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BRIEF SUMMARY OF H.R. 10710
THE "TRADE REFORM ACT OF 1973"

As Reported to the House on
October 10, 1973



Prepared by the Staff of the Committee on Ways and Means

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BRIEF SUMMARY OF H.R. 10710, THE "TRADE REFORM ACT OF 1973," AS REPORTED TO THE HOUSE ON OCTOBER 10, 1973

Overall Summary

This major legislation would provide the foundation for the United States future trade relations with other industrialized countries, with developing countries, and with Communist countries. It provides the President adequate trade agreement authority to achieve reciprocal reductions of both tariff and nontariff barriers, within constitutional limits and subject to congressional surveillance. At the same time, it provides adequate safeguards for the rights of United States workers, industries, farmers, and consumers.

Title I of the bill contains authority, subject to clearly defined limitations, for the President to enter into both tariff and nontariff barrier negotiations. It establishes a new procedure under which the President can implement international agreements on nontariff barriers and other distortions of international trade if he notifies the Congress 90 days before entering into such agreement, and if neither House of Congress by privileged resolution disapproves by a simple majority the agreement within another 90 days after submission. It provides the President carefully defined authority to deal with balance-of-payments deficits on an emergency basis whereby he can impose import surcharges up to 15 percent ad valorem for a period not to exceed 150 days. Any extension of such action beyond that time must be legislated by the Congress.

Title II of the bill makes major changes providing greater accessibility of both workers and industries seriously injured by import competition to either temporary protection from imports or adjustment assistance, or a combination of both. In the future, it will be sufficient for those affected to establish before the Tariff Commission that imports are a substantial cause of serious injury in order to obtain a Commission finding on the basis of which the President may grant temporary import relief.

Title III revises three provisions dealing with unfair trade practices. It revises and expands the President's authority to take action against foreign countries which maintain unjustifiable or unreasonable import restrictions and other policies which burden, restrict or discriminate against United States exports. It amends the Anti-dumping Act of 1921 by placing time limitations on investigations and withholding of appraisement as well as providing for hearings. Criteria for handling complaints on imports from state-controlled economies are also provided. This title also contains major amendments to the countervailing duty law including a requirement that the Secretary of the Treasury must reach a final determination within 12 months after the question as to whether exports to the United States are subject to foreign bounty or grant.

Title IV responds to the President's request for authority to extend nondiscriminatory (most-favored-nation) tariff treatment to imports from countries which currently are subject to the higher statutory rates of duty, as distinguished from the lower trade agreement rates conferred on imports from all other countries. As agreed to by the committee, the President can use his authority only if certain conditions are met, including his finding that such countries recognize the right of emigration. In regard to the freedom of emigration condition, there must be periodic reports by the President to the Congress, and the Congress retains the right for either House to veto a grant (or continuation) of nondiscriminatory tariff treatment.

Title V provides authority to the President for 10 years to participate with other developed countries in granting generalized tariff preferences on imports of semimanufactures, manufactures, and selected other products from developing countries.

Summary of Provisions by Title

Title I—Negotiating and Other Authority

Modification of U.S. import duties.—Title I contains the basic authority, subject to clearly defined limitations, for the President to enter into both tariff and nontariff barrier negotiations. The President is provided authority for a period of 5 years to change tariffs, within certain limits, pursuant to mutually beneficial trade agreements. The President would be authorized (a) to eliminate tariffs completely where existing duties are 5 percent ad valorem or less; (b) to reduce tariffs by 60 percent where existing rates of duty are between 5 and 25 percent ad valorem; and (c) to reduce duties by 75 percent where existing duties exceed 25 percent ad valorem. In the last case, duties cannot be reduced below 10 percent ad valorem. In general, duty reductions will be phased over a period of not less than 5 years, but not more than 15 years after the initial proclamation date. The bill limits the President's authority to increase rates of duty to the higher of a rate 50 percent above the 1934 rate, or to 20 percent ad valorem above the existing rates.

Nontariff barriers.—The bill provides Presidential authority to reduce nontariff barriers to international trade through the negotiation of trade agreements with other countries on a basis of mutuality for the reduction of such barriers. Trade agreements entered into under this section are, to the extent feasible, to be negotiated on the basis of each product sector of manufacturing and on the basis of the agricultural sector to assure equity of access of U.S. exports to foreign markets. Trade agreements entered into under this provision of the bill which are submitted to the Congress under the procedures specified in the bill, shall take effect only if the President notifies both Houses of the Congress of his intention to enter into such agreement and neither House of the Congress adopts a resolution of disapproval of the proposed agreements within a 90-day period after receipt of the agreement and the implementing orders.

Other authority.—The President is directed to promote the development of an open, nondiscriminatory, fair world trading system through

the revision and reform of international trading rules, including the revision of specific rules in the GATT.

The President is given a carefully defined authority to deal with balance-of-payments deficits on an emergency basis whereby he can impose import surcharges up to 15 percent ad valorem for a period not to exceed 150 days. Any extension of such action beyond that time must be legislated by the Congress.

The President is also authorized to reduce tariffs and other import restrictions within defined limits in the case of a persistent balance-of-payments surplus. These balance-of-payments authorities are to be exercised in a manner consistent with relevant international monetary reform agreements to which the United States becomes a party.

To assist in meeting the problem of inflation, the President would be authorized, under certain guidelines, to temporarily reduce or suspend the rates of duty as well as temporarily liberalize quantitative import restrictions on articles whose supplies are inadequate to meet domestic demand at reasonable prices.

Limited trade agreement authority also is provided to enable the President to grant tariff compensation when actions are taken to increase U.S. duties or impose other import restrictions and when the United States wishes to renegotiate duties or to terminate or withdraw concessions.

Advice concerning negotiations.—In connection with any proposed trade agreement, the President is directed to publicize a list of articles on which negotiations are contemplated. Within 6 months of the issuance of such list, the Tariff Commission is to advise the President of its judgment as to the probable effects of modifications of duties, or other customs treatment, on industries (that is, U.S. manufacturers, agriculture, mining, fishing, and labor) producing like or directly competitive articles, and on consumers. In preparing its advice, the Commission is to hold public hearings.

Before entering into trade agreements under the bill, the President must also seek information and advice from other Government agencies, and from such other sources as he deems appropriate. The President shall designate an interagency committee to hold public hearings on any matter relevant to proposed trade agreements.

An Advisory Committee for Trade Negotiations, composed of not more than 45 individuals representing Government, labor, industry, agriculture, consumers, and the public is also provided for. In addition, the President, at his own initiative or upon appropriate request shall establish such industry, labor, or agricultural advisory committees he deems necessary to provide policy advice on negotiations; technical advice and information on products; and advice on other factors relevant to the negotiations.

Special Trade Representative.—The bill would establish the Office of the Special Representative for Trade Negotiations and specify its functions and responsibilities to both the President and the Congress with respect to trade matters.

Congressional oversight.—A congressional delegation is to be accredited as official advisers to the trade negotiations. Beginning at each regular session of Congress, the President, upon the recommendation of the Speaker of the House and the President of the Senate, shall

designate five members from the House Committee on Ways and Means and five members of the Senate Committee on Finance to serve as such official congressional advisers.

Title II—Relief From Injurious Import Competition

Import relief (escape clause).—Industries may be certified as being eligible for import relief for purposes of facilitating orderly adjustment to import competition where the Tariff Commission determines that increased imports (whether or not the result of concessions) are a substantial cause of serious injury, or threat thereof, to an industry. For this purpose, "substantial cause" means a cause which is important and not less than any other cause.

In the case of an industry investigation, the Tariff Commission, if it makes an affirmative determination, must also find the amount of increase in, or imposition of, any duty or other import restriction required to provide relief from imports.

Upon receipt of an affirmative industry determination from the Tariff Commission, the President may direct that expeditious consideration be given applications for adjustment assistance by firms or workers of that industry. He also may provide import relief to industry after taking into account certain economic factors.

If the President decides to provide relief to an industry, the following import restraints are preferred, in order: (1) an increase in, or the imposition of, duties, (2) tariff-rate quotas, (3) quantitative restrictions, and (4) orderly marketing agreements. Import relief, including the combinations of the foregoing, shall, if granted, not exceed 5 years, but may under certain conditions be extended for an additional 2-year period.

Whether the President decides for or against import relief, he shall report to the Congress his reasons therefor, as well as the reasons for selecting a particular import relief measure.

The suspension of application of TSUS items 806.30 and 807.00 (providing special tariff treatment for U.S. products processed or assembled abroad) or the suspension of generalized preferential treatment of an article may be used as relief measures, which would be considered an increase in duty, if the Tariff Commission determined that increased imports under these provisions are resulting in serious injury, or threat thereof, to the industry.

Adjustment assistance.—Eligibility determinations for workers and firms are to be made, respectively, by the Secretary of Labor and the Secretary of Commerce.

Eligible workers would be entitled to up to 52 weeks of cash allowances, amounting to 70 percent of the worker's average wage for the first 26 weeks of entitlement, and to 65 percent, as under the present law, for the remaining weeks of entitlement. Maximum cash allowances are increased from 65 percent to 100 percent of the average weekly wage in manufacturing. Older workers may receive up to an additional 13 weeks, and workers in training may receive up to 26 additional weeks. In addition, workers may receive training, employment, job counseling, and relocation benefits, as well as expenses to

assist them in searching for employment when suitable local employment is unavailable. These programs are to be financed through a trust fund financed from customs revenues.

The assistance program for eligible firms includes technical assistance and financial assistance. The limit on loans to any one firm is \$1 million in direct loans and \$3 million in Government-guaranteed loans. Technical assistance may be furnished for the purpose of developing a program for economic adjustment, or assistance in implementing such a proposal, or both.

Title III—Relief From Unfair Trade Practices

Title III revises three provisions dealing with unfair trade practices.

Foreign import restrictions and export subsidies.—Chapter 1 revises and expands the President's authority to take action against foreign countries which maintain unjustifiable or unreasonable import restrictions and other policies which burden, restrict, or discriminate against U.S. exports. However, the President is required to give prior notice to the public of the foreign action and the products on which he intends to retaliate, and hold hearings in which all interested parties may present their views, before he uses his authority. Further, the President is authorized, under certain defined conditions, to act against countries subsidizing their exports into the United States. All actions by the President under this authority are subject to a congressional veto.

Antidumping Act, 1921.—Chapter 2 amends the Antidumping Act, 1921, by placing time limits on the Treasury Department with respect to investigations and the withholding of appraisement. Other amendments relate to the definition of "purchase price" for purposes of fair-market-value determinations and in the treatment of certain tax rebates or remissions in the computation of the purchase price. Criteria are also prescribed for determining the fair market value of merchandise imported from state-controlled-economy countries.

Countervailing duties.—Chapter 3 contains major amendments to the countervailing duty law including a requirement that the Secretary of the Treasury must reach a final determination within 12 months after the question is presented as to whether exports to the United States are subject to foreign bounty or grant. Duty-free imports will become subject to countervailing duties for the first time, subject to the finding of a bounty or grant by the Secretary of the Treasury and a subsequent finding by the Tariff Commission that such imports are causing injury to domestic industry. The provisions will assure that domestic producers have the right to judicial review of negative determinations by the Secretary of the Treasury. Finally, the bill will provide that for a 4-year period the Secretary of the Treasury may choose not to impose countervailing duties if he finds that such action would seriously jeopardize the trade negotiations contemplated under the bill; except a 1-year period applies where the subsidized merchandise is produced in plants owned or controlled by the government of a developed country.

Title IV—Trade Relations With Countries Not Enjoying Nondiscriminatory Treatment

Title IV provides authority for the President to extend nondiscriminatory (most-favored-nation) tariff treatment to imports from countries which currently are subject to the higher statutory rates of duty, as distinguished from the lower trade agreement rates conferred on imports from all other countries. These higher rates apply to all the Communist countries except Poland and Yugoslavia. The President can use his authority in the context of negotiated bilateral commercial agreements only if certain conditions are met, including safeguards against market-disrupting imports and safeguards and assurances for the protection of industrial rights and processes, including patent and copyright matters. Finally, the President's action is subject to his finding that such countries recognize the right of emigration. These commercial agreements and their extensions will be for periods no longer than 3 years each, but in regard to the freedom of emigration condition, there must be periodic reports by the President to the Congress, and the Congress retains the right for either House annually to veto a grant (or continuation) of nondiscriminatory tariff treatment. In addition, there are other considerations that the President may take into account in using this authority and in negotiating the bilateral commercial agreements. The President may also extend nondiscriminatory treatment to any country which is a party to an appropriate multilateral agreement to which the United States is also a party, such as the GATT. Extension of nondiscriminatory treatment under this provision is also subject to congressional veto.

Title V—Generalized System of Preferences

Title V provides authority to the President for 10 years to participate with other developed countries in granting generalized tariff preferences on imports of semimanufactures, manufactures, and selected other products from developing countries. For an article to be eligible, a percentage of the value of the materials and the direct costs of processing must be attributable to the beneficiary country. This percentage, between 35 and 50 percent, is to be established by the Secretary of the Treasury. These duty-free preferences would terminate on imports of an article from a particular developing country which supplies more than 50 percent of the total value of the U.S. imports or \$25 million of the article to the United States during a representative annual period. Preferential treatment will not apply to an article on which import relief measures are in effect. Developing countries which do not undertake to eliminate preferences that discriminate against U.S. exports (that is, preferences to other developed countries) before January 1, 1976, and developing countries which do not receive nondiscriminatory (most-favored-nation) treatment are not eligible for preferences.

