that the earnings of those subsidiaries also be taxed at current American rates. This new rule would only apply, however, to new investments and to situations where lower taxes in the foreign country are a factor in the decision to invest. The rule would also provide for exceptions in those unusual cases where our national interest required a different result.

There are other situations in which American companies so design their foreign operations that the United States treasury bears the burden when they lose money and deduct it from their taxes. Yet when that same company makes money, a foreign treasury receives the benefit of taxes on its profits. I will ask the Congress to make appropriate changes in the rules which now allow this inequity to occur.

We have also found that taxing of mineral imports by United States companies from their foreign affiliates is subject to lengthy delays. I am therefore instructing the Department of the Treasury, in consultation with the Department of Justice and the companies concerned, to institute a procedure for determining inter-company prices and tax payments in advance. If a compliance program cannot be developed voluntarily, I shall ask for legislative authority to create one.

### *The Challenge of Change*

Over the past year, this Administration has repeatedly emphasized the importance of bringing about a more equitable and open world trading system. We have encouraged other nations to join in negotiations to achieve this goal. The declaration of European leaders at their summit meeting last October demonstrates their dedication to the success of this effort. Japan, Canada and other nations share this dedication.

The momentum is there. Now we—in this country—must seize the moment if that momentum is to be sustained.

When the history of our time is written, this era will surely be described as one of profound change. That change has been particularly dramatic in the international economic arena.

The magnitude and pace of economic change confronts us today with policy questions of immense and immediate significance. Change can mean increased disruption and suffering, or it can mean increased well-being. It can bring new forms of deprivation and discrimination, or it can bring wider sharing of the benefits of progress. It can mean conflict between men and nations, or it can mean growing opportunities for fair and peaceful competition in which all parties can ultimately gain.

My proposed Trade Reform Act of 1973 is designed to ensure that the inevitable changes of our time are beneficial changes—for our people and for people everywhere.

I urge the Congress to enact these proposals, so that we can help move our country and our world away from trade confrontation and toward trade negotiation, away from a period in which trade has been a source of international and domestic friction and into a new era in which trade among nations helps us to build a peaceful, more prosperous world.

RICHARD NIXON.

THE WHITE HOUSE, April 10, 1973.

# TRADE REFORM ACT OF 1973

A BILL To promote the development of an open, nondiscriminatory and fair world economic system, to stimulate the economic growth of the United States, and to provide the President with additional negotiating authority therefor, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Trade Reform Act of 1973."*

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## SEC. 1. SHORT TITLE.

This Act may be cited as the "Trade Reform Act of 1973."

## SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are—

(a) To provide authority in the trade field supporting United States participation in an interrelated effort to develop an open, nondiscriminatory and fair world economic system through reform of international trade rules, formulation of international standards for investment and tax laws and policies, and improvement of the international monetary system;

(b) To facilitate international cooperation in economic affairs for the purpose of providing a means of solving international economic problems, furthering peace and raising standards of living throughout the world;

(c) To stimulate the economic growth of the United States and enlarge foreign markets for the products of United States commerce (including agriculture, manufacturing, mining, and fishing) by furthering the expansion of world trade through the progressive reduction and elimination of barriers to trade on a basis of mutual benefit and equity;

(d) To establish a program of temporary import relief to facilitate adjustment of sections of the domestic economy adversely affected by increased imports, consistent with anticipated multilateral safeguard rules being negotiated with other trading nations;

(e) To provide trade adjustment assistance to workers adversely affected by increased imports;

(f) To improve the means of dealing with problems of unfair import competition;

(g) To provide additional authority for the President to facilitate his negotiations with foreign nations to obtain for exports of American producers fair treatment and equitable access to foreign markets;

(h) To provide the President with more flexible authority to deal with matters affecting trade, including the full exercise of United States rights in the context of international agreements and the use of temporary measures to deal with balance of payments disequilibria and to restrain inflation;

(i) To enable the United States to take advantage of new trade opportunities with countries with which it has not had trade agreement relations in the recent past; and

(j) To provide for United States participation in the common effort of developed countries to open their markets on a generalized preferential basis to the products of developing countries.

## TITLE I—AUTHORITY FOR NEW NEGOTIATIONS

### CHAPTER 1.—GENERAL AUTHORITIES

#### SEC. 101. BASIC AUTHORITY FOR TRADE AGREEMENTS.

Whenever the President determines that any of the purposes of this Act will be promoted thereby, the President may—

(1) After the date of enactment of this Act, and before five years from that date, enter into trade agreements with foreign countries or instrumentalities thereof; and

(2) Provide for such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

#### SEC. 102. STAGING REQUIREMENTS AND ROUNDING AUTHORITY.

(a) Except as otherwise provided in this section, the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement under this title shall not exceed the aggregate reduction which would have been in effect on such day if—

(1) one fifth of the total reduction under such agreement or a reduction of three percent ad valorem (or ad valorem equivalent) whichever is greater, had taken effect on the date of the first action pursuant to section 101(b) to carry out such trade agreement, and

(2) the remainder of such total reduction had taken effect at one-year intervals after the date referred to in paragraph (1) in installments equal to the greater of three percent ad valorem (or ad valorem equivalent) or one fourth of such remainder.

(b) After any part of a reduction takes effect, then any time thereafter during which such part of the reduction is not in effect by reason of action taken pursuant to Chapter 1 of Title II of this Act shall be excluded in determining the one-year intervals referred to in subsection (a) (2).

(c) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitation provided by subsection (a) of this section by not more than whichever of the following is lesser:

(1) the difference between the limitation and the next lower whole number, or

(2) one-half of one percent ad valorem, or ad valorem equivalent.

(d) The provisions of subsection (a) need not be applied if the total reduction in the rate of duty does not exceed ten percent of the rate prior to the reduction.

(e) Nothing contained herein shall prevent the President, where he determines that it is appropriate, from providing in the case of certain products, that reductions pursuant to a trade agreement under this title shall become fully effective over a longer period of time than that provided in subsection (a).

**SEC. 103. NONTARIFF BARRIERS TO TRADE.**

(a) The Congress finds that trade barriers and other distortions of international trade are reducing the growth of foreign markets for the products of United States commerce (including agriculture, manufacturing, mining, and fishing), diminishing the intended mutual benefits of reciprocal trade concessions, and preventing the development of open and nondiscriminatory trade among nations. It is the will of the Congress that the President take all appropriate and feasible steps within his power to reduce, eliminate, or harmonize barriers and other distortions of international trade in order to further the objective of providing better access for products of the United States to foreign markets.

(b) In order to further the objectives of subsection (a), the President is urged to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the reduction, elimination, or harmonization of barriers and other distortions of international trade. Nothing in this subsection or in subsection (a) shall be construed as prior approval of any legislation that may be necessary to implement an agreement concerning trade barriers and other distortions of international trade.

(c) The President, whenever he finds that it will be of substantial benefit to the United States, is hereby authorized to take any action required or appropriate to carry out any trade agreement negotiated pursuant to subsection (b), to the extent that such implementation is limited to a reduction of the burden on trade resulting from methods of customs valuation, from establishing the quantities on which assessments are made, and from requirements for marking of country of origin.

(d) Whenever the President enters into a trade agreement providing for the reduction, harmonization or elimination of barriers or other distortions of international trade, and the President determines that it is necessary or appropriate to seek additional action by Congress in order to implement such agreement, he may authorize the entry into force of such agreement and issue such orders as may be necessary for the United States to fulfill its obligations under such agreement, subject to the procedures contained in subsection (e).

(e) Orders issued pursuant to subsection (d) shall be valid pursuant to this section:

(1) Only if the President has given notice to the Senate and to the House of Representatives of his intention to utilize this procedure, such notice to be given at least 90 days in advance of his entering into an agreement;

(2) Only after the expiration of 90 days from the date on which the President delivers a copy of such agreement to the Senate and to the House of Representatives, as well as a copy of his proposed orders in relation to existing law and a statement of his reasons as to how the agreement serves the interests of United States

commerce and as to why the proposed orders are necessary to carry out the agreement; and

(3) Only if between the date of delivery of the agreement to the Senate and to the House of Representatives and the expiration of the 90-day period referred to in subsection (e)(2) above, neither the Senate nor the House of Representatives has adopted a resolution, by an affirmative vote by the yeas and nays of a majority of the authorized membership of that House, stating that it disapproves of the agreement.

For purposes of subsection (e)(2), in the computation of the 90 day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The notices referred to in subsection (e)(1) and the documents referred to in subsection (e)(2) shall be delivered to both Houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session.

## CHAPTER 2.—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS PURSUANT TO TITLE I

### Subchapter A—Title I Prenegotiation Requirements

#### SEC. 111. TARIFF COMMISSION ADVICE.

(a) In connection with any proposed trade agreement under section 101, the President shall from time to time publish and furnish the Tariff Commission with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties.

(b) Within six months after receipt of such a list, the Tariff Commission shall advise the President with respect to each article of its judgment as to the probable economic effect of modifications of duties on industries producing like or directly competitive articles, so as to assist the President in making an informed judgment as to the impact that might be caused by such modifications on United States industry, agriculture, and labor.

(c) In preparing its advice to the President, the Tariff Commission shall, to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles;

(2) analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, use of productive facilities and such other conditions as it deems relevant in the domestic industries concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States industry, commerce, agriculture, mining, fishing, and labor, utilizing to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(d) In preparing its advice to the President, the Tariff Commission shall, after reasonable notice, hold public hearings.

#### **SEC. 112. ADVICE FROM DEPARTMENTS.**

(a) Before any trade agreement is entered into under sections 101 and 103 of this title, the President shall seek information and advice with respect to each agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, Treasury, and the Special Representative for Trade Negotiations, and from other sources as he may deem appropriate.

(b) Whenever the President or any agency seeks advice of selected industry, labor and agriculture groups concerning United States negotiating objectives and bargaining positions in specific product sectors prior to entering into a trade agreement under this title, the meetings of such advisory groups shall be exempt from the requirements relating to open meetings and public participation contained in section 10(a)(1) and (3) of the Federal Advisory Committee Act.

#### **SEC. 113. PUBLIC HEARINGS.**

(a) In connection with any proposed trade agreement under sections 101 and 103 of this title, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published pursuant to section 111, any article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings, and prescribe regulations governing the conduct of such hearings.

(b) The organization holding such hearings shall furnish the President with a summary thereof.

#### **SEC. 114. PREREQUISITE FOR OFFERS.**

In any negotiations seeking an agreement under section 101, the President may make an offer for the modification or continuance of any duty, or continuance of duty-free or excise treatment, with respect to any article only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 113. In addition, the President may make such an offer only after he has received advice concerning such article from the Tariff Commission under section 111(b), or after the expiration of the relevant six-month period provided for in that section, whichever first occurs.

## Subchapter B—Congressional Liaison

### SEC. 121. TRANSMISSION OF AGREEMENTS TO CONGRESS.

As soon as practicable after a trade agreement entered into under section 101 or 103 has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the Tariff Commission under section 111(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

## TITLE II—RELIEF FROM DISRUPTION CAUSED BY FAIR COMPETITION

### CHAPTER 1.—IMPORT RELIEF

#### SEC. 201. INVESTIGATION BY TARIFF COMMISSION.

(a) (1) A petition for eligibility for import relief for the purpose of facilitating orderly adjustment to import competition may be filed with the Tariff Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The petition shall include a statement describing the specific purpose for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative employment and other means of adjustment to new conditions of competition.

(2) Whenever a petition is filed under this subsection, the Tariff Commission shall transmit a copy thereof to the Special Representative for Trade Negotiations and the agencies directly concerned.

(b) (1) Upon the request of the President or the Special Representative for Trade Negotiations, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon the filing of a petition under subsection (a) (1), the Tariff Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be the primary cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported article.

(2) In making its determination regarding serious injury or threat thereof, the Tariff Commission shall take into account all economic factors which it considers relevant, including significant idling of productive facilities in the industry, inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry.

(3) In making its determination regarding primary cause, the Tariff Commission shall take into account all factors it considers relevant, including the extent to which current business conditions within the industry may have contributed to the competitive difficulties which the firms in the industry have been experiencing.

(4) In addition, the Tariff Commission shall, for the purpose of assisting the President in making his determinations under sections 202

and 203, investigate and report on efforts made by the firms in the industry to compete more effectively with imports.

(5) In each investigation under this subsection in which it is requested to do so pursuant to the petition, request or resolution referred to in subsection (b) (1) or on its own motion, the Tariff Commission shall determine whether there exists a condition of market disruption as defined in subsection (f) below. If the Tariff Commission finds serious injury, or the threat thereof, a finding of market disruption shall constitute prima facie evidence that increased quantities of imports of the like or directly competitive articles are the primary cause of such injury or threat thereof.

(c) In the course of any proceeding under subsection (b), the Tariff Commission shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.

(d) (1) The Tariff Commission shall report to the President its findings under subsection (b) and the basis therefor and include in each report any dissenting or separate views. The Tariff Commission shall furnish to the President a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.

(2) The report of the Tariff Commission of its determination under subsection (b) shall be made at the earliest practicable time, but not later than three months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be), unless prior to the end of the three-month period, the Tariff Commission makes a finding that a fair and thorough investigation cannot be made within that time and publishes its finding in the Federal Register. In such cases, the period within which the Tariff Commission must make its report shall be extended by two months.

(3) Upon making its report to the President, the Tariff Commission shall also promptly make it public (with the exception of information which the Commission determines to be confidential) and have a summary of it published in the Federal Register.

(e) No investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this section, unless one year has elapsed since the Tariff Commission made its report to the President of the results of such previous investigation.

(f) (1) For the purposes of this section the term "the primary cause" means the largest single cause.

(2) For the purposes of this section, a condition of market disruption shall be found to exist whenever a showing has been made that imports of a like or directly competitive article are substantial, that they are increasing rapidly both absolutely and as a proportion of total domestic consumption, and that they are offered at prices substantially below those of comparable domestic articles.

(g) Any investigation by the Tariff Commission under subsection (b) of section 301 of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under this section in the same manner as if the investigation had been instituted originally under the provisions of this section. For purposes

of subsection (d) (2), the petition for any investigation to which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

(h) If, on the date of the enactment of this Act, the President had not taken any action with respect to any report of the Tariff Commission containing an affirmative determination resulting from an investigation undertaken by it pursuant to section 301(b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) such report shall be treated by the President as a report received by him under this section on the date of the enactment of this Act.

#### **SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.**

(a) After receiving a report from the Tariff Commission containing an affirmative finding that increased imports have been the primary cause of serious injury or threat thereof under section 201(d) with respect to an industry, the President may—

- (1) provide import relief for such industry in accordance with section 203; or
- (2) direct the Secretary of Labor to give expeditious consideration to petitions for adjustment assistance for workers in the industry concerned; or
- (3) take any combination of these actions.

(b) Within 60 days after receiving a report from the Tariff Commission containing an affirmative finding under section 201(b), the President shall make his determination whether to provide import relief pursuant to section 203; provided, that in the event the Tariff Commission was equally divided, the President shall act within 120 days. If the President determines not to provide import relief, he shall immediately submit a report to the House of Representatives and to the Senate stating the considerations on which his decision was based.

(c) In determining whether to provide import relief pursuant to section 203, the President shall take into account, in addition to such other considerations as he may deem relevant—

- (1) information and advice from the Secretary of Labor on the extent to which workers in the industry have applied for, are receiving, or are likely to receive adjustment assistance or benefits from other manpower programs;
- (2) the probable effectiveness of import relief as a means to promote achievement of the adjustment purpose, the efforts being made or to be implemented by the industry concerned to adjust to import competition and other considerations relative to the position of the industry in the nation's economy;
- (3) the effect of import relief upon consumers, including the price and availability of the imported article and the like or directly competitive article produced in the United States, and upon competition in the domestic markets for such articles;
- (4) the effect of import relief on United States international economic interests;

(5) the impact upon United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may be required for purposes of compensation;

(6) the geographic concentration of imported products marketed in the United States; and

(7) alternative economic and social costs that would be incurred by taxpayers, communities, and workers, if import relief were or were not provided.

(d) The President may, within 45 days after the date on which he receives an affirmative finding of the Tariff Commission under section 201(b) with respect to an industry, request additional information from the Tariff Commission. The Tariff Commission shall as soon as practicable but in no event more than 60 days after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report. For purposes of subsection (b), the date on which the President receives such supplemental report shall be treated as the date on which the President received the affirmative finding of the Tariff Commission.

#### **SEC. 203. IMPORT RELIEF.**

(a) If the President determines pursuant to section 202 to provide import relief, he shall, to the extent and for such time (not to exceed five years) that he determines necessary to prevent or remedy serious injury or the threat thereof to the industry in question and to facilitate the orderly adjustment to new competitive conditions by the industry in question—

(1) provide an increase in, or imposition of, any duty or other import restriction on the article causing or threatening to cause serious injury to such industry; or

(2) suspend, in whole or in part, the application of items 806.30 or 807.00 of the Tariff Schedules of the United States with respect to such article; or

(3) negotiate orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of the article causing or threatening to cause serious injury to such industry; or

(4) take any combination of such actions.

(b) Import relief provided pursuant to subsection (a) shall become initially effective no later than 60 days after the President's determination under section 202 to provide import relief, except that the applicable period within which import relief shall be initially provided shall be 180 days if the President announces at the time of his determination to provide import relief his intention to negotiate one or more orderly marketing agreements pursuant to subsection (a) (3) of this section.

(c) In order to carry out an agreement concluded under subsection (a) (3), the President is authorized to issue regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out one or more agreements concluded under subsection (a) (3) among countries accounting for a significant part of United States imports of the article covered by such agreements, the President is also authorized to issue regulations gov-

erning the entry or withdrawal from warehouse of the like articles which are the product of countries not parties to such agreements.

(d) (1) Wherever the President has acted pursuant to subsection (a) (1) or (2), he may at any time thereafter while such import relief is in effect, negotiate orderly marketing agreements with foreign countries, and may, upon the entry into force of such agreements, suspend or terminate, in whole or in part, such other actions previously taken.

(2) Any import relief provided pursuant to this section (including relief provided under any orderly marketing agreement) may be suspended, terminated or reduced by the President at any time and, unless renewed under subsection (d) (3), shall terminate not later than the close of the date which is five years after the effective date of the initial grant of any relief under this section.

(3) Any import relief provided pursuant to this section (including any orderly marketing agreements) shall be phased out during the period of import relief and, in the case of a five-year term of import relief, the first reduction of relief shall commence no later than the close of the date which is three years after the effective date of the initial grant of relief. The phasing out of an orderly marketing agreement may be accomplished through increases in the amounts of imports which may be entered during a year.

(4) Any import relief provided pursuant to this section (including any orderly marketing agreements) may be renewed in whole or in part by the President for one two-year period if he determines, after taking into account the advice received from the Tariff Commission under subsection (e) (2) and after taking into account the factors described in section 202(b), that such renewal is in the national interest.

(e) (1) So long as any import relief pursuant to this section (including any orderly marketing agreements) remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned and upon request of the President shall make reports to the President concerning such developments.

(2) Upon petition on behalf of the industry concerned, filed with the Tariff Commission not earlier than the date which is nine months, and not later than the date which is six months, before the date any import relief is to terminate fully by reason of the expiration of the applicable period prescribed pursuant to subsection (d) (2), the Tariff Commission shall report to the President its findings as to the probable economic effect on such industry of such termination as well as the progress and specific efforts made by the firms in the industry concerned to adjust to import competition during the initial period of import relief.

(3) Advice by the Tariff Commission under subsection (e) (2) shall be given on the basis of an investigation during the course of which the Tariff Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

(f) No investigation for the purposes of section 201 shall be made with respect to an industry which has received import relief under this section unless two years have elapsed since the expiration of import relief under subsection (d).

## CHAPTER 2.—ADJUSTMENT ASSISTANCE FOR WORKERS

### Subchapter A.—Petitions and Determinations

#### SEC. 221. PETITIONS.

(a) A petition for a certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor (hereinafter in this chapter referred to as "the Secretary") by a group of workers or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than ten days after the Secretary's publication of notice under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard. The Secretary may request the Tariff Commission to hold any hearing required by this section and submit the transcript thereof and relevant information and documents to him within a specified time.

#### SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

A group of workers shall be certified as eligible to apply for adjustment assistance under this chapter if the Secretary determines that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, that sales or production, or both, of such firm or subdivision have decreased absolutely, and that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed substantially to such total or partial separation, or threat thereof.

#### SEC. 223. DETERMINATIONS BY SECRETARY OF LABOR.

(a) As soon as possible after the date on which a petition is filed under section 221, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 222 and issue a certification of eligibility to apply for assistance under this chapter covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

(b) A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm prior to his application under section 231 occurred (1) more than one year before the date of the petition upon which such certification was granted or (2) more than six months prior to the effective date of this Act.

(c) Whenever the Secretary concludes that the Tariff Commission can aid him in reaching a determination under this section, he may request the Tariff Commission to conduct an investigation of facts relevant to such determination and to report the results within a specified time. In his request, the Secretary may state the particular kinds of data which he deems appropriate to be included.

(d) Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register.

(e) Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 222, he shall terminate such certification and promptly have notice of such termination published in the Federal Register. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

## **Subchapter B.—Program Benefits**

### **PART I—SUPPLEMENTAL PAYMENTS**

#### **SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.**

An adversely affected worker covered by a certification under subchapter A who files an application with a cooperating State agency shall, in accordance with the provisions of this subchapter, be paid a supplement to the State unemployment insurance payments to which he is otherwise entitled, if the following conditions are met:

(A) Such worker's last total or partial separation prior to his application under this section, occurred

(1) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment, and

(2) before the expiration of the two-year period beginning on the date on which the determination under section 223 was made, and

(3) before the termination date (if any) determined pursuant to section 223 (e); and

(B) Such worker had, in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of \$30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary.

#### **SEC. 232. SUPPLEMENT TO UNEMPLOYMENT INSURANCE.**

(a) Any adversely affected worker who meets the requirements of section 231 and receives State unemployment insurance payments for any week within the two-year period beginning with the date on which his last total or partial separation prior to his application under section 231 occurred shall receive a payment equal to the amount (if any) by which the unemployment insurance payment he receives under the applicable State law for such week is less than the payment he would have received for such week had the applicable State law provided that—

(1) the weekly benefit amount of any eligible individual for a week of total unemployment shall be:

(i) an amount equal to at least one-half of such individual's average weekly wage as determined by the State agency;

or

- (ii) the maximum weekly benefit amount payable under such State law, whichever is the lesser, and
- (2) the maximum weekly benefit amount shall be no less than  $66\frac{2}{3}$  percent of the Statewide average weekly wage most recently computed before the beginning of the individual's benefit year.
- (b) The amount of any weekly payment to be made under this section which is not a whole dollar amount shall be rounded upward to the next higher whole dollar amount.
- (c) For the purposes of this section—
- (1) "benefit year" means a period as defined in State law except that it shall not exceed one year beginning subsequent to the end of an individual's base period.
- (2) "base period" means a period as defined in State law except that it shall be fifty-two consecutive weeks, one year, or four calendar quarters ending not earlier than six months prior to the beginning of an individual's benefit year.
- (3) "individual's average weekly wage" means:
- (i) in a State which computes individual weekly benefit amounts on the basis of high quarter wages, an amount equal to one-thirteenth of an individual's high quarter wages; or
- (ii) in any other State, an amount computed by dividing the total amount of wages (irrespective of the limitation on the amount of wages subject to contribution under the State law) paid to such individual during his base period by the number of weeks in which he performs services in employment covered under such law during such period.
- (4) "high quarter wages" means the amount of wages for services performed in employment covered under the State law paid to an individual in that quarter of his base period in which such wages were highest, irrespective of the limitation on the amount of wages subject to contributions under such State law.
- (5) "Statewide average weekly wage" means the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages, irrespective of the limitation on the amount of wages subject to contributions under such State law, reported by employers as paid for services covered under such State law during the first four of the last six completed calendar quarters prior to the effective date of the computation, divided by a figure representing fifty-two times the twelve-month average of the number of employees in the pay period containing the twelfth day of each month during the same four calendar quarters, as reported by such employers.

## PART II—TRAINING AND RELATED SERVICES

### SEC. 233. EMPLOYMENT SERVICES.

The Secretary shall make every reasonable effort to secure for adversely affected workers covered by a certification under subchapter A of this chapter counseling, testing, and placement services, and supportive and other services, provided for under any Federal law. The Secretary shall, whenever appropriate, procure such services through agreements with cooperating State agencies.

**SEC. 234. TRAINING.**

(a) If the Secretary determines that there is no suitable employment available for an adversely affected worker covered by a certification under subchapter A of this chapter, but that suitable employment (which may include technical and professional employment) would be available if the worker received appropriate training, he may authorize such training. Insofar as possible, the Secretary shall provide or assure the provision of such training on a priority basis through manpower and related service programs established by law.

(b) The Secretary may, where appropriate, authorize supplemental assistance necessary to defray transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary shall not authorize payments for subsistence exceeding \$5 per day; nor shall he authorize payments for transportation expenses exceeding 10 cents per mile.

(c) The Secretary shall not authorize any training program under this section which begins more than one year from certification under subchapter A or the applicant's last total or partial separation prior to his application under section 231, whichever is later.

(d) Any adversely affected worker who, without good cause, refuses to accept or continue, or fails to make satisfactory progress in, suitable training to which he has been referred by the Secretary shall not thereafter be entitled to payments under this chapter until he enters or resumes the training to which he has been so referred.

**PART III—JOB SEARCH AND RELOCATION ALLOWANCES****SEC. 235 JOB SEARCH ALLOWANCES.**

(a) Any adversely affected worker covered by a certification under subchapter A of this chapter who has been totally separated may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 80 percent of the cost of his necessary job search expenses as prescribed by regulations of the Secretary: *Provided*, That such reimbursement may not exceed \$500 for any worker.

(b) A job search allowance may be granted only:

(1) to assist an adversely affected worker in securing a job within the United States;

(2) where the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides; and

(3) where the worker has filed an application for such allowance with the Secretary no later than one year from the date of his last total separation prior to his application under section 231.

**SEC. 236. RELOCATION ALLOWANCES.**

(a) Any adversely affected worker covered by a certification under subchapter A of this chapter who is the head of a family as defined in regulations prescribed by the Secretary and who has been totally separated may file an application with the Secretary for a relocation allowance, subject to the terms and conditions of this section.

(b) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides and that such worker—

(1) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which he wishes to relocate, or

(2) has obtained a bona fide offer of such employment.

(c) A relocation allowance shall not be granted to such worker unless—

(1) for the week in which the application for such allowance is filed, he is entitled to a payment under section 232 or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that

(A) he has obtained the employment referred to in subsection (b) (1), or

(B) the unemployment insurance payment he receives is equal to or greater than the payment he would have received for such week had the applicable State law provided as set forth in subsections (1) and (2) of section 232(a),

and

(2) such relocation occurs within a reasonable period after the filing of such application or (in the case of a worker undergoing vocational training under the provisions of any Federal statute) within a reasonable period after the conclusion of such training.

(d) For the purposes of this section, the term "relocation allowance" means—

(1) 80 percent of the reasonable and necessary expenses, as specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family and their household effects, and

(2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of \$500.

### **Subchapter C—General Provisions**

#### **SEC. 237. AGREEMENTS WITH STATES.**

(a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this chapter as "cooperating States" and "cooperating State agencies" respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this chapter, (2) where appropriate, will afford adversely affected workers who apply for payments under this chapter testing, counseling, referral to training, and placement services, and (3) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this chapter.

(b) Each agreement under this subchapter shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(c) Each agreement under this subchapter shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

(d) A determination by a cooperating State agency with respect to entitlement to payments under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

**SEC. 238. ADMINISTRATION ABSENT STATE AGREEMENT.**

(a) In any State where there is no agreement in force between a State or its agency under section 237, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under subchapter B of this chapter, including provision for a fair hearing for any worker whose application for payments is denied.

(b) A final determination under subsection (a) with respect to entitlement to payments under subchapter B of this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42 of the United States Code.

**SEC. 239. PAYMENTS TO STATES.**

(a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State, the sums necessary to enable such State as agent of the United States to make payments provided for by this chapter. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds for carrying out the purposes of this chapter.

(b) All money paid a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subchapter, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this section may be made.

(c) Any agreement under this subchapter may require any officer or employee of the State certifying payments or disbursing funds under the agreement, or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

**SEC. 240. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.**

(a) No person designated by the Secretary, or designated pursuant to an agreement under this subchapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this chapter.

(b) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a).

**SEC. 241. RECOVERY OF OVERPAYMENTS.**

(a) If a cooperating State agency or the Secretary, or a court of competent jurisdiction finds that any person—

(1) has made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed or caused another to fail to disclose a material fact; and

(2) as a result of such action has received any payment under this chapter to which he was not entitled,

such person shall be liable to repay such amount to the State agency or the Secretary as the case may be, or either may recover such amount by deductions from any sums payable to such person under this chapter. Any such finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing.

(b) Any amount repaid to a State agency under this section shall be deposited into the fund from which payment was made. Any amount repaid to the Secretary under this section shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which payment was made.

#### **SEC. 242. PENALTIES.**

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter or pursuant to an agreement under section 237 shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

#### **SEC. 243. AUTHORIZATION OF APPROPRIATIONS.**

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary from time to time to carry out his functions under this chapter in connection with furnishing payments to workers, which sums are authorized to be appropriated to remain available until expended.

#### **SEC. 244. TRANSITIONAL PROVISIONS.**

(a) Where a group of workers has been certified as eligible to apply for adjustment assistance under section 302(b) (2) or (c) of the Trade Expansion Act of 1962, any worker covered by such certification shall be entitled to the rights and privileges provided in Chapter 3 of title III of said Act as existing prior to the date of enactment of this Act.

(b) In any case where a group of workers or their certified or recognized union or other duly authorized representative has filed a petition under section 301(a) (2) of the Trade Expansion Act of 1962, more than four months prior to the effective date of this Act, and

(1) the Tariff Commission has not rejected such petition prior to the effective date of this Act, and

(2) the President or his delegate has not issued a certification under section 302(c) of that Act to the petitioning group prior to the effective date of this Act,

such group or representative thereof may file a new petition under section 221 of this Act, not later than 90 days after the effective date of this Act, and shall be entitled to the rights and privileges provided in this chapter. For purposes of section 223(b) (1), the date on which such group or representative filed the petition under the Trade Expansion Act of 1962 shall apply. Section 223(b) (2) shall not apply to workers covered by a certification issued pursuant to a petition meeting the requirements of this subsection.

(c) The Tariff Commission shall make available to the Secretary on request data it has acquired in investigations under section 301 of the Trade Expansion Act of 1962 concluded within the two year period ending on the date of enactment of this Act, which did not result in Presidential action under section 302(a)(3) or 302(c) of that Act.

#### SEC. 245. DEFINITIONS.

For purposes of this chapter—

(1) The term “adversely affected employment” means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for payments under this chapter.

(2) The term “adversely affected worker” means an individual who, because of lack of work in an adversely affected employment—

(A) has been totally or partially separated from such employment, or

(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

(3) The term “average weekly wage” means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual’s total wages were highest among the first four of the last five completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(4) The term “average weekly hours” means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (3).

(5) The term “total separation” means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(6) The term “partial separation” means, with respect to an individual who has not been totally separated, that he has had his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment and his wages reduced to 75 percent or less of his average weekly wage in such adversely affected employment.

(7) The term “State” includes the District of Columbia and the Commonwealth of Puerto Rico; and the term “United States” when used in the geographical sense includes such Commonwealth.

(8) The term “State agency” means the agency of the State which administers the State law.

(9) The term “State law” means the employment insurance law of the State approved by the Secretary under section 3304 of the Internal Revenue Code of 1954.

(10) The term “unemployment insurance” means the unemployment insurance payable to an individual under any State law or Fed-

eral unemployment insurance law, including title 5 of the United States Code, Ch. 85, and the Railroad Unemployment Insurance Act.

**SEC. 246. ADMINISTRATIVE PROVISION.**

The Secretary of Labor shall, in coordination with the Special Representative for Trade Negotiations, prescribe such regulations as may be necessary to implement the provisions of this chapter.

**TITLE III—RELIEF FROM UNFAIR TRADE PRACTICES**

**CHAPTER 1.—FOREIGN IMPORT RESTRICTIONS**

**SEC. 301. RESPONSES TO UNFAIR FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES.**

(a) Whenever the President determines that a foreign country or instrumentality—

(1) maintains unjustifiable or unreasonable tariff or other import restrictions which impair the value of trade commitments made to the United States or which burden, restrict or discriminate against United States commerce,

(2) engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or restrict United States commerce, or

(3) provides subsidies (or other incentives having the effect of subsidies) on its exports of one or more products to other foreign markets which have the effect of substantially reducing sales of the competitive United States product or products to those other foreign markets;

the President—

(A) shall take all appropriate and feasible steps within his power to obtain the elimination of such restrictions or subsidies;

(B) may refrain from providing benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality; and

(C) may impose duties or other import restrictions on the products of such foreign country or instrumentality, on a most-favored-nation basis or otherwise, and for such time as he deems appropriate.

(b) In determining what action to take under subsection (a), the President shall consider the relationship of such action to the international obligations of the United States and to the purposes of this Act as specified in section 2.

(c) The President shall provide an opportunity for any interested person to bring to his attention any foreign restrictions, acts, or policies of the kind referred to in paragraphs (1), (2), or (3) of subsection (a). Such opportunity shall be provided prior to the taking of any action only if the President determines it feasible and appropriate.

## CHAPTER 2.—ANTIDUMPING DUTIES

### SEC. 310. AMENDMENTS TO THE ANTIDUMPING ACT OF 1921.

(a) Section 201(b) of the Antidumping Act, 1921 (19 U.S.C. 160 (b)) is amended to read as follows:

“(b) In the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, he shall, within 6 months, or in more complicated investigations within 9 months, after the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated—

“(1) determine whether there is reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value); and

“(2) if his determination is affirmative, publish notice of that fact in the Federal Register, and require, under such regulations as he may prescribe, the withholding of appraisement as to such merchandise entered, or withdrawn from warehouse for consumption, on or after the date of publication of that notice in the Federal Register (unless the Secretary determines that the withholding should be made effective as of an earlier date in which case the effective date of the withholding shall be not more than 120 days before the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated), until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subsection (a) in regard to such merchandise; or

“(3) if his determination is negative, publish notice of that fact in the Federal Register, but the Secretary may within 3 months thereafter order the withholding of appraisement if he then has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value) and such order of withholding of appraisement shall be subject to the provisions of paragraph (2).

“If, before the expiration of 6 months, or in more complicated investigations 9 months, after the question of dumping was raised or presented to him or any person to whom authority under this section has been delegated, the Secretary concludes that the determination required under paragraph (1) cannot reasonably be made within such time limits, he shall publish notice to that effect in the Federal Register and shall make such determination (and publish the notice required by paragraph (2) or (3)) within 12 months after the question was so raised or presented. For purposes of this subsection the question of dumping shall be deemed to have been raised or presented on the date

on which a notice is published in the Federal Register that information relative to dumping has been received in accordance with regulations prescribed by the Secretary.”

(b) Section 201(c) of the Antidumping Act, 1921 (19 U.S.C. 160 (c)) is amended to read as follows:

“(c) (1) Prior to making any determination pursuant to subsection (a) of this section, the Secretary or the Tariff Commission, as the case may be, shall conduct a hearing on the record at which:

“(A) any foreign manufacturer or exporter or domestic importer of the foreign merchandise in question shall have the right to appear by counsel or in person; and

“(B) any other person, firm or corporation may make application and, upon good cause shown, may be allowed by the Secretary or the Tariff Commission, as the case may be, to intervene and appear at such hearing by counsel or in person.

“(2) The transcript of the hearing, together with all papers filed in connection with the investigation (including any exhibits and papers to which the Secretary or the Tariff Commission, as the case may be, shall have granted confidential or *in camera* treatment) constitutes the exclusive record for determination. Notwithstanding any other provisions of law, upon payment of duly prescribed costs, such transcript and papers (other than items to which confidential or *in camera* treatment has been granted) shall be made available to all persons.

“(3) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the Tariff Commission, upon making its determination under subsection (a), shall each include in the record and shall publish in the Federal Register, such determination, whether affirmative or negative, together with a statement of findings and conclusions, and the reasons or bases therefor, on all the material issues of fact or law presented on the record.

“(4) The hearings provided for hereunder shall be exempt from the provisions of sections 554, 555, 556, and 557 of the Act of September 6, 1966 (5 U.S.C. 554-557).

(c) Section 203 of the Antidumping Act, 1921 (19 U.S.C. 162) is amended to read:

**“SEC. 203. PURCHASE PRICE.**

“For the purposes of this section and sections 160-171 of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, 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, less 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 less the amount, if included in such price, of any export tax imposed by

the country of exportation on the exportation of the merchandise to the United States; and plus 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; and plus 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; and plus the amount of any other taxes rebated or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930.

(d) Section 204 of the Antidumping Act, 1921 (19 U.S.C. 163), is amended to read:

**"SEC. 204. EXPORTER'S SALES PRICE.**

"For the purpose of sections 160-171 of this title, the exporter's sales price of imported merchandise shall be the price at which such 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, plus, 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, less (1) 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, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States, and (5) the amount of any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on or with the use of the imported merchandise subsequent to the importation of the merchandise and prior to its sale to a person who is not the exporter of the merchandise within the meaning of section 207; and plus 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; and plus 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; and plus the amount of any other taxes rebated, or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)."

**CHAPTER 3.—COUNTERVAILING DUTIES****SEC. 330. AMENDMENTS TO SECTION 303 OF THE TARIFF ACT OF 1930.**

(a) Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is amended to read :

**“SEC. 303. COUNTERVAILING DUTIES.**

“(a) **LEVY OF COUNTERVAILING DUTIES.**—(1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

“The Secretary of the Treasury shall determine within 12 months after the date on which the question is presented to him, whether any bounty or grant is being paid or bestowed.

“(2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there is an affirmative determination by the Tariff Commission under subsection (b) (1), provided, however, that such a Tariff Commission determination shall be required only for such time as a determination of injury is required by the international obligations of the United States.

“(3) The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated.

“(4) Whenever, in the case of any imported article or merchandise as to which the Secretary has not determined whether a bounty or grant is being paid or bestowed, the Secretary concludes, from information presented to him or to any person to whom authority under this section has been delegated, that a formal investigation into the question of whether a bounty or grant is being paid or bestowed is warranted, he shall forthwith publish notice of the initiation of such an investigation in the Federal Register. The date of publication of such notice shall be considered the date on which the question is presented to the Secretary within the meaning of subsection (a) (1).

“(5) The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of the duties under this section. All determinations by the Secretary under this subsection and all determinations by the Tariff Commission under subsection (b) (1), whether affirmative or negative, shall be published in the Federal Register.

“(b) INJURY DETERMINATIONS WITH RESPECT TO DUTY-FREE MERCHANDISE; SUSPENSION OF LIQUIDATION.—(1) Whenever the Secretary of the Treasury has determined under subsection (a) that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty, he shall—

“(A) so advise the United States Tariff Commission, and the Commission shall determine within 3 months thereafter, and after such investigation as it deems necessary, whether an industry in the United States is being or is likely to be materially injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States; and the Commission shall notify the Secretary of its determination; and

“(B) require, under such regulations as he may prescribe, the suspension of liquidation as to such article or merchandise entered, or withdrawn from warehouse, for consumption, on or after the 30th day after the date of the publication in the Federal Register of his determination under subsection (a) (1), and such suspension of liquidation shall continue until the further order of the Secretary or until he has made public an order as provided for in paragraph (2) of this subsection.

“(2) If the determination of the Tariff Commission under subparagraph (A) is in the affirmative, the Secretary shall make public an order directing the assessment and collection of duties in the amount of such bounty or grant as is from time to time ascertained and determined, or estimated, under subsection (a).

“(c) APPLICATION OF AFFIRMATIVE DETERMINATION.—An affirmative determination by the Secretary of the Treasury under subsection (a) (1) with respect to any imported article or merchandise which (1) is dutiable, or (2) is free of duty and with respect to which the Tariff Commission has made an affirmative determination under subsection (b) (1) (for such time as a finding of injury is required by the international obligations of the United States), shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the 30th day after the date of the publication in the Federal Register of such determination.

“(d) DISCRETIONARY IMPOSITION OF COUNTERVAILING DUTIES.—Whenever the Secretary determines, after seeking information and advice from such agencies as he may deem appropriate, that—

“(1) the imposition of an additional duty under this section upon any article would result, or be likely to result in significant detriment to the economic interests of the United States; or

“(2) that any article is subject to a quantitative limitation imposed by the United States on its importation into, or subject to an effective quantitative limitation on its exportation to, the United States and that such quantitative limitation is an adequate substitute for the imposition of a duty under this section;

the imposition of an additional duty under this section shall not be required.”

(b) (1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The last sentence of section 303 (a) (1) of the Tariff Act of 1930 (as added by subsection (a) of this section) shall apply only with

respect to questions presented on or after the date of the enactment of this Act.

(c) Any article which is entered or withdrawn from warehouse free of duty as a result of action taken under Title VI of this Act shall be considered a nondutiable article for purposes of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303)."

## CHAPTER 4.—UNFAIR PRACTICES IN IMPORT TRADE

### SEC. 350. AMENDMENTS TO SECTION 337 OF THE TARIFF ACT.

Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) is hereby amended to read as follows:

"(a) The importation of articles into the United States which would infringe a United States patent if made, used, or sold in the United States, shall constitute an unfair method of competition, and is hereby declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.

"(b) The Commission shall investigate alleged violations hereof on complaint under oath or upon its own motion. The burden of proof of any such alleged violation shall be on the complainant, or on the Commission if it investigates on its own motion, to make a *prima facie* showing of the facts required in subsection (a). The Commission shall complete its investigation and announce its findings hereunder at the earliest practicable time, but not later than one year after the date on which a complaint is received or an investigation is initiated by the Commission on its own motion.

"(c) Whenever the Commission shall find the existence of any such violation it shall order that the articles concerned in such unfair methods, imported by any person violating the provisions of this section, shall be excluded from entry into the United States, and upon information of such action by the Commission, the Secretary of the Treasury shall, through the proper officers, refuse such entry; Provided however, That whenever

(1) the validity of the patent is challenged by the respondent and a *bona fide* challenge to patent validity is either pending in a suit or the respondent indicates his intention to and in fact institutes such a suit within 60 days of such a challenge to validity before the Commission; or

(2) misuse is claimed by a respondent and a *bona fide* claim of misuse is pending in a court action and the court's decision on that issue would be decisive of the claim before the Commission, the Commission shall continue the proceedings on all other issues, and if it finds favorably to the patentee thereon, issue an exclusion order conditional on the results of the court proceedings, and in the meantime shall order that the articles concerned be allowed entry into the United States under such bond, in favor of the patentee based on an estimated reasonable royalty or damages, or both, as it shall consider necessary to protect the patentee's asserted rights.

"(d) Any refusal of entry under this section shall continue until the patent expires or until the Commission, either on its own motion or at the request of any interested person, shall find that the continued

exclusion is no longer necessary to prevent the violation that occasioned the exclusion order.

“(e) Whenever the Commission has reason to believe that any article is offered or sought to be offered for entry into the United States in violation of this section, but has no information sufficient to satisfy it thereof, the Commission may in its discretion issue a temporary exclusion order if a *prima facie* showing of a violation of this section has been made and immediate and substantial harm to the patentee involved would result if the temporary exclusion order were not issued. Where a temporary exclusion order is issued, the Secretary of the Treasury shall refuse entry of the articles so excluded by the temporary exclusion order, except that such articles shall be entitled to entry under bond in favor of the patentee based on an estimated reasonable royalty or damages, or both, as the Commission shall consider necessary to protect the patentee’s asserted rights. No temporary exclusion order or the posting of a bond under this subsection shall remain in effect for more than one year after the date on which a complaint is received or an investigation is initiated by the Commission on its own motion.

“(f) During the course of each investigation under this section, public hearings shall be held, after reasonable notice, pertaining to, and in advance of, the Commission’s determination. A transcript shall be made of all testimony and exhibits presented at such hearing.

“(g) Any person adversely affected by an action or refusal of the Commission to act under this section may secure judicial review in the United States Court of Customs and Patent Appeals in the manner prescribed in Chapter 7 of title 5 and section 2112 of title 28, of the United States Code. Any refusal of entry under this section may be stayed by the court in which case adequate bond shall be provided to protect the patentee’s rights. For this purpose, the Court of Customs and Patent Appeals may order the Secretary of the Treasury to impose such bond, in favor of the patentee, based on an estimated reasonable royalty or damages, or both, as it considers necessary to protect the rights of the patentee pending determination of the appeal.

“(h) When used in this section and in sections 338 and 340, the term “United States” includes the several States and Territories, the District of Columbia, and all possessions of the United States except the Virgin Islands, American Samoa, and the Island of Guam.”

## TITLE IV—INTERNATIONAL TRADE POLICY MANAGEMENT

### SEC. 401. BALANCE OF PAYMENTS AUTHORITY.

(a) Whenever the President determines that special import measures are required to deal with the United States balance-of-payments position in the presence of a serious balance-of-payments deficit or a persistent surplus, or to cooperate in correcting an international balance-of-payments disequilibrium as reflected in other countries’ balance-of-payments deficits or surpluses, the President is authorized to take one or more of the following actions, for such period as he deems necessary :

(1) For dealing with a serious United States balance-of-payments deficit, or for cooperating in correcting an international balance-of-payments disequilibrium:

(A) to impose a temporary import surcharge in the form of duties (in addition to those already imposed, if any) on articles imported into the United States; and

(B) to impose temporary limitations, through the use of quotas on the importation of articles into the United States, provided that international trade or monetary agreements to which the United States is a party permit the imposition of quotas as a balance-of-payments measure.

(2) For dealing with a persistent United States balance-of-payments surplus:

(A) to reduce temporarily or suspend the duty applicable to any article; and

(B) to increase temporarily the value or quantity of articles which may be imported under any import restriction, or to suspend temporarily any import restriction;

except with respect to those articles where in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, to impairment of the national security, or otherwise be contrary to the national interest.

(b) For the purposes of subsection (a),

(1) a serious balance-of-payments deficit shall be considered to exist whenever the President determines that:

(A) the balance of payments (as measured either on the official reserve transactions basis or by the balance on current account and long-term capital) has been in substantial deficit over a period of four consecutive calendar quarters, or

(B) the United States has suffered a serious decline in its net international monetary reserve position, or

(C) there has been or threatens to be a significant alteration in the exchange value of the dollar in foreign exchange markets, and

(D) the condition indicated in (A), (B) or (C) is expected to continue in the absence of corrective measures.

(2) United States cooperation in correcting a fundamental international balance of payments disequilibrium as reflected in other countries' payments positions is authorized when allowed or recommended by the International Monetary Fund.

(3) A persistent balance-of-payments surplus shall be considered to exist whenever the President determines that:

(A) the balance of payments (as measured either on the official reserve transactions basis or by the balance on current account and long-term capital) has been in substantial surplus for four consecutive calendar quarters; or

(B) the United States has experienced large increases in its international monetary reserves in excess of needed levels of reserves; or

(C) the exchange value of the dollar has appreciated significantly in foreign exchange markets; and

(D) the condition indicated in (A), (B) or (C) is expected to continue in the absence of corrective measures.

(c) Import restricting actions authorized by this section shall be applied consistently with the most-favored-nation principle or on a basis which shall aim at a distribution of trade with the United States approaching as closely as possible that which various foreign countries might have expected to obtain in the absence of such restrictions, unless the President determines that import restricting actions not consistent with these principles are necessary to achieve the objectives of this section. In determining what action to take under this subsection the President shall consider the relationship of such action to the international obligations of the United States.

(d) Import restricting actions authorized by this section shall be of broad and uniform application with respect to product coverage except where the President determines, consistently with the purposes of this section, that certain articles or groups of articles should not be subject to import restricting actions because of the needs of the United States economy. Such exceptions shall be related to the unavailability of domestic supply at reasonable prices, the necessary importation of raw materials, and other similar factors. Neither the authorization of import restricting actions nor the determination of exceptions with respect to product coverage shall be made for the purpose of protecting individual domestic industries from import competition.

(e) Any limitation imposed under subsection (a) (1) (B) on the quantity or value, or both, of an article or group of articles—

(1) shall permit the importation of a quantity or value not less than the quantity or value of such article or articles imported into the United States from the foreign countries to which such limitation applies during the most recent period that the President determines is representative of imports of such article or articles, and

(2) shall take into account any increase since the end of such representative period in domestic consumption of such article or articles and like or similar articles of domestic manufacture or production.

(f) Measures under subsection (a) (2) of this section shall be applied consistently with section 407 of this Act.

(g) The President may at any time, consistent with the provisions of this section, suspend, modify, or terminate, in whole or in part, any action taken under this section.

#### **SEC. 402. WITHDRAWAL OF CONCESSIONS AND SIMILAR ADJUSTMENTS.**

(a) Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this Act, the Trade Expansion Act of 1962, or the Tariff Act of 1930, as amended, withdraws or suspends any obligation with respect to the trade of any foreign country or instrumentality thereof, or, whenever any such trade agreement is terminated, in whole or in part, with respect to the United States, the President is authorized, in order to exercise the rights or fulfill the obligations of the United States, to the extent, at such times, and for such periods as he deems necessary

or appropriate, and consistently with the purposes of this Act and the international obligations of the United States—

(1) to increase any existing duty or other import restriction or provide additional import restrictions; and

(2) to take other actions to withdraw, suspend or terminate the application in whole or in part of the agreement.

(b) Duties or other import restrictions required or appropriate to carry out any trade agreement shall not be affected by any withdrawal or suspension of an obligation under, or termination in whole or in part of, such agreement unless the President acting pursuant to the authority granted in subsection (a) increases such existing duties or other import restrictions, or provides additional import restrictions.

(c) No rate of duty shall be increased under the authority of this section to a rate more than 50% above the column 2 rate, of 50% ad valorem (or ad valorem equivalent), whichever is higher.

(d) The President may, to the extent that such action is consistent with the international obligations of the United States, act pursuant to this section on a most-favored-nation basis or otherwise.

#### **SEC. 403. RENEGOTIATION OF DUTIES.**

(a) In order to permit some adjustments to be made over time to deal with changed circumstances, while maintaining an overall balance of mutually advantageous concessions under existing trade agreements, the President is authorized at any time to enter into supplemental tariff agreements with foreign countries or instrumentalities thereof to modify or continue any existing duty, continue any existing duty-free or excise treatment, or impose additional duties, as he determines to be required or appropriate to carry out any such supplemental tariff agreement, within the limitations set forth in this section.

(b) In any one year, agreements involving the reduction of duties, or continuance of duty-free treatment, shall not affect articles accounting for more than two percent of the value of United States imports for the most recent 12-month period for which import statistics are available, nor shall any agreement be made under the authority of this section with respect to any article which has been the subject of a prior agreement entered into pursuant to this section during the preceding five years.

(c) (1) No rate of duty shall be decreased under the authority of this section to a rate more than 20% below the existing duty.

(2) No rate of duty shall be increased under the authority of this section to a rate more than 50% above the column 2 rate or 50% ad valorem (or ad valorem equivalent), whichever is higher.

#### **SEC. 404. COMPENSATION AUTHORITY.**

(a) Whenever any action has been taken under sections 203, 301, 402, 403, or 408 of this Act to increase or impose any duty or other import restriction, the President—

(1) shall, to the extent required by United States international obligations, afford foreign countries having an interest as exporters of the products concerned an opportunity to consult with the United States with respect to concessions, if any, to be granted as compensation for any duty or other import restriction imposed by the United States; and

(2) may enter into agreements with such countries for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions.

(b) In furtherance of the purposes of this section, the President may modify or continue any existing duty or other import restriction, or continue any existing duty-free or excise treatment, to the extent that he determines such action to be required or appropriate to maintain a general level of mutually advantageous concessions.

(c) No rate of duty shall be reduced under the authority of this section to a rate below 50% of the existing duty, provided that this limitation shall not apply if the rate existing on such date is not more than five percent ad valorem (or ad valorem equivalent).

**SEC. 405. AUTHORITY TO SUSPEND IMPORT BARRIERS TO RESTRAIN INFLATION.**

(a) If, during a period of sustained or rapid price increases, the President determines that supplies of articles, imports of which are dutiable or subject to any other import restriction, are inadequate to meet domestic demand at reasonable prices, he may, either generally or by article or category of articles, in addition to any authority he may otherwise have,

(1) temporarily reduce or suspend the duty applicable to any article; and

(2) temporarily increase the value or quantity of articles which may be imported under any import restriction.

(b) The President shall not exercise the authority granted in subsection (a) with respect to an article if in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, to impairment of the national security, or otherwise be contrary to the national interest. Actions taken under subsection (a) in effect at any time shall not apply to more than 30% of the estimated total value of United States imports of all articles during the time such actions are in effect.

(c) The President may, to the extent that such action is consistent with the purposes of this section and the limitations contained herein, modify or terminate, in whole or in part, any action taken under subsection (a).

(d) The President shall within 30 days of taking any action under this section notify each House of Congress of the nature of his action and the reasons therefor.

(e) No action taken under this section shall remain in effect for more than one year unless specifically authorized by law.

**SEC. 406. RESERVATION OF ARTICLES FOR NATIONAL SECURITY OR OTHER REASONS.**

(a) No action shall be taken pursuant to the provisions of this Act to reduce or eliminate the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) While there is in effect with respect to any article any action taken under section 203 of this Act, or sections 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981), the President shall reserve such article from negotiations or actions contemplating reduction or elimination of any duty or other import restriction with respect to such article, under Title I or sections 403, 404 or 405 of this Act. In addition, the President shall also so reserve any other article which he determines to be appropriate, taking into consideration information and advice available pursuant to and with respect to the matters covered by sections 111(b), 112, and 113(b), where applicable.

**SEC. 407. MOST-FAVORED-NATION PRINCIPLE.**

Except as otherwise provided pursuant to this Act or any other Act any duty or other import restriction or duty-free treatment applied in carrying out any action or any trade agreement under this Act, under Title II of the Trade Expansion Act of 1962 or under section 350 of the Tariff Act of 1930, as amended, shall apply to products of all foreign countries, whether imported directly or indirectly.

**SEC. 408. AUTHORITY TO TERMINATE ACTIONS.**

The President may at any time terminate, in whole or in part, any actions taken to implement trade agreements under this Act, Title II of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930, as amended.

**SEC. 409. PERIOD OF TRADE AGREEMENTS.**

Every trade agreement entered into under Titles I and IV of this Act shall be subject to termination or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than three years from the date on which the agreement becomes effective for the United States. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than six months' notice.

**SEC. 410. PUBLIC HEARINGS IN CONNECTION WITH AGREEMENTS UNDER TITLE IV.**

The President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard—

(1) Prior to the conclusion of any agreement or modification of any duty or other import restrictions pursuant to section 403 or section 404 of this Title, on the subject of such agreement or modification; and

(2) Pursuant to a request made by any interested person within 90 days after the President's taking any action under sections 402 or 408, on the subject of any such action.

**SEC. 411. AUTHORIZATION FOR GATT APPROPRIATIONS.**

There are hereby authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the Contracting Parties to the General Agreement on Tariffs and Trade.

## TITLE V—TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MOST-FAVORED-NATION TARIFF TREATMENT

### SEC. 501. EXCEPTION OF THE PRODUCTS OF CERTAIN COUNTRIES OR AREAS.

(a) Except as otherwise provided in this title, the President shall continue to deny most-favored-nation treatment to the products of any country or area, the products of which were not eligible for column 1 tariff treatment on the date of enactment of this Act.

(b) The President is authorized to deny such most-favored-nation treatment to all of the products of any country or area if in his judgment such action is necessary for reasons of national security.

### SEC. 502. AUTHORITY TO ENTER INTO COMMERCIAL AGREEMENTS.

(a) Subject to the provisions of subsections (b) and (c) of this section, the President may authorize the entry into force of bilateral commercial agreements providing most-favored-nation treatment to the products of countries heretofore denied such treatment whenever he determines that such agreements with such countries will promote the purposes of this Act and are in the national interest.

(b) Any such bilateral commercial agreement shall—

(1) be limited to an initial period specified in the agreement which shall be no more than three years from the time the agreement enters into force, except that it may be renewable for additional periods, each not to exceed three years, provided a satisfactory balance of trade concessions has been maintained during the life of each agreement and provided further that the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to a bilateral commercial agreement with the United States;

(2) provide that it is subject to suspension or termination at any time for national security reasons, or that the other provisions of such agreement shall not limit the rights of any party to take any action for the protection of its security interests; and

(3) provide for consultations for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party.

(c)(1) An agreement referred to in subsection (a) or an order referred to in section 504(a), shall take effect only after the expiration of 90 days from the date on which the President delivers a copy of such agreement or order to the Senate and to the House of Representatives, if between the date of delivery of the agreement or order to the Senate and to the House of Representatives and the expiration of the 90-day period neither the Senate nor the House of Representatives has adopted a resolution, by an affirmative vote by the yeas and nays of a majority of the authorized membership of that House, stating that it disapproves of the agreement or order.

(2) For purposes of this subsection, there shall be excluded from the computation of the 90-day period the days on which either House

is not in session because of an adjournment of more than three days to a day certain or an adjournment of Congress *sine die*. The agreement referred to in subsection (a) or order referred to in section 504(a) shall be delivered to both Houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session.

#### **SEC. 503. ADDITIONAL PROVISIONS.**

(a) Bilateral commercial agreements under this title may in addition include provisions concerning:

(1) safeguard arrangements necessary to prevent disruption of domestic markets;

(2) arrangements for the protection of industrial rights and processes, trademarks and copyrights;

(3) arrangements for the settlement of commercial differences and disputes;

(4) arrangements for the promotion of trade including those for the establishment or expansion of trade and tourist promotion offices, for facilitation of activities of governmental commercial officers, participation in trade fairs and exhibits and the sending of trade missions, and for facilitation of entry, establishment and travel of commercial representatives; and

(5) such other arrangements of a commercial nature as will promote the purposes of this Act.

(b) Nothing in this section shall be deemed to affect domestic law.

#### **SEC. 504. EXTENSION OF MOST-FAVORED-NATION TREATMENT.**

(a) The President may extend most-favored-nation treatment to the products of a foreign country which (1) has entered into a bilateral commercial agreement and such agreement has entered into force pursuant to section 502, or (2) has become a party to an appropriate multilateral trade agreement to which the United States is also a party, and the President has issued an order extending such treatment, which order has taken effect pursuant to section 502(c).

(b) The application of most-favored-nation treatment shall be limited to the period of effectiveness of the obligations of the United States to such country under such bilateral commercial agreement or multilateral agreement.

(c) The President may at any time suspend or withdraw any extension of most-favored-nation treatment to any country pursuant to subsection (a), and thereby cause all products of such country to be dutiable at the column 2 rate.

#### **SEC. 505. MARKET DISRUPTION.**

(a) A petition may be filed or a Tariff Commission investigation otherwise initiated under section 201 of this Act in respect of imports of an article manufactured or produced in a country, the products of which are receiving most-favored-nation treatment pursuant to this title, in which case the Tariff Commission shall determine (in lieu of the determination described in section 201(b) of this Act) whether imports of such article produced in such country are causing or are likely to cause material injury to a domestic industry producing like or

directly competitive articles, and whether a condition of market disruption (within the meaning of section 201(f)(2) of this Act) exists with respect to such imports.

(b) For the purposes of sections 202 and 203 of this Act, an affirmative determination of the Tariff Commission pursuant to subsection (a) of this section shall be treated as an affirmative determination of the Tariff Commission pursuant to section 201(b) of this Act, provided, however, that the President, in taking action pursuant to section 203(a)(1) of this Act, may adjust imports of the article from the country in question without taking action in respect of imports from other countries.

#### **SEC. 506. EFFECTS ON OTHER LAWS.**

The President shall from time to time reflect in general headnote 3(e) of the Tariff Schedules of the United States the provisions of this title and actions taken hereunder, as appropriate.

## **TITLE VI—GENERALIZED SYSTEM OF PREFERENCES**

#### **SEC. 601. PURPOSES.**

The purpose of this title is to promote the general welfare, foreign policy and security of the United States by enabling the United States to participate with other developed countries in granting generalized tariff preferences to exports of manufactured and semimanufactured products and of selected other products from developing countries. The Congress finds that the welfare and security of the United States are enhanced by efforts to further the economic development of the developing countries, and that such development may be assisted by providing increased access to markets in the developed countries, including the United States, for exports from developing countries.

#### **SEC. 602. AUTHORITY TO EXTEND PREFERENCES.**

Notwithstanding the provisions of section 407 of this Act, the President may designate any article as an eligible article, may provide duty-free treatment for any eligible article from any beneficiary developing country designated under section 604, and may modify or supplement any such action consistent with the provisions of this title. In taking any such action, the President shall have due regard for—

- (1) the purpose of this title;
- (2) the anticipated impact of such action on United States producers of like or directly competitive products; and
- (3) the extent to which other major developed countries are undertaking a comparable effort to assist beneficiary developing countries by granting preferences with respect to imports of products of such countries.

#### **SEC. 603. ELIGIBLE ARTICLES.**

(a) In connection with any proposed action under section 602, the President shall from time to time publish and furnish the Tariff Commission with lists of articles which may be considered for designation as eligible articles. Prior to the taking of actions under section 602

providing duty-free treatment for any article, the provisions of sections 111 through 114 of this Act shall be complied with as though such actions were actions under section 101 of this Act to carry out a trade agreement entered into thereunder.

(b) Preferential treatment provided under section 602 shall apply only to eligible articles which are imported directly from a beneficiary developing country into the customs territory of the United States; provided that the sum of the cost or value of materials produced in the beneficiary developing country plus the direct costs of processing operations performed in the beneficiary developing country shall equal or exceed that percentage of the appraised value of the article at the time of its entry into the customs territory of the United States that the Secretary of the Treasury shall by regulation prescribe. Such percentage, which may be modified from time to time, shall apply uniformly to all articles from all beneficiary developing countries. For the purposes of this subsection, the Secretary shall also determine what constitutes direct costs and shall prescribe rules governing direct importation.

(c) No action shall be taken under section 602 designating as an eligible article any article the importation of which is the subject of any action pursuant to section 203 of this Act, section 351 of the Trade Expansion Act of 1962, section 22 of the Agricultural Adjustment Act, section 202 of the Sugar Act of 1947, or the Act of August 22, 1964 (78 Stat. 594), or any agreement concluded pursuant to section 204 of the Agricultural Act of 1956, or any action by the President pursuant to section 232 of the Trade Expansion Act. Upon the effective date of any action pursuant to section 203 of this Act, section 22 of the Agricultural Adjustment Act, section 202 of the Sugar Act of 1947, or the Act of August 22, 1964 (78 Stat. 594), or any agreement concluded pursuant to section 204 of the Agricultural Act of 1956, or any action by the President pursuant to section 232 of the Trade Expansion Act, with respect to any article then designated an eligible article, such article shall cease to be an eligible article. When the actions or agreements described in the foregoing sentence cease to apply to an article, the President may again designate such article as an eligible article pursuant to the provisions of this section.

(d) After receiving an affirmative finding of the Tariff Commission under section 201 of this Act in respect to an eligible article, the President may, in lieu of the actions permitted under section 203 of this Act terminate the status of such article as an eligible article.

**SEC. 604. BENEFICIARY DEVELOPING COUNTRY.**

(a) Subject to the provisions of subsection (b), the President may designate any country a beneficiary developing country, taking into account—

- (1) the purpose of this title;
- (2) any expression by such country of its desire to be so designated;
- (3) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(4) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country; and

(5) whether or not such country has nationalized, expropriated or seized ownership or control of property owned by a United States citizen, or any corporation, partnership or association not less than 50 percent beneficially owned by citizens of the United States without provision for the payment of prompt, adequate and effective compensation.

(b) The President shall not designate any country a beneficiary developing country—

(1) the products of which are not receiving most-favored-nation treatment by reason of general headnote 3(e) to the Tariff Schedules of the United States; or

(2) which accords preferential treatment to the products of a developed country other than the United States, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976.

#### SEC. 605. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) The President may modify, withdraw, suspend or limit the application of the preferential treatment accorded under section 602 with respect to any article or with respect to any country; provided that no rate of duty shall be established in respect of any article pursuant to this section other than the rate which would apply in the absence of this title. In taking any such action, the President shall consider the factors set forth in sections 602 and 604(a) of this title.

(b) The President shall withdraw or suspend the designation of a country as a beneficiary developing country if, subsequent to such designation—

(1) the products of such country are excluded from the benefit of most-favored-nation treatment by reason of general headnote 3(e) to the Tariff Schedules of the United States; or

(2) he determines that such country has not eliminated or will not eliminate preferential treatment accorded by it to the products of a developed country other than the United States before January 1, 1976.

(c) Whenever the President determines that a country has supplied 50 percent by value of the total imports of an eligible article into the United States, or has supplied a quantity of such article to the United States having a value of more than \$25,000,000, on an annual basis over a representative period, that country shall not be considered a beneficiary developing country in respect of such article, unless the President determines that it is in the national interest to designate, or to continue the designation of such country as a beneficiary developing country in respect of such article.

(d) No action pursuant to this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930, as amended (46 Stat. 696) upon coffee imported into Puerto Rico.

**SEC. 606. DEFINITIONS.**

For the purposes of this title—

(1) the term “country” shall mean any country, dependent territory (including an insular possession or trust territory of the United States), area, or association of countries;

(2) the term “developed country” shall mean any country determined by the President to enjoy a high level of economic development relative to the countries of the world taken as a whole, taking into account its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the term “major developed country” shall mean any developed country which is a member of the Organization for Economic Cooperation and Development and which is determined by the President to account for a significant percentage of world trade.

**SEC. 607. EFFECTIVE PERIOD OF PREFERENCES.**

No preferential treatment under this title shall remain in effect for a period in excess of ten years after the effective date of the grant of such preferential treatment or after December 31, 1984, whichever is the earlier.

**TITLE VII—GENERAL PROVISIONS****SEC. 701. AUTHORITIES.**

(a) The President may delegate the power, authority, and discretion conferred upon him by this Act to the heads of such agencies as he may deem appropriate.

(b) The head of any agency performing functions under this Act may—

(1) authorize the head of any other agency to perform any of such functions;

(2) prescribe such rules and regulations as may be necessary to perform such functions; and

(3) to the extent necessary to perform such functions, procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract or appointment, and in such cases such services shall be without regard to the civil service and classification laws, and, except in the case of stenographic reporting services by organizations, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

**SEC. 702. REPORTS.**

(a) The President shall submit to the Congress an annual report on the trade agreements program and on import relief and adjustment assistance for workers under this Act. Such report shall include information regarding new negotiations; changes made in duties and nontariff barriers and other distortions of trade of the United States; reciprocal concessions obtained; changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor); extension or withdrawal of most-

avored-nation treatment by the United States with respect to the products of a foreign country; extension, modification, withdrawal, suspension or limitation of preferential treatment to exports of developing countries; the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports; and the measures being taken to seek the removal of other significant foreign import restrictions; other information relating to the trade agreements program and to the agreements entered into thereunder, and information relating to the provision of adjustment assistance for workers dislocated due to imports.

(b) The Tariff Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.

#### **SEC. 703. TARIFF COMMISSION.**

(a) In order to expedite the performance of its functions under this Act, the Tariff Commission may conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate proceedings before it.

(b) In performing its functions under this Act, the Tariff Commission may exercise any authority granted to it under any other Act.

(c) The Tariff Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements entered into under the trade agreements program.

#### **SEC. 704. SEPARABILITY.**

If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the application of such provision to other circumstances or persons, shall not be affected thereby.

#### **SEC. 705. DEFINITIONS.**

For the purposes of this Act—

(1) The term “agency” includes any United States agency, department, board, instrumentality, commission, or establishment, or any corporation wholly or partly owned by the United States.

(2) The term “duty” includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(3) The term “other import restriction” includes a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of imports.

(4) The term “firm” includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustees in bankruptcy, and receivers under decree of any court.

(5) An imported article is “directly competitive with” a domestic article at an earlier or later stage of processing, and a domestic article is “directly competitive with” an imported article at an earlier or later stage of processing, if the importation of the imported article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article. For purposes of this paragraph, the unprocessed article is at an earlier stage of processing.

(6) A product of a country or area is an article which is the growth, produce, or manufacture of such country or area.

(7) The term "modification", as applied to any duty or other import restriction, includes the elimination of any duty or other import restriction.

(8) The term "existing" without the specification of any date, when used with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this Act, means existing on the day on which such trade agreement is entered into or such other action is taken, and, when referring to a rate of duty, refers to the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing in column 1 of the Tariff Schedules of the United States on such day.

(9) The term "ad valorem equivalent" means the ad valorem equivalent of a specific rate or, in the case of a combination of rates including a specific rate, the sum of the ad valorem equivalent of the specific rate and of the ad valorem rate. The ad valorem equivalent shall be determined by the President on the basis of the value of imports of the article concerned during a period determined by him to be representative. In determining the value of imports, the President shall utilize, to the maximum extent practicable, the standards of valuation contained in section 402 or 402a of the Tariff Act of 1930 (19 U.S.C., sec. 1401a or 1402) applicable to the article concerned during such representative period.

#### SEC. 706. RELATION TO OTHER LAWS.

(a) The second and third sentences of section 2(a) of the Act entitled "An Act to amend the Tariff Act of 1930," approved June 12, 1934, as amended (19 U.S.C. 1352(a)), are each amended by striking out "this Act or the Trade Expansion Act of 1962" and inserting in lieu thereof "this Act or the Trade Expansion Act of 1962 or the Trade Reform Act of 1973."

(b) Action taken or considered to have been taken by the President under section 231 of the Trade Expansion Act of 1962 and in effect on the date of the enactment of this Act shall be considered as having been taken by the President under section 501(a).

(c) Section 242 of the Trade Expansion Act of 1962 is amended as follows:

(1) by striking out "351 and 352" in subsection (a) and inserting in lieu thereof "201, 202 and 203 of the Trade Reform Act of 1973";

(2) by striking out "with respect to tariff adjustment" in subsection (b) (2);

(3) by striking out "301(e)" in subsection (b) (2) and inserting in lieu thereof "201(d) of the Trade Reform Act of 1973"; and

(4) by striking out "section 252(d)" each place it appears and inserting in lieu thereof "subsection 301(c) of the Trade Reform Act of 1973."

(d) Sections 202, 211, 212, 213, 221, 222, 223, 224, 225, 226, 231, 243, 252, 253, 254, 255, 256(1), (2) and (3), 301, 311 through

338, 361, 401, 402, 403, 404, and 405 (1), (3), (4) and (5) of the Trade Expansion Act of 1962 are repealed.

(e) All provisions of law (other than this Act, the Trade Expansion Act of 1962, and the Trade Agreements Extension Act of 1951) in effect after the date of enactment of this Act, referring to section 350 of the Tariff Act of 1930, to that section as amended, to the Act entitled "An Act to amend the Tariff Act of 1930," approved June 12, 1934, to that Act as amended or to the Trade Expansion Act of 1962, or to agreements entered into, or proclamations issued, or actions taken under any of such provisions, shall be construed, unless clearly precluded by the context, to refer also to this Act, or to agreements entered into or proclamations or orders issued, pursuant to this Act.

(f) Headnote 4 to schedule 1, part 5, subpart B of the Tariff Schedules of the United States (77A Stat. 32, 19 U.S.C. 1202) is hereby repealed.

(g) The Johnson Debt Default Act (62 Stat. 744; 18 U.S.C. 955) is hereby repealed.

(h) Section 350(a) (6) of the Tariff Act of 1930 is repealed.

#### **SEC. 707. CONSEQUENTIAL CHANGES IN THE TARIFF SCHEDULES.**

The President shall from time to time as appropriate embody in the Tariff Schedules of the United States the substance of the relevant provisions of this Act, and of other Acts affecting import treatment, and actions thereunder, including modification, continuance or imposition of any rate of duty or other import restriction.

#### **SEC. 706. SIMPLIFICATION AND MODIFICATION OF THE TARIFF SCHEDULES.**

(a) If the President determines that such action will simplify or clarify the Tariff Schedules of the United States, or that it will reduce barriers to international trade, he may from time to time, upon recommendation of the Tariff Commission, modify or amend the Tariff Schedules of the United States, which modification or amendment may include, without limitation:

- (1) establishment of new classification;
- (2) transfer of particular articles from one classification to another classification; and
- (3) abolition of classifications;

provided, that except as authorized in subsection (b), such action shall not result in any modification of any rate of duty or other import restriction. This subsection shall not be deemed, however, to authorize the adoption of a revised tariff nomenclature in place of the Tariff Schedules of the United States.

(b) If the President determines that such action would contribute to the simplification or clarification of the Tariff Schedules, he may—

- (1) modify the rate of duty applicable to any article, or impose or eliminate a rate of duty in respect of any article, provided that no rate of duty or duty-free treatment may be changed by more than 1 percent ad valorem (or the ad valorem equivalent) from the rate existing on the effective date of this Act, or as modified in accordance with the provisions of any trade agreement concluded in accordance herewith.

(2) subject to subsection (d), modify the rate of duty applicable to any article or impose or eliminate a rate of duty in respect of any article, without regard to the limitation contained in paragraph (1) of this subsection, or modify another import restriction, applicable to an article, or group of articles, the annual imports of which have in none of the immediately preceding ten years exceeded \$10,000.

(c) Before recommending to the President any action under this section the Tariff Commission shall publish in the Federal Register a public notice of the type of modification of the Tariff Schedules which it has under consideration, and shall give interested parties adequate opportunity for the presentation of their views to the Commission.

(d) Following any modification of the type authorized by subsection (b) (2) which has, or could have, the effect of reducing or eliminating a duty or other import restriction, the Tariff Commission shall, for a period of five years following the effective date of such modification, observe the effect, if any, of the modification on the importation of the article, or group of articles, involved. The Commission shall promptly report to the President any substantial increase in the imports of such article, or group of articles, during such five-year period. If the President determines that an effect of the modification has been a substantial increase in the imports of such article or group, and that such increase has resulted, or is likely to result in injury to the domestic industry producing the like or directly competitive article, he shall promptly terminate the modification of the duty or other import restriction of such article or group of articles.

(e) The President may at any time terminate, in whole or in part, any action taken under this section.

A BILL To amend the Federal Trade Commission Act and the Export Trade Act as amended to deal with unfair competition in imports, to provide for clarification of law, for prior Federal Trade Commission clearance of export trade associations, and for other purposes.

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

## TITLE I—AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT

Section 6 of the Federal Trade Commission Act, as amended (15 U.S.C. 46) is amended by adding the following new paragraph, designated as (i) :

“(i) in addition to the other powers conferred by this Act, to order that commodities be excluded from entry into the United States whenever it finds that unfair methods of competition or unfair acts are being employed in the importation of such commodities into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, to restrain or monopolize trade and commerce in the United States, or to substantially impair competition within the United States. All orders of the Commission under this paragraph shall be submitted to the Secretary of the Treasury before publication thereof. No final order shall be issued by the Commission under this paragraph if the Secretary of the Treasury notifies the Commission within thirty days after transmittal of the proposed order to him that the exclusion from entry into the United States of the commodity in question would have or be likely to have a significant adverse effect upon the economic interest of the United States. Final orders of the Commission under this subparagraph (i) shall be issued, become final and be subject to review in the same manner as all other orders of the Commission under this act, and may be permanent or temporary, and subject to such conditions as the Commission may, in its discretion impose. The Commission, or the court having jurisdiction on appeal, may upon application or on its own motion provide for the posting of a bond in favor of the United States or such persons as the Commission or the court may designate, and stay the operation of final orders pending appeal. Upon notification to the Secretary of the Treasury of entry of a final order the Secretary shall, through the proper officers, refuse such entry, unless a stay of the order has been granted under this section by the Commission or by a court having jurisdiction of an appeal from said order. No order shall be issued under this paragraph (i) with respect to any alleged unfair com-

petition for which a remedy is provided by the Antidumping Act of 1916 (15 U.S.C. 72), the Antidumping Act, 1921, as amended (19 U.S.C. 160-171), section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), or section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337).”

## TITLE II—AMENDMENTS TO THE EXPORT TRADE ACT

The Export Trade Act, 40 Stat. 516-17 (15 U.S.C. 61-65), is amended to read:

### “SEC. 1.

The words ‘export trade’ wherever used in this Act mean solely trade or commerce in goods, wares, merchandise, architectural services, engineering services, construction services, training services, financing services or project or general management services exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation; but the words ‘export trade’ shall not be deemed to include (i) the production, manufacture, or selling for consumption or for resale, within the United States or any Territory thereof, of such goods, wares, merchandise or services, or any act in the course of such production, manufacture or selling for consumption or for resale or (ii) trade or commerce in patents, licenses, trade secrets or knowhow except such knowhow as is incidental to the sale of such goods, wares, merchandise or services.

The words ‘trade within the United States’ wherever used in sections 1-5 of this title mean trade or commerce among the several States or in any Territory of the United States, or in the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

The word ‘association’ wherever used in sections 1-5 of this title means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations, who are citizens of, or which are created and existing under the laws of the United States or any State thereof.”

### “SEC 2.

The export trade operations conducted by or through any association registered pursuant to section 3 of this Act and the organization of such association (including without limitation, the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of the association) each substantially in conformance with an effective registration statement filed by the association with the Federal Trade Commission (hereinafter the ‘Commission’) in accordance with this Act (subject to any terms and conditions imposed by the Commission) shall not be subject to any of the provisions of the Antitrust Laws. For the purposes of this Act, the Antitrust Laws are those laws defined as such in sections 12 and 44, title 15, United States Code; the Federal Trade Commission Act, sections 41-58, title 15, United States Code; any other laws of the United States *in pari materia* including state laws on antitrust and unfair methods of competition; and all amendments to the foregoing.

Associations registered with the Commission prior to the date of enactment of this Act may file a registration statement as provided herein within 90 days of enactment hereof. With respect to associations which elect to file within 90 days, the immunity conferred to such associations prior to enactment of this Act shall continue and not be enlarged or diminished until such time as the Commission makes its determination under section 3 thereof. Thereafter, immunity of such organizations shall extend as prescribed herein, unless the Commission determines that no registration should be permitted, in which case as of the date of that decision any immunity for future conduct shall cease. As to those associations which do not elect to register hereunder, immunity conferred prior to enactment of this Act shall cease 90 days after enactment hereof."

**"SEC. 3.**

(a) Any association seeking the protection of section 2 of this Act may apply for registration by filing with the Federal Trade Commission a registration application in the form the Commission shall prescribe, setting forth the information and accompanied by the documents specified below :

(i) copies of its certificate of incorporation, constitution, by-laws, rules, or agreements relating to the organization and operation of the association, in each instance with all amendments thereto ;

(ii) location of its offices and places of business ;

(iii) names and addresses of all officers and directors of the association or persons holding corresponding positions ;

(iv) names and addresses of all persons, partnerships or corporations who are members of the association ;

(v) description of the export trade conducted or proposed to be conducted by or through the association ;

(vi) methods by which the export trade is conducted or proposed to be conducted, including, without limitation, any agreements to sell exclusively to or through the association, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreement for pooling tangible or intangible property or resources, or any territorial, price maintenance, or other restrictions to be included in sales, or other agreements ;

(vii) names of all countries where export trade is conducted or proposed to be conducted by or through the association ;

(viii) information to support a registration under paragraph (c) of this section and

(ix) any other information which the Commission may require concerning the organization, operation, management, or finances of the association, the relation of the association to other associations and to the export trade being or proposed to be conducted ; and competition or potential competition, and effects of the association thereon.

Any amendment to the registration of a registered association shall be applied for and approved in the same manner as a registration application filed under this section.

(b) Upon receipt of a registration application, the Federal Trade Commission shall immediately deliver copies of such application to the Attorney General. The Attorney General may request that the Commission provide additional information or that the Commission request the association to provide additional information. Within ninety days after the date of delivery of copies of the application to him, the Attorney General shall submit to the Commission a report on the effect which the export trade to be conducted by or through the association would likely have on competition in the United States, or upon exports by domestic non-members. The Commission may also request opinions on any application from other Federal departments and agencies.

(c) After receiving the report of the Attorney General, the Federal Trade Commission shall register the association for such period of time and subject to such terms and conditions as it deems appropriate if the Commission finds that the organization and operation of the association in conformance with its registration statement is not likely to result in substantially lessening competition, or restraining the domestic or import trade of the United States, or substantially restraining exports by domestic non-members.

(d) Whenever a material change occurs in the facts disclosed to the Commission by a registered export group, under section 4, such group shall within thirty days thereafter report such material change to the Commission with any documents or information relevant thereto.

(e) The Commission may by regulation require a registered export group to submit such periodic reports as it may deem necessary to carry out its responsibilities under this Act."

**"SEC. 4.**

(a) The Federal Trade Commission shall have exclusive jurisdiction to determine whether any material act, practice or course of conduct by a registered association in connection with export trade is not in conformance with its registration statement in which case the Commission may, on its own initiative or upon motion of the Attorney General or any interested person, in its discretion (i) require that the registration statement be amended, (ii) require that the organization or operation of the association be modified, (iii) revoke, in whole or in part, the registration of the association and/or (iv) recommend to the Justice Department prosecution of the appropriate persons, partnerships or corporations or of the association under the Antitrust Laws. Neither the Justice Department nor any other agency or department of the Government may bring suit under any of the Antitrust Laws, against any registered association or against any person, partnership or corporation, based upon the organization or export trade operations of any registered association unless a recommendation that such a suit be brought has been made by the Commission pursuant to this paragraph.

(b) The Federal Trade Commission shall have exclusive jurisdiction to determine whether any material act, practice, or course of conduct by a registered association in connection with export trade, al-

though in conformance with the registration statement of the association, is or has become inconsistent with the standards set forth in section 3, in which case the Commission may, in its discretion (i) require that the organization or operation of the association be modified or (ii) revoke, in whole or in part, the registration of the association.

(c) The Federal Trade Commission shall not have exclusive or primary jurisdiction as to conduct by a registered association or its members which is not in conformity with the registration statement of the association and which has as one of its purposes or as its primary effect a substantial lessening of competition or restraining the domestic or import trade of the United States, or substantially restraining exports by domestic non-members.”

“SEC. 5.

(a) The Federal Trade Commission shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

(b) This Act shall terminate and cease to be in effect as of midnight on December 31, 1978 unless extended prior thereto by act of Congress: *provided*, however, that the termination of this Act shall in no way diminish or terminate immunities granted hereby under the Antitrust Laws with respect to the organization or operation prior to the termination of this Act of any registered association.”

