

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

PROPOSED "TRADE ACT OF 1969"

As Submitted to the Congress and Referred to the

COMMITTEE ON WAYS AND MEANS
ON NOVEMBER 18, 1969

INCLUDING

MESSAGE OF THE PRESIDENT
DRAFT BILL* AND
SECTION-BY-SECTION ANALYSIS

TOGETHER WITH

THE TRADE EXPANSION ACT OF 1962,
As Amended

MARCH 12, 1970

*Introduced by Chairman Mills (for himself and Mr. Byrnes, of Wisconsin) at the request of the Administration on November 19, 1969, as H.R. 14870, so as to make the language widely available

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U.S. GOVERNMENT PRINTING OFFICE

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PROPOSED "TRADE ACT OF 1969"

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

For the past 35 years, the United States has steadfastly pursued a policy of freer world trade. As a nation, we have recognized that competition cannot stop at the ocean's edge. We have determined that American trade policies must advance the national interest—which means they must respond to the whole of our interests, and not be a device to favor the narrow interest.

This Administration has reviewed that policy and we find that its continuation is in our national interest. At the same time, however, it is clear that the trade problems of the 1970's will differ significantly from those of the past. New developments in the rapidly evolving world economy will require new responses and new initiatives.

As we look at the changing patterns of world trade, three factors stand out that require us to continue modernizing our own trade policies:

First, world economic interdependence has become a fact. Reductions in tariffs and in transportation costs have internationalized the world economy just as satellites and global television have internationalized the world communications network. The growth of multinational corporations provides a dramatic example of this development.

Second, we must recognize that a number of foreign countries now compete fully with the United States in world markets.

We have always welcomed such competition. It promotes the economic development of the entire world to the mutual benefit of all, including our own consumers. It provides an additional stimulus to our own industry, agriculture and labor force. At the same time, however, it requires us to insist on fair competition among all countries.

Third, the traditional surplus in the U.S. balance of trade has disappeared. This is largely due to our own internal inflation and is one more reason why we must bring that inflation under control.

The disappearance of the surplus has suggested to some that we should abandon our traditional approach toward freer trade. I reject this argument not only because I believe in the principle of freer trade, but also for a very simple and pragmatic reason: any reduction in our imports produced by U.S. restrictions not accepted by our trading partners would invite foreign reaction against our own exports—all quite legally. Reduced imports would thus be offset by reduced exports, and both sides would lose. In the longer term, such a policy of trade restriction would add to domestic inflation and jeopardize our competitiveness in world markets at the very time when tougher competition throughout the world requires us to improve our competitive capabilities in every way possible.

In fact, the need to restore our trade surplus heightens the need for further movement toward freer trade. It requires us to persuade other nations to lower barriers which deny us fair access to their markets.

An environment of free trade will permit the widest possible scope for the genius of American industry and agriculture to respond to the competitive challenge of the 1970's.

Fourth, the less developed countries need improved access to the markets of the industrialized countries if their economic development is to proceed satisfactorily. Public aid will never be sufficient to meet their needs, nor should it be. I recently announced that, as one step toward improving their market access, the United States would press in world trade forums for a liberal system of tariff preferences for all developing countries. International discussions are now in progress on the matter and I will not deal with it in the trade bill I am submitting today. At the appropriate time, I will submit legislation to the Congress to seek authorization for the United States to extend preferences and to take any other steps toward improving the market access of the less developed countries which might appear desirable and which would require legislation.

The Trade Act of 1969

The trade bill which I am submitting today addresses these new problems of the 1970s. It is modest in scope, but significant in its impact. It continues the general drive toward freer world trade. It also explicitly recognizes that, while seeking to advance world interests, U.S. trade policies must also respect legitimate U.S. interests, and that to be fair to our trading partners does not require us to be unfair to our own people. Specifically:

- It restores the authority needed by the President to make limited tariff reductions.
- It takes concrete steps toward the increasingly urgent goal of lowering non-tariff barriers to trade.
- It recognizes the very real plight of particular industries, companies and workers faced with import competition, and provides for readier relief in these special cases.
- It strengthens GATT—the General Agreement on Tariffs and Trade—by regularizing the funding of United States participation.

While asking enactment of these proposals now, the trade program I will outline in this message also includes setting preparations under way for the more ambitious initiatives that will later be needed for the long-term future.

TARIFF REDUCTION

I recommend that the President be given authority to make modest reductions in U.S. tariffs.

The President has been without such authority for over two years. This authority is not designed to be used for major tariff negotiations, but rather to make possible minor adjustments that individual circumstances from time to time require—as, for example, when it becomes necessary to raise the duty on an article as the result of an “escape clause” action or when a statutory change is made in tariff classification. Our trading partners are then entitled to reasonable compensation, just as we would be entitled to receive it from them in reverse circumstances. Lack of this authority exposes our exports to foreign retaliation. Therefore, the bill would provide to the President, through June 30, 1973, the authority to reduce tariffs by limited amounts.

NON-TARIFF BARRIERS

The time has come for a serious and sustained effort to reduce non-tariff barriers to trade. These non-tariff barriers have become increasingly important with the decline in tariff protection and the growing interdependence of the world economy. Their elimination is vital to our efforts to increase U.S. exports.

As a first step in this direction, I propose today that the United States eliminate the American Selling Price system of customs valuation.

Although this system applies only to a very few American products—mainly benzenoid chemicals—it is viewed by our principal trading partners as a major symbol of American protectionism. Its removal will bring reciprocal reductions in foreign tariffs on U.S. chemical exports, and a reduction in important foreign non-tariff barriers—including European road taxes, which discriminate against our larger automobiles, and the preferential treatment on tobacco extended by the United Kingdom to the countries of the Commonwealth. Beyond this, its removal will unlock the door to new negotiations on the entire range of non-tariff barriers. Because of the symbolic importance our trading partners attach to it, the American Selling Price system has itself become a major barrier to the removal of other barriers.

Essentially, the American Selling Price system is a device by which the value of imports for tariff purposes is set by the price of competitive American products instead of the actual price of the foreign product, which is the basis of tariff valuation for all other imports. The extraordinary protection it provides to these few products has outlived its original purposes. The special advantage it gives particular producers can no longer justify its heavy cost in terms of the obstacles it places in the way of opening foreign markets to American exports.

Reducing or eliminating other non-tariff barriers to world trade will require a great deal of detailed negotiating and hard bargaining.

Unlike tariffs, approaches to the reduction of non-tariff barriers are often difficult to embody in prior delegation of authority. Many—both here and abroad—have their roots in purely domestic concerns that are only indirectly related to foreign trade, and many arise from domestic laws.

Many would require specific legislative actions to accomplish their removal—but the nature of this action would not finally be clear until negotiation had shown what was possible.

This presents a special opportunity for Congress to be helpful in achieving international agreements in this vital area.

I would welcome a clear statement of Congressional intent with regard to non-tariff barriers to assist in our efforts to obtain reciprocal lowering of such barriers.

It is not my intention to use such a declaration as a “blank check.” On the contrary, I pledge to maintain close consultation with the Congress during the course of any such negotiations, to keep the Congress fully informed on problems and progress, and to submit for Congressional consideration any agreements which would require new legislation. The purpose of seeking such an advance declaration is not to bypass Congress, but to strengthen our negotiating position.

In fact, it is precisely because ours is a system in which the Executive cannot commit the Legislative Branch that a general declaration of legislative intent would be important to those with whom we must negotiate.

At the same time, I urge private interests to work closely with the government in seeking the removal of these barriers. Close cooperation by the private sector is essential, because many non-tariff barriers are subtle, complex and difficult to appraise.

AID FOR AFFECTED INDUSTRIES

Freer trade brings benefits to the entire community, but it can also cause hardship for parts of the community. The price of a trade policy from which we all receive benefits must not fall unfairly on the few—whether on particular industries, on individual firms or on groups of workers. As we have long recognized, there should be prompt and effective means of helping those faced with adversity because of increased imports.

The Trade Act of 1969 provides significant improvements in the means by which U.S. industry, firms, and workers can receive assistance from their government to meet injury truly caused by imports.

This relief falls into two broad categories: (1) the escape clause, which is industry-wide; and (2) adjustment assistance, which provides specific aid to particular firms or groups of workers.

These improvements are needed because the assistance programs provided in the Trade Expansion Act of 1962 have simply not worked.

Escape Clause

The escape clause provisions of the 1962 Act have proved so stringent, so rigid, and so technical that in not a single case has the Tariff Commission been able to justify a recommendation for relief. This must be remedied. We must be able to provide, on a case-by-case basis, careful and expedited consideration of petitions for relief, and such relief must be available on a fair and reasonable basis.

I recommend a liberalization of the escape clause to provide, for industries adversely affected by import competition, a test that will be simple and clear: relief should be available whenever increased imports are the primary cause of actual or potential serious injury. The increase in imports should not—as it now is—have to be related to a prior tariff reduction.

While making these escape clause adjustments more readily obtainable, however, we must ensure that they remain what they are intended to be: temporary relief measures, not permanent features of the tariff landscape. An industry provided with temporary escape-clause relief must assume responsibility for improving its competitive position. The bill provides for regular reports on these efforts, to be taken into account in determining whether relief should be continued.

Adjustment Assistance

With regard to adjustment assistance for individual firms and groups of workers, the provisions of the Trade Expansion Act of 1962 again have not worked adequately.

The Act provides for loans, technical assistance and tax relief for firms, and readjustment allowances, relocation and training for workers. This direct aid to those individually injured should be more readily available than tariff relief for entire industries. It can be more closely targeted; it matches the relief to the damage; and it has no harmful side effects on overall trade policy.

I recommend that firms and workers be considered eligible for adjustment assistance when increased imports are found to be a substantial cause of actual or potential serious injury.

Again, the increase in imports would not have to be related to a prior tariff reduction. The "substantial cause" criterion for adjustment assistance would be less stringent than the "primary cause" criterion for tariff relief.

I also recommend two further changes in existing adjustment provisions:

- That the Tariff Commission continue to gather and supply the needed factual information, but that determinations of eligibility to apply for assistance be made by the President.
- That adjustment assistance be made available to separate units of multi-plant companies and to groups of workers in them, when the injury is substantial to the unit but not to the entire parent firm.

With these modifications, plus improved administrative procedures, our program of assistance to import-injured firms and workers can and will be made to work. Taken together, they will remedy what has too long been a serious shortcoming in our trade programs.

These changes in our escape clause and adjustment assistance programs will provide an adequate basis for government help in cases where such help is justified in the overall national interest. They will thus help us move away from protectionist proposals, which would reverse the trend toward interdependence, and toward a constructive attack on the existing trade barriers of others.

The textile import problem, of course, is a special circumstance that requires special measures. We are now trying to persuade other countries to limit their textile shipments to the United States. In doing so, however, we are trying to work out with our trading partners a reasonable solution which will allow both domestic and foreign producers to share equitably in the development of the U.S. market.

Such measures should not be misconstrued, nor should they be allowed to turn us away from the basic direction of our progress toward freer exchange.

FAIR TREATMENT OF U.S. EXPORTS

By nature and by definition, trade is a two-way street. We must make every effort to ensure that American products are allowed to compete in world markets on equitable terms. These efforts will be more successful if we have the means to take effective action when confronted with illegal or unjust restrictions on American exports.

Section 252 of the Trade Expansion Act of 1962 authorizes the President to impose duties or other import restrictions on the products of any nation that places unjustifiable restrictions on U.S. agricultural products. *I recommend that this authority be expanded in two ways:*

- By extending the existing authority to cover unfair actions against all U.S. products, rather than only against U.S. agricultural products.*
- By providing new authority to take appropriate action against nations that practice what amounts to subsidized competition in third-country markets, when that subsidized competition unfairly affects U.S. exports.*

Any weapon is most effective if its presence makes its use unnecessary. With these new weapons in our negotiating arsenal, we should be better able to negotiate relief from the unfair restrictions to which American exports still are subject.

STRENGTHENING GATT

Ever since its beginning in 1947, U.S. participation in GATT—the General Agreement on Tariffs and Trade—has been financed through general contingency funds rather than through a specific appropriation.

GATT has proved its worth. It is the international organization we depend on for the enforcement of our trading rights, and toward which we look as a forum for the important new negotiations on non-tariff barriers which must now be undertaken.

I recommend specific authorization for the funding of our participation in GATT, thus both demonstrating our support and regularizing our procedures.

FOR THE LONG-TERM FUTURE

The trade bill I have submitted today is a necessary beginning. It corrects deficiencies in present policies; it enables us to begin the 1970s with a program geared to the start of that decade.

As we look further into the Seventies, it is clear that we must reexamine the entire range of our policies and objectives.

We must take into account the far-reaching changes which have occurred in investment abroad and in patterns of world trade. I have already outlined some of the problems which we will face in the 1970s. Many more will develop—and also new opportunities will emerge.

Intense international competition, new and growing markets, changes in cost levels, technological developments in both agriculture and industry, and large-scale exports of capital are having profound and continuing effects on international production and trade patterns. We can no longer afford to think of our trade policies in the old, simple terms of liberalism vs. protectionism. Rather, we must learn to treat investment, production, employment and trade as inter-related and interdependent.

We need a deeper understanding of the ways in which the major sectors of our economy are actually affected by international trade.

We have arrived at a point at which a careful review should also be made of our tariff structure itself—including such traditional aspects as its reliance upon specific duties, the relationships among tariff rates on various products, and adapting our system to conform more closely with that of the rest of the world.

To help prepare for these many future needs, I will appoint a Commission on World Trade to examine the entire range of our trade and related policies, to analyze the problems we are likely to face in the 1970s, and to prepare recommendations on what we would do about them. It will be empowered to call upon the Tariff Commission and the agencies of the Executive Branch for advice, support and assistance, but its recommendations will be its own.

By expanding world markets, our trade policies have speeded the pace of our own economic progress and aided the development of others. As we look to the future, we must seek a continued expansion of world trade, even as we also seek the dismantling of those other

barriers—political, social and ideological—that have stood in the way of a freer exchange of people and ideas, as well as of goods and technology.

Our goal is an open world. Trade is one of the doors to that open world. Its continued expansion requires that others move with us, and that we achieve reciprocity in fact as well as in spirit.

Armed with the recommendations and analyses of the new Commission on World Trade, we will work toward broad new policies for the 1970s that will encourage that reciprocity, and that will lead us, in growing and shared prosperity, toward a world both open and just.

RICHARD NIXON.

THE WHITE HOUSE, *November 18, 1969.*

PROPOSED "TRADE ACT OF 1969"

A BILL To continue the expansion of international trade and thereby promote the general welfare of the United States, and for other purposes

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

TITLE I—SHORT TITLE AND PURPOSES

SEC. 101. SHORT TITLE.

This Act may be cited as the "Trade Act of 1969".

SEC. 102. STATEMENT OF PURPOSES.

The purposes of this Act are—

- (1) to continue and strengthen the trade agreements program of the United States;
- (2) to establish a viable program of tariff adjustment for industries and other assistance for firms and workers affected by imports; and
- (3) to promote the reduction or elimination of nontariff barriers to trade.

TITLE II—TRADE AGREEMENTS

SEC. 201. BASIC AUTHORITY FOR TRADE AGREEMENTS.

(a) Section 201(a)(1) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)(1)) is amended by striking out "July 1, 1967" and inserting in lieu thereof "July 1, 1973".

(b) Section 201(b)(1) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(b)(1)) is amended to read as follows:

"(1) decreasing any rate of duty—

"(A) in order to carry out a trade agreement entered into before July 1, 1967, to a rate below 50 percent of the rate existing on July 1, 1962; or

"(B) in order to carry out a trade agreement entered into after June 30, 1967, and before July 1, 1973, to a rate below the lower of—

"(i) the rate 20 percent below the rate existing on July 1, 1967; or

"(ii) the rate 2 percent ad valorem (or ad valorem equivalent) below the rate existing on July 1, 1967."

(c) Title II of the Trade Expansion Act of 1962 is amended by striking out "201(b)(1)" in sections 202, 211(a) and (c), 212, 213(a), and 221, and inserting in lieu thereof "201(b)(1)(A)".

(d) Section 256 of the Trade Expansion Act of 1962 (19 U.S.C. 1886) is amended by adding immediately after subparagraph (7) the following new subparagraph:

"(8) The term 'existing on July 1, 1967', as applied to a rate of duty, refers to the lowest non-preferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on such date or (if lower) the lowest non-preferential rate to which the United States is committed on such date."

(e) Section 253 of the Trade Expansion Act of 1962 (19 U.S.C. 1883) is amended by adding immediately after subsection (d) the following two new subsections:

"(e) In the case of a trade agreement entered into after June 30, 1967, and before July 1, 1973, 'one-half' shall apply in place of 'one-fifth' and 'four-fifths', and '1 year' shall apply in place of 'in four equal installments at 1-year intervals', in subsection (a) of this section.

"(f) Subsection (c) shall not apply to reductions pursuant to a trade agreement entered into after June 30, 1967, and before July 1, 1973."

SEC. 202. GENERAL AGREEMENT ON TARIFFS AND TRADE.

Chapter 5 of title II of the Trade Expansion Act of 1962 is amended by inserting immediately after section 243 (19 U.S.C. 1873) the following new section:

"SEC. 244. GENERAL AGREEMENT ON TARIFFS AND TRADE.

"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."

SEC. 203. FOREIGN IMPORT RESTRICTIONS AND OTHER DISCRIMINATORY ACTS.

(a) Section 252(a)(3) of the Trade Expansion Act of 1962 (19 U.S.C. 1882(a)(3)) is amended by striking out the word "agricultural" wherever it appears.

(b) Section 252(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1882(b)) is amended by inserting the word "or" at the end of subsection (2) and by adding immediately after that subsection the following new subsection:

"(3) provides subsidies or other such incentives on its exports of one or more products to other foreign markets so that sales of the competitive U.S. product or products to those other foreign markets are unfairly affected thereby,"

TITLE III—TARIFF ADJUSTMENT AND ADJUSTMENT ASSISTANCE**SEC. 301. PETITIONS AND DETERMINATIONS.**

Section 301 of the Trade Expansion Act of 1962 (19 U.S.C. 1901) is amended as follows:

(a) The title is amended to read "PETITIONS AND DETERMINATIONS".

(b) Subsection (a)(2) is amended by striking out "Tariff Commission" wherever it appears and inserting in lieu thereof "President".

(c) Subsection (a)(3) is repealed.

(d) In subsection (b), paragraph (3) is deleted, paragraph (4) is redesignated paragraph (3), and paragraph (1) is amended to read as follows:

"(1) Upon the request of the President, 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 increased quantities of imports of an article directly competitive with an article produced by a domestic industry have been the primary cause of serious injury, or the threat thereof, to such industry."

(e) In subsection (b) the paragraph renumbered (3) is amended by adding the following sentence. "For purposes of this paragraph, reports made during the 1-year period preceding the date of enactment of the Trade Act of 1969 shall be treated by the Tariff Commission as having been made prior to that period."

(f) Subsection (c) is amended to read as follows:

"(c)(1) In the case of a petition by a firm for a determination of eligibility to apply for adjustment assistance under chapter 2, the President shall determine whether increased quantities of imports of an article directly competitive with an article produced by the firm, or an appropriate subdivision thereof, have been a substantial cause of serious injury, or the threat thereof, to such firm or subdivision. In making such determination the President shall take into account all economic factors which he considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

"(2) In the case of a petition by a group of workers for a determination of eligibility to apply for adjustment assistance under chapter 3, the President shall determine whether increased quantities of imports of an article directly competitive with an article produced by such workers' firm, or an appropriate subdivision thereof, have been a substantial cause of unemployment or underemployment, or the threat thereof, of a significant number or proportion of the workers of such firm or subdivision.

"(3) In order to assist him in making the determinations referred to in paragraphs (1) and (2) with respect to a firm or group of workers, the President shall promptly transmit to the Tariff Commission a copy of each petition filed under subsection (a)(2) and, not later than 5 days after the date on which the petition is filed, shall request the Tariff Commission to conduct an investigation relating to questions of fact relevant to such determinations and to make a report of the facts disclosed by such investigation. In his request, the President may specify the particular kinds of data which he deems appropriate. Upon receipt of the President's request, the Tariff Commission shall promptly institute the investigation and promptly publish notice thereof in the Federal Register."

(g) Subsection (d)(2) is amended to read as follows:

"(2) In the course of any investigation under subsection (c)(3), the Tariff Commission shall, after reasonable notice, hold a public hearing, if such hearing

is requested (not later than 10 days after the date of the publication of its notice under subsection (c)(3)) by the petitioner or any other interested person, and shall afford interested persons an opportunity to be present, to produce evidence, and to be heard at such hearing."

(h) Subsection (f)(1) is amended by inserting "under subsection (b)" after "in each report" in the first sentence.

(i) Subsection (f)(3) is amended to read as follows:

"(3) The report of the Tariff Commission of the facts disclosed by its investigation under subsection (c)(3) with respect to a firm or group of workers shall be made at the earliest practicable time, but not later than 60 days after the date on which it receives the request of the President under subsection (c)(3)."

SEC. 302. PRESIDENTIAL ACTION AFTER TARIFF COMMISSION REPORTS.

Section 302 of the Trade Expansion Act of 1962 (19 U.S.C. 1902) is amended as follows:

(a) The title is amended to read "PRESIDENTIAL ACTION AFTER TARIFF COMMISSION REPORTS".

(b) Subsection (b)(1) is amended by striking out "(which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused serious injury or threat thereof" and inserting in lieu thereof "have been a substantial cause of serious injury or the threat thereof".

(c) Subsection (b)(2) is amended by striking out "(which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment" and inserting in lieu thereof "have been a substantial cause of unemployment or underemployment, or the threat thereof".

(d) Subsection (c) is amended to read as follows:

"(c)(1) After receiving a report of the Tariff Commission of the facts disclosed by its investigation under section 301(c)(3) with respect to any firm or group of workers, the President shall make his determination under section 301(c)(1) or (c)(2) at the earliest practicable time, but not later than 30 days after the date on which he receives the Tariff Commission's report, unless, within such period, the President requests additional factual information from the Tariff Commission. In this event, the Tariff Commission shall, not later than 25 days after the date on which it receives the President's request, furnish such additional factual information in a supplemental report, and the President shall make his determination not later than 15 days after the date on which he receives such supplemental report.

"(2) The President shall promptly publish in the Federal Register a summary of each determination under section 301(c) with respect to an firm or group of workers.

"(3) If the President makes an affirmative determination under section 301(c) with respect to any firm or group of workers, he shall promptly certify that such firm or group of workers is eligible to apply for adjustment assistance.

"(4) The President is authorized to exercise any of his functions with respect to determinations and certifications of eligibility of firms or workers to apply for adjustment assistance under section 301 and this section through such agency or other instrumentality of the United States Government as he may direct."

SEC. 303. TAX ASSISTANCE TO FIRMS.

Section 317(a)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1917(2)) is amended by striking out "by the increased imports which the Tariff Commission has determined to result from concessions granted under trade agreements" and inserting in lieu thereof "by the increased imports identified by the Tariff Commission under section 301(b)(1) or by the President under section 301(c)(1), as the case may be."

SEC. 304. ADJUSTMENT ASSISTANCE TO WORKERS.

Section 337 of the Trade Expansion Act of 1962 (19 U.S.C. 1977) is amended by inserting ", including training not otherwise available," after "adjustment assistance".

SEC. 305. TARIFF ADJUSTMENT.

Section 351(d) of the Trade Expansion Act of 1962 (19 U.S.C. 1981(d)) is amended as follows:

(a) Paragraph (1) is amended by inserting "including the specific steps taken by the firms in the industry to enable them to compete more effectively with imports," immediately after "the industry concerned,".

(b) Paragraph (2) is amended by striking "Upon" and inserting in lieu thereof "Not later than 2 years after the effective date of such action, or at any other time upon," and by inserting, " in the light of the specific steps taken by the firms in such industry to enable them to compete more effectively with imports and all other relevant factors," immediately after "judgment".

TITLE IV—NONTARIFF BARRIERS TO TRADE

SEC. 401. ELIMINATION OF AMERICAN SELLING PRICE SYSTEM.

(a) The President is authorized to proclaim such modifications of the Tariff Schedules of the United States (19 U.S.C. 1202) as are required or appropriate to carry out—

(1) part II of the Agreement Relating Principally to Chemicals, Supplementary to the Geneva (1967) Protocol to the General Agreement on Tariffs and Trade, and

(2) the Agreement effected by an exchange of notes between the United States and Japan relating to certain canned clams and wool-knit gloves, both of which agreements were concluded on June 30, 1967.

(b) With respect to certain footwear presently provided for in item 700.60 of the Tariff Schedules of the United States, the President is authorized—

(1) to enter into a trade agreement providing for the replacement of item 700.60 by the new items which are designated 700.60A and 700.60B in the report of the Tariff Commission to the Special Representative for Trade Negotiations on investigation number 332-47 under section 332 of the Tariff Act of 1930 and whose rates of duty shall be applied to values determined in accordance with the methods of valuation, other than American selling price, provided for in section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a), and

(2) to proclaim such modifications of the Tariff Schedules of the United States as are required or appropriate to carry out such agreement, so long as such proclamation does not become effective earlier than January 1, 1971, and the rates of duty for column numbered 1 proclaimed thereby are not lower than "20% ad val." for the item designated 700.60A nor lower than "25¢ per pair + 20% ad val. but not less than 58% ad val." for the item designated 700.60B.

(c) In a proclamation issued pursuant to this section, the President is authorized to simplify the Tariff Schedules of the United States by consolidating article descriptions, without changing rates of duty, with respect to articles which will be subject to full concession rates of duty that are identical to one another in column numbered 1 and to rates of duty that are identical to one another in column numbered 2. Any such consolidation shall become effective on the date the full concession rates of duty become effective for such articles.

(d) The President is authorized at any time to terminate, in whole or in part, any proclamation issued pursuant to this section.

(e) During a period of five years after a proclamation under section 401(a)(1), for the purpose of insuring a continuing surveillance of the effects of such proclamation, the Tariff Commission shall complete and transmit to the President, on the most current basis possible, annual detailed reports on U.S. production and sales of synthetic organic chemicals and U.S. imports thereof.

SEC. 402. APPLICATION OF RELATED PROVISIONS.

(a) For purposes of section 256(8) of the Trade Expansion Act of 1962 (19 U.S.C. 1886), as amended by section 201(d) of this Act, each full concession rate of duty proclaimed pursuant to section 401 of this Act increased by 25% thereof shall be treated as the rate of duty existing on July 1, 1967.

(b) For purposes of general headnote 4 of the Tariff Schedules of the United States, a rate of duty proclaimed pursuant to section 401 of this Act shall be treated as a rate of duty proclaimed pursuant to a concession granted in a trade agreement.

SEC. 403. CONSEQUENTIAL AMENDMENTS OF TARIFF SCHEDULES OF THE UNITED STATES.

As of the effective date of a proclamation issued pursuant to section 401(a) or 401(b) of this Act, the Tariff Schedules of the United States are amended by those of the following paragraphs which apply to the articles to which such proclamation relates:

(1) Part 3E of schedule 1 is amended by striking out the rate of duty in column numbered 2 for item 114.05 and by inserting in such column "35¢ per lb" and "35% ad val." for the articles provided for in items 114.04 and 114.06, respectively, proclaimed pursuant to section 401(a) of this Act, and by striking out headnote 1 and the headnote heading preceding it.

(2) Part 1 of schedule 4 is amended by striking out the rates of duty in column numbered 2 in subparts B and C and by inserting in such column "7¢ per lb. + 75% ad val." for the articles provided for in each item proclaimed pursuant to section 401(a) of this Act, and by striking out headnotes 4 and 5 and inserting in lieu thereof:

"4. The ad valorem rates provided for in this part shall be applied to values determined in accordance with the methods of valuation provided for in section 402(a) through (d) of this Act (19 U.S.C. 1401a(a) through (d))."

(3) Part 1A of schedule 7 is amended by striking out the rate of duty in column numbered 2 for item 700.60 and by inserting in such column "35% ad val." and "40¢ per pair + 35% ad val. but not less than 90% ad val." for the articles described in the items designated 700.60A and 700.60B, respectively, referred to in section 401(b) of this Act, and by striking out headnote 3(b) and inserting in lieu thereof:

"(b) The ad valorem rates provided for in the items proclaimed in such proclamation as may be issued pursuant to section 401(b)(1) of the Trade Act of 1969 shall be applied to values determined in accordance with the methods of valuation provided for in section 402(a) through (d) of this Act (19 U.S.C. 1401a(a) through (d))."

(4) Part 1C of schedule 7 is amended by striking out the rate of duty in column numbered 2 for item 704.55 and inserting in lieu thereof "40¢ per lb. + 35% ad val." and by striking out headnote 4 and inserting in lieu thereof:

"4. The ad valorem rates provided for in item 704.55 shall be applied to values determined in accordance with the methods of valuation provided for in section 402(a) through (d) of this Act (19 U.S.C. 1401(a) through (d))."

SEC. 404. CONSEQUENTIAL AMENDMENTS OF OTHER PROVISIONS OF TARIFF ACT OF 1930.

As of the date the American selling price system of customs valuation is eliminated, pursuant to sections 401 and 404 of this Act, for all articles now subject to that system—

(1) Section 336 of the Tariff Act of 1930 (19 U.S.C. 1336) is amended by striking out—

- (A) subsection (b),
- (B) "and in basis of value" in subsection (c),
- (C) "or in basis of value" in subsections (d) and (f), and
- (D) subsection (j).

(2) Section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) is amended by striking out everything in subsection (a) which follows "constructed value" and precedes the period, and by striking out subsection (e).

(3) Section 402a of the Tariff Act of 1930 (19 U.S.C. 1402) is amended by striking out everything in subsection (a) which follows "cost of production" and precedes the period, and by striking out subsection (g).

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED TRADE ACT OF 1969

The Trade Act of 1969 consists of four titles. Title I (secs. 101-102) is entitled "Short Title and Purposes," title II (secs. 201-203) "Trade Agreements," title III (secs. 301-305) "Tariff Adjustment and Adjustment Assistance," and title IV (secs. 401-404) "Nontariff Barriers to Trade."

TITLE I—SHORT TITLE AND PURPOSES

Section 101. Short title

This section provides that the short statutory title of the act is the "Trade Act of 1969."

Section 102. Statement of purposes

This section sets forth the three basic purposes of the act. The first purpose is to continue and strengthen the trade agreements program of the United States. The second purpose is to establish a viable program of tariff adjustment for industries and other assistance for firms and workers affected by imports. The third purpose is to promote the reduction or elimination of nontariff barriers to trade.

TITLE II—TRADE AGREEMENTS

Section 201. Basic authority for trade agreements

Subsection (a) amends section 201(a)(1) of the Trade Expansion Act of 1962 (TEA) so as to authorize the President to enter into trade agreements with foreign countries until July 1, 1973. Subsection (b) limits the reduction, which the President may proclaim pursuant to a trade agreement, to not more than 20 percent below the rate existing on July 1, 1967, or 2 percentage points ad valorem (or its equivalent in cases where a specific duty is involved) below the rate existing on July 1, 1967 (e.g., if the July 1, 1967, rate were 7 percent ad valorem, the duty could be reduced to 5 percent ad valorem). While the President is thereby given authority to eliminate duties which are at a level of not greater than 2 percent, he is not given any other authority to eliminate rates of duty pursuant to section 202, 211, 212, or 213 of the TEA (subsec. (c)).

Subsection (d) amends section 256 of the TEA by adding a new subsection to section 256. This new subsection provides that the base from which a new tariff reduction may be made is the rate to which the United States was committed under any trade agreement entered into before July 1, 1967.

Subsection (e) amends section 253 of the TEA so as to permit tariff concessions extended under the authority provided by section 201 to be staged in two installments with 1 year intervening. It also provides that tariff reductions agreed to under the new authority may be staged concurrently with any remaining stages of an earlier

proclamation. All of the other requirements of the TEA normally applicable to the exercise of the authority in section 201 of the TEA will apply, including the prenegotiation requirements of chapter 3 of title II of the TEA.

The authority provided by section 201 of the bill will be used for purposes other than a major bilateral or multilateral tariff negotiation. It is intended primarily for cases where the United States finds it necessary to increase a rate of duty which is subject to a tariff concession. In such cases, the United States would offer compensatory tariff concessions to the countries affected by the rate increase, since failure to do so could lead to retaliatory action on the part of such countries.

Section 202. General Agreement on Tariffs and Trade

This section amends the TEA by adding a new section 244. This new section authorizes annual appropriations to finance each year's U.S. contribution to the budget of the GATT. This contribution is presently financed from the appropriation made to the Department of State and entitled "International conferences and contingencies."

Section 203. Foreign import restrictions and other discriminatory acts

This section amends section 252 of the TEA in two important respects. First, subsection (a) enables the President, under subsection 252(a)(3) of the TEA, to the extent he deems necessary and appropriate, to impose duties or other import restrictions on the products of any foreign country that establishes or maintains unjustifiable import restrictions against United States nonagricultural products as well as the agricultural products now covered by the TEA. Second, subsection (b) would permit the President to suspend, withdraw, or prevent application of trade agreement benefits, and to refrain from proclaiming such benefits where a foreign country provides subsidies or other such incentives on its exports to third country markets so that sales of the competitive U.S. products to those other foreign markets are unfairly affected thereby.

TITLE III—TARIFF ADJUSTMENT AND ADJUSTMENT ASSISTANCE

Section 301. Petitions and determinations

Section 301 amends section 301 of the TEA in a number of respects. Generally, it liberalizes the criteria of eligibility of an industry to apply for tariff adjustment, as well as the criteria of eligibility of individual firms and workers to apply for adjustment assistance. For both tariff adjustment and adjustment assistance, injury will be related to increased imports whether or not a trade agreement concession is involved. In effect, the former causal link to a previous concession is eliminated.

For purposes of adjustment assistance, section 301 provides that, instead of the Tariff Commission, the President will make the substantive determinations of eligibility. The Tariff Commission's function will be to gather and supply to the President the relevant facts to assist him in making such determinations.

Subsection (a) amends section 301 of the TEA to change the title of the section from "Tariff Commission Investigations and Reports" to "Petitions and Determinations," consistent with the subsequent amendments to section 301.

Subsection (b) amends section 301(a)(2) of the TEA by substituting "President" for "Tariff Commission" in the two places it appears. Accordingly, petitions for a determination of eligibility to apply for adjustment assistance which are filed by a firm or a group of workers are to be filed with the President. It is expected that the President will delegate this function and his other functions under this section.

In practice it has been found that the Secretary of Commerce has no need for the Tariff Commission to forward to him copies of petitions for tariff adjustment. Furthermore, since the Tariff Commission will no longer be receiving petitions for adjustment assistance, subsection (c) repeals section 301(a)(3) of the TEA so that copies of neither of the reports will in the future be transmitted.

Subsection (d) amends subsection 301(b) of the TEA so as to provide new criteria of eligibility of an industry to apply for tariff adjustment. Under the amendment, new section 301(b)(1) of the TEA provides that, in the case of a petition for escape clause relief, the Tariff Commission shall promptly make an investigation to determine whether increased quantities of imports of an article directly competitive with an article produced by a domestic industry have been the primary cause, rather than the major cause, of serious injury, or the threat thereof, to such industry.

Subsection (e) recognizes that, given the easing of criteria for escape clause relief, it would be inequitable not to allow prompt reconsideration by the Tariff Commission of cases concluded shortly before the enactment of the new law. The one-year wait for reconsideration is consequently waived.

Subsection (f) amends section 301(c) of the TEA so as to provide new criteria of eligibility of firms and workers to apply for adjustment assistance and to substitute the President for the Tariff Commission for the purpose of determining whether the criteria are satisfied.

Under the amendment, new section 301(c)(1) of the TEA provides that in the case of a petition by a firm for a determination of eligibility to apply for adjustment assistance under chapter 2 of title III of the TEA, the President shall determine whether increased quantities of imports of an article directly competitive with an article produced by the firm or appropriate subdivision thereof have been a substantial cause, rather than the major cause, of serious injury, or the threat thereof, to such firm or subdivision.

Similarly, new section 301(c)(2) of the TEA provides that in the case of a petition by a group of workers for a determination of eligibility to apply for adjustment assistance under chapter 3 of title III of the TEA, the President shall determine whether increased quantities of imports of an article directly competitive with an article produced by such workers' firm, or an appropriate subdivision thereof, have been a substantial cause of unemployment or underemployment, or the threat thereof, of a significant number or proportion of the workers of such firm or subdivision. In the case of a group of workers, it is intended that a group of three or more workers in a firm may qualify as a petitioner for adjustment assistance.

The term "increased quantities of imports" is intended, for purposes of both tariff adjustment and adjustment assistance, to require that, if quantities of imports in a recent period reflect an absolute increase over quantities of imports in a representative base period, the total quantity of imports in such recent period shall be taken into account.

Thus, if quantities of imports in a representative base period were 8 million units and the quantities in a recent period were 10 million units, the quantities of imports to be considered would be 10 million units.

The "directly competitive" imported article is intended to mean either an article which is like the domestic article and is therefore necessarily directly competitive with it, or one which is unlike the domestic article but nevertheless competes directly with it.

In cases where there is more than one directly competitive imported article, it is intended that the quantities of imports of the several imported articles shall be taken together for purposes of determining whether there have been increased quantities of imports.

By the use of the words "have been," it is intended that the increased quantities of imports shall have occurred in the recent past.

In cases of petitions for tariff adjustment, with respect to the causal relationship between increased quantities of imports and injury, or the threat thereof, the term "the primary cause" is intended to require the demonstration of the single most important cause. In cases of adjustment assistance, the term "substantial cause" is intended to require the demonstration of an actual and considerable cause which need not be greater than any other single cause.

In the case of a firm petitioning for either tariff adjustment or adjustment assistance, in determining serious injury, all relevant factors shall be considered, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

In the case of a group of workers petitioning for adjustment assistance, it is intended that in most cases unemployment or underemployment shall be found where the unemployment or underemployment, or both, in a firm, or an appropriate subdivision thereof, is the equivalent of total unemployment of 5 percent of the workers or 50 workers, whichever is less. At the same time, there are many workers in plants employing fewer than 50 workers. Accordingly, there may be cases where as few as three workers in a firm, or an appropriate subdivision thereof, would constitute a significant number or proportion of the workers.

It is intended that an "appropriate subdivision" of a firm shall be that establishment in a multiestablishment firm which produces the domestic article in question. Where the article is produced in a distinct part or section of an establishment (whether the firm has one or more establishments), such part or section may be considered an appropriate subdivision. In the TEA this intention was confined to petitions by workers. This bill would extend the concept to petitions by firms as well.

New section 301(c)(3) of the TEA provides that the Tariff Commission shall assist the President in making determinations with respect to petitions filed by firms or groups of workers. That is, the President shall promptly transmit to the Tariff Commission a copy of each petition filed by a firm or group of workers under new section 301(a)(2) of the TEA. Not later than 5 days after the date on which the petition is filed, the President shall request the Tariff Commission to conduct an investigation relating to questions of fact relevant to his determinations under new section 301(c)(1) and (2) of the TEA and to make a report of the facts disclosed by such investigation. In his request, the

President may specify the particular kinds of data which he deems appropriate. This is not intended, however, to preclude the Tariff Commission from making an investigation of, and including in its report, such additional data as it considers relevant. Upon receipt of the President's request, the Tariff Commission shall promptly initiate the investigation and promptly publish notice thereof in the Federal Register.

It is intended that the President, and not the Tariff Commission, shall make the determinations under section 301 (c)(1) and (c)(2) with respect to firms and groups of workers. Accordingly, the Tariff Commission is not to include in its report conclusions, opinions, or judgments which are tantamount to the determinations. Instead, it is to present the facts and in a manner which will render the report useful to the President. It is recognized that the Tariff Commission will have to reach conclusions with respect to such subsidiary questions as what constitutes the firm or an appropriate subdivision thereof, what product is directly competitive, and what is the appropriate base period, in order to gather the relevant facts. In any case, however, the President has the final authority to make a decision with respect to any element which enters into the determinations under section 301 (c)(1) and (c)(2), and section 302 (c), (d), and (e).

Subsection (g) is a consequential change which amends section 301 (d)(2) of the TEA to provide that, in the course of any investigation under new section 301(c)(3) of the TEA, the Tariff Commission shall hold a public hearing if requested by the petitioner or any other interested person. However, such a request must be made not later than 10 days after the date of the publication of its notice under section 301(c)(3). The Tariff Commission is to afford interested persons an opportunity to be present, to produce evidence, and to be heard at such hearing. It is understood that a public hearing may be held in any case on the Tariff Commission's own motion.

Subsection (h) amends section 301(f)(1) of the TEA to provide that the Tariff Commission shall be under an affirmative obligation to include any dissenting or separate views only in its reports concerning petitions for tariff adjustment.

Subsection (i) amends section 301(f)(3) of the TEA to provide that the report of the Tariff Commission of the facts disclosed by its investigation under new section 301(c)(3) of the TEA with respect to a firm or group of workers shall be made at the earliest practicable time, but not later than 60 days after the date on which it receives the request of the President under new section 301(c)(3).

Section 302. Presidential action after Tariff Commission reports

In general, section 302 amends section 302 of the TEA to provide for Presidential action following receipt of the Tariff Commission's factual report with respect to a petition for adjustment assistance.

Subsection (a) amends section 302 of the TEA to change the title of the section from "Presidential Action After Tariff Commission Determination" to "Presidential Action After Tariff Commission Reports," consistent with the amendments to section 301 of the TEA.

Subsections (b) and (c) each makes a similar amendment to section 302(b) (1) and (2), respectively, of the TEA in order to conform with the criteria of eligibility in new section 301(c) (1) and (2) of the TEA.

Under section 302(a) of the TEA, if the Tariff Commission makes an affirmative finding with respect to a petition for tariff adjustment filed on behalf of an entire industry, the President may furnish increased import protection (e.g., increased tariffs or quotas) to the industry involved, and/or provide that the firms and workers in the industry may request the Secretaries of Commerce and Labor, respectively, for certifications of eligibility to apply for adjustment assistance. Under section 302(b) of the TEA, a firm or group of workers in the industry must be certified as eligible to apply for adjustment assistance if it demonstrates that the increased imports have caused serious injury to the firm, or unemployment or underemployment of the workers, or the threat thereof, as the case may be.

The amendments to section 302(b) (1) and (2) of the TEA make it clear that it shall be sufficient, for purposes of section 302(b) of the TEA, for the firm or group of workers to demonstrate that the increased imports have been a substantial cause of serious injury or unemployment or underemployment, or the threat thereof. In this way, whether a firm or group of workers files an original petition for adjustment assistance under section 301(a) of the TEA, or seeks to become eligible under section 302(b) of the TEA for adjustment assistance following an affirmative finding of the Tariff Commission with respect to an industry under section 301(b) of the TEA, the same degree of causality to be ascribed to increased imports will apply.

Subsection (d) amends section 302(c) of the TEA to provide four new paragraphs. New paragraph (1) provides that, after receiving a factual report of the Tariff Commission, the President shall make his determination under new section 301 (c)(1) or (c)(2) at the earliest practicable time, but not later than 30 days after the date on which he receives the Tariff Commission's report, unless, within such period, the President requests additional factual information from the Tariff Commission. In this event, the Tariff Commission shall, not later than 25 days after the date on which it receives the President's request, furnish such additional factual information in a supplemental report. The President shall then make his determination not later than 15 days after the date on which he receives such supplemental report.

New paragraph (2) provides that the President shall promptly publish in the Federal Register a summary of each determination under new section 301(c) of the TEA with respect to any firm or group of workers.

New paragraph (3) provides that, if the President makes an affirmative determination under new section 301(c) of the TEA with respect to any firm or group of workers, he shall promptly certify that such firm or group of workers is eligible to apply for adjustment assistance.

New paragraph (4) provides that the President is authorized to exercise any of his functions with respect to determinations and certifications of eligibility of firms or groups of workers to apply for adjustment assistance through such agency or other instrumentality of the U.S. Government as he may direct. Such agency or instrumentality may issue rules or regulations pursuant to section 401(2) of the TEA.

Section 303. Tax assistance to firms

Section 303 amends section 317(a)(2) of the TEA to conform to the new section 301(c)(1) of the TEA.

Section 304. Adjustment assistance to workers

Section 304 amends section 337 of the TEA to provide that sums appropriated pursuant to section 337 for adjustment assistance for workers may be used to pay the cost of training provided to adversely affected workers entitled to trade readjustment allowances under chapter 3 of title III of the TEA, to the extent that training resources provided under any Federal law would not otherwise be available to such workers.

Section 305. Tariff adjustment

Section 305 amends section 351(d) of the TEA in two respects. First, the Tariff Commission shall, in the annual reports which it makes to the President on cases of tariff adjustment which continue in effect, include therein a report as to the specific steps taken by the firms in the industry to enable them to compete more effectively with imports. Second, not later than 2 years after a tariff adjustment action, the Tariff Commission shall advise the President of its judgment, in the light of the specific steps taken by the firms in such industry to enable them to compete more effectively with imports as to the probable economic effect of the reduction or termination of the tariff adjustment.

TITLE IV—NONTARIFF BARRIERS TO TRADE

Section 401. Elimination of American selling price system

In general, this section provides for the elimination of the American selling price (ASP) system as a method of customs valuation in return for tariff and nontariff concessions by other countries. The products now subject to the ASP system are benzenoid chemicals, canned clams, wool-knit gloves, and rubber-soled footwear. As a result of the elimination of this system, these products will no longer be subject to ASP, if competitive with a domestic article, or, in the case of benzenoid chemicals, to U.S. value as the next basis of value, if not so competitive. Instead, they will be subject to export value (or alternative bases of value in the absence of export value) in accordance with the provisions of section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a).

Subsection (a) authorizes the President to proclaim such modifications of the Tariff Schedules of the United States (TSUS) as are required or appropriate to carry out two agreements concluded as part of the Kennedy round. The first agreement is the multilateral Agreement Relating Principally to Chemicals, Supplementary to the Geneva (1967) Protocol to the General Agreement on Tariffs and Trade. Under this agreement, the President undertakes to use his best efforts to obtain promptly such legislation as is necessary to enable the United States to eliminate the ASP system of valuation, as provided in part II of the agreement. Part II provides new column 1 rates for benzenoid chemicals, which shall be based on the first three alternatives bases of valuation (export value, U.S. value, or constructed value) provided for in section 402 (as opposed to sec. 402a of the Tariff Act of 1930 (19 U.S.C. 1402)). Part II also provides additional tariff concessions by the United States on chemical and related articles not subject to the ASP system. Parts III, IV, and V of the agreement provide the concessions with respect to tariff and nontariff barriers

which the other parties to the agreement have undertaken to make if the ASP system is eliminated.

The second agreement is the bilateral agreement with Japan, which consists of an exchange of notes. The U.S. note provides that the President is prepared to use his best efforts to obtain promptly such legislation as is necessary to enable the United States to eliminate the ASP system of valuation as it relates to canned clams and wool-knit gloves. The attachment to the U.S. note sets out the new column 1 rates for these products, which shall be based on export value (or alternative bases of value in the absence of export value) in accordance with section 402 of the Tariff Act of 1930. The Japanese note provides the tariff concession which Japan is prepared to make if the ASP system is eliminated.

Subsection (b) concerns the last class of products now subject to the ASP system—rubber-soled footwear. These products were not included in any Kennedy round agreement providing for the elimination of ASP. Accordingly, paragraph (1) authorizes the President to enter into an agreement with respect to rubber-soled footwear. This agreement would provide for two new items in the TSUS to replace the present single item covering such footwear. The two new article descriptions were set forth by the Tariff Commission in its report of August 1966, concerning investigation No. 332-47. In addition, the agreement would provide that the rates of duty for the two new items shall be based on export value (or alternative bases of value in the absence of export value) in accordance with section 402 of the Tariff Act of 1930.

Paragraph (2) authorizes the President to proclaim such modifications of the TSUS as are required or appropriate to carry out such agreement, so long as two conditions are met. First, the modifications must not become effective earlier than January 1, 1971. Second, the new rates of duty for column 1 must not be lower than the rates specified in the act.

Subsection (c) provides that, in a proclamation issued pursuant to section 401, the President is authorized to simplify the TSUS by consolidating article descriptions, but without changing rates, with respect to articles which will be subject to full concession rates of duty (i.e., the final rates set out in the applicable agreements) that are identical to one another in column No. 1 and to rates of duty that are identical to one another in column No. 2. Any such consolidation shall become effective on the date the full concession rates become effective for such articles. This subsection is designed to insure that the President has the authority to consolidate provisions bearing the same rates of duty following the elimination of the ASP system and thereby to simplify customs administration.

Subsection (d) authorizes the President at any time to terminate, in whole or in part, any proclamation issued pursuant to section 401.

Subsection (e) recognizes the desirability of maintaining a continuing surveillance for a period of five years of the results of the elimination of the ASP system. It provides that for this purpose the Tariff Commission shall provide to the President, on the most current basis possible, annual detailed reports on the production and sales of synthetic organic chemicals and imports thereof. Among Government entities, the Tariff Commission is unique in its ability to provide that information.

Section 402. Application of related provisions

Subsection (a) is intended to insure that the present rates of duty based upon ASP will not continue to qualify as rates existing on July 1, 1967, for purposes of the tariff reducing authority in the TEA even after the ASP system is eliminated. Subsection (a) provides that for purposes of section 256(8) of the TEA (as amended by this act) the column 1 rates existing on July 1, 1967, shall, in effect, be the full concession rates (i.e., the final rates set out in the applicable agreements), proclaimed pursuant to section 401, increased by 25 percent. Accordingly, if, for example, one of the new column 1 rates were increased and the President subsequently wished to reduce it under section 201 of the TEA, he could reduce it to a level no lower than the actual full concession rate.

Subsection (b) provides that a rate of duty proclaimed pursuant to section 401 shall be treated as a rate of duty proclaimed pursuant to a concession granted in a trade agreement for purposes of general headnote 4 of the TSUS. As a result, by operation of paragraph (b) of general headnote 4, during such time as a column 1 rate proclaimed pursuant to section 401 is, for a few benzenoid chemicals, higher than the column 2 rate, the column 2 rate will in effect be increased to the level of the column 1 rate. Moreover, by operation of paragraph (d) of general headnote 4, if, for example, a full concession rate proclaimed pursuant to section 401 were terminated, the column 2 rate would apply.

Section 403. Consequential amendments of Tariff Schedules of United States

In general, this section makes three kinds of amendments to the TSUS which are consequential upon the elimination of the ASP system. These statutory amendments relate to the four parts of the TSUS providing for the four categories of articles subject to the ASP system and complement the President's proclamatory modifications of the TSUS under section 401 with respect to column 1 rates of duty.

First, all four paragraphs of section 403 establish new column 2 rates for the four categories of articles now subject to ASP and, by an increase over the present column 2 rates in certain cases, adjust for the lower bases of customs valuation that will apply. Second, all four paragraphs of section 403 delete the headnotes in the TSUS which now provide for the application of the ASP system to both column 1 and column 2 rates applicable to the four categories of articles. Third, the last three paragraphs of section 403 in effect remove benzenoid chemicals, rubber-soled footwear, and wool-knit gloves, respectively, from the so-called final list, whereby these articles are valued for customs purposes on the basis of section 402a of the Tariff Act of 1930 (canned clams are not subject to the "final list"). They do so by substituting for the ASP headnotes new headnotes providing that both column 1 and column 2 rates shall be based on export value (or alternative bases of value in the absence of export value) in accordance with section 402 of the Tariff Act of 1930.

Section 404. Consequential amendments of other provisions of Tariff Act of 1930

In general, this section makes several amendments to the Tariff Act of 1930 which relate to three sections of that act dealing with the

ASP system and which are consequential upon the elimination of the ASP system. These amendments all become effective as of the date the ASP system is eliminated pursuant to section 401 with respect to the last of the articles now subject to that system.

Paragraph (1) amends section 336 of the Tariff Act of 1930 to remove from that section the authority to use ASP in equalizing costs of production between a domestic article and a like imported article. Section 336 can be applied only to the few articles in the TSUS which are not subject to a tariff concession. This amendment insures that, once the President has eliminated the ASP system with respect to all the articles now subject to that system, the ASP system cannot be established by executive action with respect to any article.

Paragraphs (2) and (3) amend sections 402 and 402a, respectively, of the Tariff Act of 1930, in order to eliminate ASP as an alternative basis of valuation. This is a formal amendment eliminating the provisions concerning ASP in sections 402 and 402a which will in any case have become inoperative by virtue of the President's proclamations pursuant to section 401 and the amendments to the TSUS made by section 403(a).

THE TRADE EXPANSION ACT OF 1962

(Public Law 87-794, app. Oct. 11, 1962, as amended by Public Law 88-205, pt. IV, § 402, app. Dec. 16, 1963)

TITLE I—SHORT TITLE AND PURPOSES

SEC. 101. SHORT TITLE.

This Act may be cited as the "Trade Expansion Act of 1962".

SEC. 102. STATEMENT OF PURPOSES.

The purposes of this Act are, through trade agreements affording mutual trade benefits—

(1) to stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of United States agriculture, industry, mining, and commerce;

(2) to strengthen economic relations with foreign countries through the development of open and nondiscriminatory trading in the free world; and

(3) to prevent Communist economic penetration.

TITLE II—TRADE AGREEMENTS

CHAPTER 1—GENERAL AUTHORITY

SEC. 201. BASIC AUTHORITY FOR TRADE AGREEMENTS.

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that any of the purposes stated in section 102 will be promoted thereby, the President may—

(1) after June 30, 1962, and before July 1, 1967, enter into trade agreements with foreign countries or instrumentalities thereof; and

(2) proclaim such modification or continuance of any existing duty or other import restriction, such continuance of existing duty-free or excise treatment, or such additional import restrictions, as he determines to be required or appropriate to carry out any such trade agreement.

(b) Except as otherwise provided in this title, no proclamation pursuant to subsection (a) shall be made—

(1) decreasing any rate of duty to a rate below 50 percent of the rate existing on July 1, 1962; or

(2) increasing any rate of duty to (or imposing) a rate more than 50 percent above the rate existing on July 1, 1934.

SEC. 202. LOW-RATE ARTICLES.

Section 201(b)(1) shall not apply in the case of any article for which the rate of duty existing on July 1, 1962, is not more than 5 percent ad valorem (or ad valorem equivalent). In the case of an

article subject to more than one rate of duty, the preceding sentence shall be applied by taking into account the aggregate of such rates.

CHAPTER 2—SPECIAL PROVISIONS CONCERNING EUROPEAN ECONOMIC COMMUNITY

SEC. 211. IN GENERAL.

(a) In the case of any trade agreement with the European Economic Community, section 201(b)(1) shall not apply to articles in any category if, before entering into such trade agreement, the President determines with respect to such category that the United States and all countries of the European Economic Community together accounted for 80 percent or more of the aggregated world export value of all the articles in such category.

(b) For purposes of subsection (a)—

(1) As soon as practicable after the date of the enactment of this Act, the President shall—

(A) after taking into account the availability of trade statistics, select a system of comprehensive classification of articles by category, and

(B) make public his selection of such system.

(2) As soon as practicable after the President has selected a system pursuant to paragraph (1), the Tariff Commission shall—

(A) determine the articles falling within each category of such system, and

(B) make public its determinations.

The determination of the Tariff Commission as to the articles included in any category may be modified only by the Tariff Commission. Such modification by the Tariff Commission may be made only for the purpose of correction, and may be made only before the date on which the first list of articles specifying this section is furnished by the President to the Tariff Commission pursuant to section 221.

(c) For the purpose of making a determination under subsection (a) with respect to any category—

(1) The determination of the countries of the European Economic Community shall be made as of the date of the request under subsection (d).

(2) The President shall determine “aggregated world export value” with respect to any category of articles—

(A) on the basis of a period which he determines to be representative for such category, which period shall be included in the most recent 5-year period before the date of the request under subsection (d) for which statistics are available and shall contain at least 2 one-year periods.

(B) on the basis of the dollar value of exports as shown by trade statistics in use by the Department of Commerce, and

(C) by excluding exports—

(i) from any country of the European Economic Community to another such country, and

(ii) to or from any country or area which, at any time during the representative period, was denied trade agree-

ment benefits under section 231, or under section 5 of the Trade Agreements Extension Act of 1951, or under section 401(a) of the Tariff Classification Act of 1962.

(d) Before the President makes a determination under subsection (a) with respect to any category, the Tariff Commission shall (upon request of the President) make findings as to—

- (1) the representative period for such category,
- (2) the aggregated world export value of the articles falling within such category, and
- (3) the percentage of the aggregated world export value of such articles accounted for by the United States and the countries of the European Economic Community,

and shall advise the President of such findings.

(e) The exception to section 201(b)(1) provided by subsection (a) shall not apply to any article referred to in Agricultural Handbook No. 143, United States Department of Agriculture, as issued in September 1959.

SEC. 212. AGRICULTURAL COMMODITIES.

In the case of any trade agreement with the European Economic Community, section 201(b)(1) shall not apply to any article referred to in Agricultural Handbook No. 143, United States Department of Agriculture, as issued in September 1959, if before entering into such agreement the President determines that such agreement will tend to assure the maintenance or expansion of United States exports of the like article.

SEC. 213. TROPICAL AGRICULTURAL AND FORESTRY COMMODITIES.

(a) Section 201(b)(1) shall not apply to any article if, before entering into the trade agreement covering such article, the President determines that—

- (1) such article is a tropical agricultural or forestry commodity;
- (2) the like article is not produced in significant quantities in the United States; and
- (3) the European Economic Community has made a commitment with respect to duties or other import restrictions which is likely to assure access for such article to the markets of the European Economic Community which—

(A) is comparable to the access which such article will have to the markets of the United States, and

(B) will be afforded substantially without differential treatment as among free world countries of origin.

(b) For purposes of subsection (a), a "tropical agricultural or forest commodity" is an agricultural or forestry commodity with respect to which the President determines that more than one-half of the world production is in the area of the world between 20 degrees north latitude and 20 degrees south latitude.

(c) Before the President makes a determination under subsection (a) with respect to any article, the Tariff Commission shall (upon request of the President) make findings as to—

- (1) whether or not such article is an agricultural or forestry commodity more than one-half of the world production of which is in the area of the world between 20 degrees north latitude and 20 degrees south latitude, and

(2) whether or not the like article is produced in significant quantities in the United States, and shall advise the President of such findings.

CHAPTER 3—REQUIREMENTS CONCERNING NEGOTIATIONS

SEC. 221. TARIFF COMMISSION ADVICE.

(a) In connection with any proposed trade agreement under this title, 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 or other import restrictions, or continuance of United States duty-free or exise treatment. In the case of any article with respect to which consideration may be given to reducing the rate of duty below the 50 percent limitation contained in section 201(b)(1), the list shall specify the section or sections of this title pursuant to which such consideration may be given.

(b) Within 6 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 or other import restrictions 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, agriculture, and labor, utilizing to the fullest extent practicable the facilities of United States attachés abroad and other 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. 222. ADVICE FROM DEPARTMENTS.

Before any trade agreement is entered into under this title, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury, and from such other sources as he may deem appropriate.

SEC. 223. PUBLIC HEARINGS.

In connection with any proposed trade agreement under 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 221, 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, shall prescribe regulations governing the conduct of such hearings, and shall furnish the President with a summary of such hearings.

SEC. 224. PREREQUISITE FOR OFFERS.

The President may make an offer for the modification or continuance of any duty or other import restriction, or continuance of duty-free or excise treatment, with respect to any article only after he has received advice concerning such article from the Tariff Commission under section 221(b), or after the expiration of the relevant 6-month period provided for in that section, whichever first occurs, and only after the President has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 223.

SEC. 225. RESERVATION OF ARTICLES FROM NEGOTIATIONS.

(a) While there is in effect with respect to any article any action taken under—

(1) section 232, 351, or 352,

(2) section 2(b) of the Act entitled "An Act to extend the authority of the President to enter into trade agreements under section 350 of the Tariff Act of 1930, as amended", approved July 1, 1954 (19 U.S.C., sec. 1352a), or

(3) section 7 of the Trade Agreements Extension Act of 1951 (19 U.S.C., sec. 1364),

the President shall reserve such article from negotiations under this title for the reduction of any duty or other import restriction or the elimination of any duty.

(b) During the 5-year period which begins on the date of the enactment of this Act, the President shall reserve an article (other than an article which, *on the date of the enactment of this Act*, was described in subsection (a) (3) from negotiation under this title for the reduction of any duty or other import restriction or the elimination of any duty where—

(1) pursuant to section 7 of the Trade Agreements Extension Act of 1951 (or pursuant to a comparable Executive Order), the Tariff Commission found by a majority of the Commissioners voting that such article was being imported in such increased quantities as to cause or threaten serious injury to an industry,

(2) such article is included in a list furnished to the Tariff

Commission pursuant to section 221 (and has not been included in a prior list so furnished), and

(3) upon request on behalf of the industry, made not later than 60 days after the date of the publication of such list, the Tariff Commission finds and advises the President that economic conditions in such industry have not substantially improved since the date of the report of the finding referred to in paragraph (1).

(c) In addition to the articles described by subsections (a) and (b), the President shall also so reserve any other article which he determines to be appropriate, taking into consideration the advice of the Tariff Commission under section 221(b), any advice furnished to him under section 222, and the summary furnished to him under section 223.

SEC. 226. TRANSMISSION OF AGREEMENTS TO CONGRESS.

The President shall transmit promptly to each House of Congress a copy of each trade agreement entered into under this title, together with a statement in the light of the advice of the Tariff Commission under section 221(b) and of other relevant considerations, of his reasons for entering into the agreement.

CHAPTER 4—NATIONAL SECURITY

SEC. 231. PRODUCTS OF COMMUNIST COUNTRIES OR AREAS.

(a) The President shall, as soon as practicable, suspend, withdraw, or prevent the application of the reduction, elimination, or continuance of any existing duty or other import restriction, or the continuance of any existing duty-free or excise treatment, proclaimed in carrying out any trade agreement under this subchapter or under section 1351 of this title, to products, whether imported directly or indirectly, of any country or area dominated or controlled by Communism.

(b) The President may extend the benefits of trade agreement concessions made by the United States to products, whether imported directly or indirectly, of a country or area within the purview of subsection (a) of this section which, on December 16, 1963, was receiving trade concessions, when he determines that such treatment would be important to the national interest and would promote the independence of such country or area from domination or control by international communism, and reports this determination and the reasons therefor to the Congress.

SEC. 232. SAFEGUARDING NATIONAL SECURITY.

(a) No action shall be taken pursuant to section 201(a) or pursuant to section 350 of the Tariff Act of 1930 to decrease 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) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Director of the Office of Emergency Planning (hereinafter in this section referred to as the "Director") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from other appropriate departments and agencies, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that the said article

is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

(c) For the purposes of this section, the Director and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b). The Director shall publish procedural regulations to give effect to the authority conferred on him by subsection (b).

CHAPTER 5—ADMINISTRATIVE PROVISIONS

SEC. 241. SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS.

(a) The President shall appoint, by and with the advice and consent of the Senate, a Special Representative for Trade Negotiations, who shall be the chief representative of the United States for each negotiation under this title and for such other negotiations as in the President's judgment require that the Special Representative be the chief representative of the United States, and who shall be the chairman of the organization established pursuant to section 242(a). The Special Representative for Trade Negotiations shall hold office at the pleasure of the President, shall be entitled to receive the same compensation and allowances as a chief of mission, and shall have the rank of ambassador extraordinary and plenipotentiary.

(b) The Special Representative for Trade Negotiations shall, in the performance of his functions under subsection (a), seek information and advice with respect to each negotiation from representatives of industry, agriculture, and labor, and from such agencies as he deems appropriate.

SEC. 242. INTERAGENCY TRADE ORGANIZATION.

(a) The President shall establish an interagency organization to assist him in carrying out the functions vested in him by this title and sections 351 and 352. Such organization shall, in addition to the Special Representative for Trade Negotiations, be composed of the heads of such departments and of such other officers as the President shall designate. It shall meet at such times and with respect to such matters as the President or the chairman of the organization shall direct. The organization may invite the participation in its activities of any agency not represented in the organization when matters of interest to such agency are under consideration.

(b) In assisting the President, the organization shall—

(1) make recommendations to the President on basic policy issues arising in the administration of the trade agreements program,

(2) make recommendations to the President as to what action, if any, he should take on reports with respect to tariff adjustment submitted to him by the Tariff Commission under section 301(e),

(3) advise the President of the results of hearings concerning foreign import restrictions held pursuant to section 252(d), and recommend appropriate action with respect thereto, and

(4) perform such other functions with respect to the trade agreements program as the President may from time to time designate.

(c) The organization shall, to the maximum extent practicable, draw upon the resources of the agencies represented in the organization, as well as such other agencies as it may determine, including the Tariff Commission. In addition, the President may establish by regulation such procedures and committees as he may determine to be necessary to enable the organization to provide for the conduct of hearings pursuant to section 252(d), and for the carrying out of other functions assigned to the organization pursuant to this section.

SEC. 243. CONGRESSIONAL DELEGATES TO NEGOTIATIONS.

Before each negotiation under this title, the President shall, upon the recommendation of the Speaker of the House of Representatives, select two members (not of the same political party) of the Committee on Ways and Means, and shall, upon the recommendation of the President of the Senate, select two members (not of the same political party) of the Committee on Finance, who shall be accredited as members of the United States delegation to such negotiation.

CHAPTER 6—GENERAL PROVISIONS**SEC. 251. MOST-FAVORED-NATION PRINCIPLE.**

Except as otherwise provided in this title, in section 305(b) of the Tariff Act of 1930, or in section 401(a) of the Tariff Classification Act of 1962, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under this title or section 350 of the Tariff Act of 1930 shall apply to products of all foreign countries, whether imported directly or indirectly.

SEC. 252. FOREIGN IMPORT RESTRICTIONS.

(a) Whenever unjustifiable foreign import restrictions impair the value of tariff commitments made to the United States, oppress the

commerce of the United States, or prevent the expansion of trade on a mutually advantageous basis, the President shall—

(1) take all appropriate and feasible steps within his power to eliminate such restrictions,

(2) refrain from negotiating the reduction or elimination of any United States import restriction under section 201(a) in order to obtain the reduction or elimination of any such restrictions, and

(3) notwithstanding any provision of any trade agreement under this Act, and to the extent he deems necessary and appropriate, impose duties or other import restrictions on the products of any foreign country or instrumentality establishing or maintaining such foreign import restrictions against United States agricultural products, when he deems such duties and other import restrictions necessary and appropriate to prevent the establishment or obtain the removal of such foreign import restrictions and to provide access for United States agricultural products to the markets of such country or instrumentality on an equitable basis.

(b) Whenever a foreign country or instrumentality the products of which receive benefits of trade agreement concessions made by the United States—

(1) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

(2) engage in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

the President shall, to the extent that such action is consistent with the purposes of section 102—

(A) suspend, withdraw, or prevent the application of benefits of trade agreement concessions to products of such country or instrumentality, or

(B) refrain from proclaiming benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality.

(c) Whenever a foreign country or instrumentality, the products of which receive benefits of trade agreement concessions made by the United States, maintains unreasonable import restrictions which either directly or indirectly substantially burden United States commerce, the President may, to the extent that such action is consistent with the purposes of section 102, and having due regard for the international obligations of the United States—

(1) suspend, withdraw, or prevent the application of benefits of trade agreement concessions to products of such country or instrumentality, or

(2) refrain from proclaiming benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality.

(d) The President shall provide an opportunity for the presentation of views concerning foreign import restrictions which are referred to in subsections (a), (b), and (c) and are maintained against United States commerce. Upon request by any interested person, the President shall, through the organization established pursuant to section

242(a), provide for appropriate public hearings with respect to such restrictions after reasonable notice and provide for the issuance of regulations concerning the conduct of such hearings.

SEC. 253. STAGING REQUIREMENTS.

(a) Except as otherwise provided in this section and in section 254, 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 for such article had taken effect on the date of the first proclamation pursuant to section 201(a) to carry out such trade agreement, and

(2) the remaining four-fifths of such total reduction had taken effect in four equal installments at 1-year intervals after the date referred to in paragraph (1).

(b) Subsection (a) shall not apply to any article with respect to which the President has made a determination under section 213(a).

(c) In the case of an article the rate of duty on which has been or is to be reduced pursuant to a prior trade agreement, no reduction shall take effect pursuant to a trade agreement entered into under section 201(a) before the expiration of 1 year after the taking effect of the final reduction pursuant to such prior agreement.

(d) If 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 legislation of the United States or action thereunder shall be excluded in determining—

(1) the 1-year intervals referred to in subsection (a)(2), and

(2) the expiration of the 1 year referred to in subsection (c).

SEC. 254. ROUNDING AUTHORITY.

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 section 201(b)(1) or 253 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 1 percent ad valorem or an amount the ad valorem equivalent of which is one-half of 1 percent.

SEC. 255. TERMINATION.

(a) Every trade agreement entered into under this title 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 3 years from the date on which the agreement becomes effective. 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 6 months' notice.

(b) The President may at any time terminate, in whole or in part, any proclamation made under this title.

SEC. 256. DEFINITIONS.

For purposes of this title—

(1) The term "European Economic Community" means the instrumentality known by such name or any successor thereto.

(2) The countries of the European Economic Community as of any date shall be those countries which on such date are agreed to achieve a common external tariff through the European Economic Community.

(3) The term "agreement with the European Economic Community" means an agreement to which the United States and all countries of the European Economic Community (determined as of the date such agreement is entered into) are parties. For purposes of the preceding sentence, each country for which the European Economic Community signs an agreement shall be treated as a party to such agreement.

(4) The term "existing on July 1, 1962", as applied to a rate of duty, refers to the lowest nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on such date or (if lower) the lowest nonpreferential rate to which the United States is committed on such date and which may be proclaimed under section 350 of the Tariff Act of 1930.

(5) The term "existing on July 1, 1934", as applied to a rate of duty, refers to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on such date.

(6) The term "existing" without the specification of any date, when used with respect to any matter relating to entering into, or any proclamation to carry out, a trade agreement, means existing on the day on which such trade agreement is entered into, and, when referring to a rate of duty, refers to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on such day.

(7) 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. 257. RELATION TO OTHER LAWS.

(a) The first sentence of subsection (b) of section 350 of the Tariff Act of 1930 is amended by striking out "this section" each place it appears and inserting in lieu thereof "this section or the Trade Expansion Act of 1962". The second sentence of such subsection (b) is amended by striking out "this Act" and inserting in lieu thereof "this Act or the Trade Expansion Act of 1962". The third sentence of such subsection (b) is amended by striking out "1955," in paragraph (2) and inserting in lieu thereof "1955, and before July 1, 1962," and by adding at the end thereof the following new paragraph:

"(3) In order to carry out a foreign trade agreement entered into after June 30, 1962, and before July 1, 1967, below the lowest

rate permissible by applying title II of the Trade Expansion Act of 1962 to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on July 1, 1962, with respect to such product."

(b) Subsections (a)(5) and (c) of section 350 of the Tariff Act of 1930 are repealed.

(c) For purposes only of entering into trade agreements pursuant to the notices of intention to negotiate published in the Federal Register of May 28, 1960, and the Federal Register of November 23, 1960, the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 is hereby extended from the close of June 30, 1962, until the close of December 31, 1962.

(d) 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., sec. 1352(a)), are each amended by striking out "this Act" and inserting in lieu thereof "this Act or the Trade Expansion Act of 1962".

(e)(1) Sections 5, 6, 7, and 8(a) of the Trade Agreements Extension Act of 1951 are repealed.

(2) Action taken by the President under section 5 of such Act and in effect on the date of the enactment of this Act shall be considered as having been taken by the President under section 231.

(3) Any investigation by the Tariff Commission under section 7 of such Act which is in progress on the date of the enactment of this Act shall be continued under section 301 as if the application by the interested party were a petition under such section for tariff adjustment under section 351. For purposes of section 301(f), such petition shall be treated as having been filed on the date of the enactment of this Act.

(f) Section 2 of the Act entitled "An Act to extend the authority of the President to enter into trade agreements under section 350 of the Tariff Act of 1930, as amended", approved July 1, 1954, is repealed. Any action (including any investigation begun) under such section 2 before the date of the enactment of this Act shall be considered as having been taken or begun under section 232.

(g)(1) Section 102(1) of the Tariff Classification Act of 1962 is amended by striking out "of schedules 1 to 7, inclusive,".

(2) Section 203 of the Tariff Classification Act of 1962 is amended to read as follows:

"SEC. 203. For purposes of applying sections 323 and 350 of the Tariff Act of 1930, as amended, and the Trade Expansion Act of 1962 with respect to the Tariff Schedules of the United States—

"(1) The rate of duty in rate column numbered 2 for each item in schedules 1 to 7, inclusive, of the Tariff Schedules of the United States shall be treated as the rate of duty existing on July 1, 1934.

"(2) The lowest preferential or nonpreferential rate of duty in rate column numbered 1 for each item in schedules 1 to 7, inclusive, of the Tariff Schedules of the United States on the effective date provided in section 501(a) of this Act shall be treated as the

lowest preferential or nonpreferential rate of duty, respectively, existing on July 1, 1962; except that in the case of any such item included in a supplemental report made pursuant to section 101(c) of this Act to reflect a change proclaimed by the President after July 1, 1962 (other than a change to which the United States was committed on July 1, 1962), the rate treated as the lowest nonpreferential rate of duty existing on July 1, 1962, shall be the rate which the Commission specifically declares in such supplemental report to be the rate which, in its judgment, conforms to the fullest extent practicable to the rate regarded as existing on July 1, 1962, under section 256(4) of the Trade Expansion Act of 1962.

“(3) Legislation entering into force after the effective date provided for in section 501(a) of this Act which results in the permanent reclassification of any article without specifying the rate of duty applicable thereto, and proclamations under section 202(c) of this Act, shall be considered as having been in effect since June 30, 1962.”

(h) Nothing contained in this Act shall be construed to affect in any way the provisions of section 22 of the Agricultural Adjustment Act, or to apply to any import restriction heretofore or hereafter imposed under such section.

(i) Part I of title III of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

“SEC. 323. CONSERVATION OF FISHERY RESOURCES.

“Upon the convocation of a conference on the use or conservation of international fishery resources, the President shall, by all appropriate means at his disposal, seek to persuade countries whose domestic fishing practices or policies affect such resources, to engage in negotiations in good faith relating to the use or conservation of such resources. If, after such efforts by the President and by other countries which have agreed to engage in such negotiations, any other country whose conservation practices or policies affect the interests of the United States and such other countries, has, in the judgment of the President, failed or refused to engage in such negotiations in good faith, the President may, if he is satisfied that such action is likely to be effective in inducing such country to engage in such negotiations in good faith, increase the rate of duty on any fish (in any form) which is the product of such country, for such time as he deems necessary, to a rate not more than 50 percent above the rate existing on July 1, 1934.”

SEC. 258. REFERENCES.

All provisions of law (other than this Act and the Trade Agreements Extension Act of 1951) in effect after June 30, 1962, 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 agreements entered into, or proclamations issued, 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 issued, pursuant to this Act.

TITLE III—TARIFF ADJUSTMENT AND OTHER ADJUSTMENT ASSISTANCE

CHAPTER 1—ELIGIBILITY FOR ASSISTANCE

SEC. 301. TARIFF COMMISSION INVESTIGATIONS AND REPORTS.

(a)(1) A petition for tariff adjustment under section 351 may be filed with the Tariff Commission by a trade association, firm, certified or recognized union, or other representative of an industry.

(2) A petition for a determination of eligibility to apply for adjustment assistance under chapter 2 may be filed with the Tariff Commission by a firm or its representative, and a petition for a determination of eligibility to apply for adjustment assistance under chapter 3 may be filed with the Tariff Commission by a group of workers or by their certified or recognized union or other duly authorized representative.

(3) Whenever a petition is filed under this subsection, the Tariff Commission shall transmit a copy thereof to the Secretary of Commerce.

(b)(1) Upon the request of the President 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, as a result in major part of concessions granted under trade agreements, an article is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry producing an article which is like or directly competitive with the imported article.

(2) In making its determination under paragraph (1), the Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

(3) For purposes of paragraph (1), increased imports shall be considered to cause, or threaten to cause, serious injury to the domestic industry concerned when the Tariff Commission finds that such increased imports have been the major factor in causing, or threatening to cause, such injury.

(4) No investigation for the purpose of paragraph (1) shall be made, upon petition filed under subsection (a)(1), with respect to the same subject matter as a previous investigation under paragraph (1), unless one year has elapsed since the Tariff Commission made its report to the President of the results of such previous investigation.

(c)(1) In the case of a petition by a firm for a determination of eligibility to apply for adjustment assistance under chapter 2, the Tariff Commission shall promptly make an investigation to determine whether, as a result in major part of concessions granted under trade agreements, an article like or directly competitive with an article produced by the firm is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury

to such firm. In making its determination under this paragraph, the Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities of the firm, inability of the firm to operate at a level of reasonable profit, and unemployment or underemployment in the firm.

(2) In the case of a petition by a group of workers for a determination of eligibility to apply for adjustment assistance under chapter 3, the Tariff Commission shall promptly make an investigation to determine whether, as a result in major part of concessions granted under trade agreements, an article like or directly competitive with an article produced by such worker's firm, or an appropriate subdivision thereof, is being imported into the United States in such increased quantities as to cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers of such firm or subdivision.

(3) For purposes of paragraphs (1) and (2), increased imports shall be considered to cause, or threaten to cause, serious injury to a firm or unemployment or underemployment, as the case may be, when the Tariff Commission finds that such increased imports have been the major factor in causing, or threatening to cause, such injury or unemployment or underemployment.

(d)(1) In the course of any investigation under subsection (b)(1), the Tariff Commission shall, after reasonable notice, hold public hearings and shall afford interested parties opportunity to be present, to produce evidence, and to be heard at such hearings.

(2) In the course of any investigation under subsection (c)(1) or (c)(2), the Tariff Commission shall, after reasonable notice, hold public hearings if requested by the petitioner, or if, within 10 days after notice of the filing of the petition, a hearing is requested by any other party showing a proper interest in the subject matter of the investigation, and shall afford interested parties an opportunity to be present, to produce evidence, and to be heard at such hearings.

(e) Should the Tariff Commission find with respect to any article, as the result of its investigation, the serious injury or threat thereof described in subsection (b), it shall find the amount of the increase in, or imposition of, any duty or other import restriction on such article which is necessary to prevent or remedy such injury and shall include such finding in its report to the President.

(f)(1) The Tariff Commission shall report to the President the results of each investigation under this section 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 6 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.) Upon making such report to the President, the Tariff Commission shall promptly make public such report, and shall cause a summary thereof to be published in the Federal Register.

(3) The report of the Tariff Commission of its determination under subsection (c)(1) or (c)(2) with respect to any firm or group of workers shall be made at the earliest practicable time, but not later than 60 days after the date on which the petition is filed.

(g) Except as provided in section 257(e)(3), no petition shall be filed under subsection (a), and no request, resolution, or motion shall be made under subsection (b), prior to the close of the 60th day after the date of the enactment of this Act.

SEC. 302. PRESIDENTIAL ACTION AFTER TARIFF COMMISSION DETERMINATION.

(a) After receiving a report from the Tariff Commission containing an affirmative finding under section 301(b) with respect to any industry, the President may—

(1) provide tariff adjustment for such industry pursuant to section 351 or 352,

(2) provide, with respect to such industry, that its firms may request the Secretary of Commerce for certifications of eligibility to apply for adjustment assistance under chapter 2,

(3) provide, with respect to such industry, that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under chapter 3, or

(4) take any combination of such actions.

(b)(1) The Secretary of Commerce shall certify, as eligible to apply for adjustment assistance under chapter 2, any firm in an industry with respect to which the President has acted under subsection (a)(2), upon a showing by such firm to the satisfaction of the Secretary of Commerce that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused serious injury or threat thereof to such firm.

(2) The Secretary of Labor shall certify, as eligible to apply for adjustment assistance under chapter 3, any group of workers in an industry with respect to which the President has acted under subsection (a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

(c) After receiving a report from the Tariff Commission containing an affirmative finding under section 301(c) with respect to any firm or group of workers, the President may certify that such firm or group of workers is eligible to apply for adjustment assistance.

(d) Any certification under subsection (b) or (c) that a group of workers is eligible to apply for adjustment assistance shall specify the date on which the unemployment or underemployment began or threatens to begin.

(e) Whenever the President determines, with respect to any certification of the eligibility of a group of workers, that separations from the firm or subdivision thereof are no longer attributable to the conditions specified in section 301(c)(2) or in subsection (b)(2) of this section, he shall terminate the effect of such certification. Such termination shall apply only with respect to separations occurring after the termination date specified by the President.

CHAPTER 2—ASSISTANCE TO FIRMS

SEC. 311. CERTIFICATION OF ADJUSTMENT PROPOSALS.

(a) A firm certified under section 302 as eligible to apply for adjustment assistance may, at any time within 2 years after the date of such certification, file an application with the Secretary of Commerce for adjustment assistance under this chapter. Within a reasonable time after filing its application, the firm shall present a proposal for its economic adjustment.

(b) Adjustment assistance under this chapter consists of technical assistance, financial assistance, and tax assistance, which may be furnished singly or in combination. Except as provided in subsection (c), no adjustment assistance shall be provided to a firm under this chapter until its adjustment proposal shall have been certified by the Secretary of Commerce—

(1) to be reasonably calculated materially to contribute to the economic adjustment of the firm,

(2) to give adequate consideration to the interests of the workers of such firm adversely affected by actions taken in carrying out trade agreements, and

(3) to demonstrate that the firm will make all reasonable efforts to use its own resources for economic development.

(c) In order to assist a firm which has applied for adjustment assistance under this chapter in preparing a sound adjustment proposal, the Secretary of Commerce may furnish technical assistance to such firm prior to certification of its adjustment proposal.

(d) Any certification made pursuant to this section shall remain in force only for such period as the Secretary of Commerce may prescribe.

SEC. 312. USE OF EXISTING AGENCIES.

(a) The Secretary of Commerce shall refer each certified adjustment proposal to such agency or agencies as he determines to be appropriate to furnish the technical and financial assistance necessary to carry out such proposal.

(b) Upon receipt of a certified adjustment proposal, each agency concerned shall promptly—

(1) examine the aspects of the proposal relevant to its functions, and

(2) notify the Secretary of Commerce of its determination as to the technical and financial assistance it is prepared to furnish to carry out the proposal.

(c) Whenever and to the extent that any agency to which an adjustment proposal has been referred notifies the Secretary of Commerce of its determination not to furnish technical or financial assistance, and if the Secretary of Commerce determines that such assistance is necessary to carry out the adjustment proposal, he may furnish adjustment assistance under sections 313 and 314 to the firm concerned.

(d) There are hereby authorized to be appropriated to the Secretary of Commerce such sums as may be necessary from time to time to carry out his functions under this chapter in connection with furnishing adjustment assistance to firms, which sums are authorized to be appropriated to remain available until expended.

SEC. 313. TECHNICAL ASSISTANCE.

(a) Upon compliance with section 312(c), the Secretary of Commerce may provide to a firm, on such terms and conditions as he determines to be appropriate, such technical assistance as in his judgment will materially contribute to the economic adjustment of the firm.

(b) To the maximum extent practicable, the Secretary of Commerce shall furnish technical assistance under this section and section 311(c) through existing agencies, and otherwise through private individuals, firms, or institutions.

(c) The Secretary of Commerce shall require a firm receiving technical assistance under this section or section 311(c) to share the cost thereof to the extent he determines to be appropriate.

SEC. 314. FINANCIAL ASSISTANCE.

(a) Upon compliance with section 312(c), the Secretary of Commerce may provide to a firm, on such terms and conditions as he determines to be appropriate, such financial assistance in the form of guarantees of loans, agreements for deferred participations in loans, or loans, as in his judgment will materially contribute to the economic adjustment of the firm. The assumption of an outstanding indebtedness of the firm, with or without recourse, shall be considered to be the making of a loan for purposes of this section.

(b) Guarantees, agreements for deferred participations, or loans shall be made under this section only for the purpose of making funds available to the firm—

(1) for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery, or

(2) in cases determined by the Secretary of Commerce to be exceptional, to supply working capital.

(c) To the maximum extent practicable, the Secretary of Commerce shall furnish financial assistance under this section through agencies furnishing financial assistance under other law.

SEC. 315. CONDITIONS FOR FINANCIAL ASSISTANCE.

(a) No loan shall be guaranteed and no agreement for deferred participation in a loan shall be made by the Secretary of Commerce in an amount which exceeds 90 percent of that portion of the loan made for purposes specified in section 314(b).

(b)(1) Any loan made or deferred participation taken up by the Secretary of Commerce shall bear interest at a rate not less than the greater of—

(A) 4 percent per annum, or

(B) a rate determined by the Secretary of the Treasury for the year in which the loan is made or the agreement for such deferred participation is entered into.

(2) The Secretary of the Treasury shall determine annually the rate referred to in paragraph (1)(B), taking into consideration the current average market yields on outstanding interest-bearing marketable public debt obligations of the United States of maturities comparable to those of the loans outstanding under section 314.

(c) Guarantees or agreements for deferred participation shall be made by the Secretary of Commerce only with respect to loans bearing interest at a rate which he determines to be reasonable. In no event

shall the guaranteed portion of any loan, or the portion covered by an agreement for deferred participation, bear interest at a rate more than 1 percent per annum above the rate prescribed by subsection (b) (determined when the guarantee is made or the agreement is entered into), unless the Secretary of Commerce shall determine that special circumstances justify a higher rate, in which case such portion of the loan shall bear interest at a rate not more than 2 percent per annum above such prescribed rate.

(d) The Secretary of Commerce shall make no loan or guarantee having a maturity in excess of 25 years, including renewals and extensions, and shall make no agreement for deferred participation in a loan which has a maturity in excess of 25 years, including renewals and extensions. Such limitation on maturities shall not, however, apply to—

(1) securities or obligations received by the Secretary of Commerce as claimant in bankruptcy or equitable reorganization, or as creditor in other proceedings attendant upon insolvency of the obligor, or

(2) an extension or renewal for an additional period not exceeding 10 years, if the Secretary of Commerce determines that such extension or renewal is reasonably necessary for the orderly liquidation of the loan.

(e) No financial assistance shall be provided under section 314 unless the Secretary of Commerce determines that such assistance is not otherwise available to the firm, from sources other than the United States, on reasonable terms, and that there is reasonable assurance of repayment by the borrower.

(f) The Secretary of Commerce shall maintain operating reserves with respect to anticipated claims under guarantees and under agreements for deferred participation made under section 314. Such reserves shall be considered to constitute obligations for purposes of section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C., sec. 200).

SEC. 316. ADMINISTRATION OF FINANCIAL ASSISTANCE.

(a) In making and administering guarantees, agreements for deferred participation, and loans under section 314, the Secretary of Commerce may—

(1) require security for any such guarantee, agreement, or loan, and enforce, waive, or subordinate such security;

(2) assign or sell at public or private sale, or otherwise dispose of, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with such guarantees, agreements, or loans, and collect, compromise, and obtain deficiency judgments with respect to all obligations assigned to or held by him in connection with such guarantees, agreements, or loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) renovate, improve, modernize, complete, insure, rent, sell, or otherwise deal with, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with such guarantees, agreements, or loans;

(4) acquire, hold, transfer, release, or convey any real or personal property or any interest therein whenever deemed necessary or appropriate, and execute all legal documents for such purposes; and

(5) exercise all such other powers and take all such other acts as may be necessary or incidental to the carrying out of functions pursuant to section 314.

(b) Any mortgage acquired as security under subsection (a) shall be recorded under applicable State law.

SEC. 317. TAX ASSISTANCE.

(a) If—

(1) to carry out an adjustment proposal of a firm certified pursuant to section 311, such firm applies for tax assistance under this section within 24 months after the close of a taxable year and alleges in such application that it has sustained a net operating loss for such taxable year,

(2) the Secretary of Commerce determines that any such alleged loss for such taxable year arose predominantly out of the carrying on of a trade or business which was seriously injured, during such year, by the increased imports which the Tariff Commission has determined to result from concessions granted under trade agreements, and

(3) the Secretary of Commerce determines that tax assistance under this section will materially contribute to the economic adjustment of the firm,

then the Secretary of Commerce shall certify such determinations with respect to such firm for such taxable year. No determination or certification under this subsection shall constitute a determination of the existence or amount of any net operating loss for purposes of section 172 of the Internal Revenue Code of 1954.

(b) Effective with respect to net operating losses for taxable years ending after December 31, 1955, subsection (b) of section 172 of the Internal Revenue Code of 1954 (relating to net operating loss carrybacks and carryover) is amended to read as follows:

“(b) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

“(1) YEARS TO WHICH LOSS MAY BE CARRIED.—

“(A) (i) Except as provided in clause (ii), a net operating loss for any taxable year ending after December 31, 1957, shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss.

“(ii) In the case of a taxpayer with respect to a taxable year ending on or after December 31, 1962, for which a certification has been issued under section 317 of the Trade Expansion Act of 1962, a net operating loss for such taxable year shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.

“(B) Except as provided in subparagraph (C), a net operating loss for any taxable year ending after December 31, 1955, shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

“(C) In the case of a taxpayer which is a regulated transportation corporation (as defined in subsection (j)(1)), a net operating loss for any taxable year ending after December 31,

1955, shall (except as provided in subsection (j)) be a net operating loss carryover to each of the 7 taxable years following the taxable year of such loss.

“(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—Except as provided in subsections (i) and (j), the entire amount of the net operating loss for any taxable year (hereinafter in this section referred to as the ‘loss year’) shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed—

“(A) with the modifications specified in subsection (d) other than paragraphs (1), (4), and (6) thereof; and

“(B) by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter, and the taxable income so computed shall not be considered to be less than zero.

“(3) SPECIAL RULES.—

“(A) Paragraph (1)(A)(ii) shall apply only if—

“(i) there has been filed, at such time and in such manner as may be prescribed by the Secretary or his delegate, a notice of filing of the application under section 317 of the Trade Expansion Act of 1962 for tax assistance, and, after its issuance, a copy of the certification under such section, and

“(ii) the taxpayer consents in writing to the assessment within such period as may be agreed upon with the Secretary or his delegate, of any deficiency for any year to the extent attributable to the disallowance of a deduction previously allowed with respect to such net operating loss, even though at the time of filing such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

“(B) In the case of—

“(i) a partnership and its partners, or

“(ii) an electing small business corporation under subchapter S and its shareholders, paragraph (1)(A)(ii) shall apply as determined under regulations prescribed by the Secretary or his delegate. Such paragraph shall apply to a net operating loss of a partner or such a shareholder only if it arose predominantly from losses in respect of which certifications under section 317 of the Trade Expansion Act of 1962 were filed under this section.”

(c) Subsection (h) of section 6501 of the Internal Revenue Code of 1954 (relating to limitations on assessment and collection in the case of net operating loss carrybacks) is amended by inserting before the period: “, or within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, whichever is later”.

(d) Section 6511(d)(2)(A) of the Internal Revenue Code of 1954 (relating to special period of limitation on credit on refund with respect to net operating loss carrybacks) is amended to read as follows:

“(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later; except that—

“(i) with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

“(ii) with respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before September 1, 1959, or the expiration of the twelfth month following the month in which the agreement or order for the elimination of such excessive profits becomes final, whichever is the later.

In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.”

SEC. 318. PROTECTIVE PROVISIONS.

(a) Each recipient of adjustment assistance under section 313, 314, or 317 shall keep records which fully disclose the amount and disposition by such recipient of the proceeds, if any, of such adjustment assistance, and which will facilitate an effective audit. The recipient shall also keep such other records as the Secretary of Commerce may prescribe.

(b) The Secretary of Commerce and the Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient pertaining to adjustment assistance under sections 313, 314, and 317.

(c) No adjustment assistance shall be extended under section 313, 314, or 317 to any firm unless the owners, partners, or officers certify to the Secretary of Commerce—

(1) the names of any attorneys, agents, and other persons engaged by or on behalf of the firm for the purpose of expediting applications for such adjustment assistance, and

(2) the fees paid or to be paid to any such person.

(d) No financial assistance shall be provided to any firm under section 314 unless the owners, partners, or officers shall execute an

agreement binding them and the firm for a period of 2 years after such financial assistance is provided, to refrain from employing, tendering any office or employment to, or retaining for professional services any person who, on the date such assistance or any part thereof was provided, or within one year prior thereto, shall have served as an officer, attorney, agent, or employee occupying a position or engaging in activities which the Secretary of Commerce shall have determined involve discretion with respect to the provision of such financial assistance.

SEC. 319. PENALTIES.

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Secretary of Commerce under this chapter, or for the purpose of obtaining money, property, or anything of value under this chapter, shall be fined not more than \$5,000 or imprisoned for not more than two years, or both.

SEC. 320. SUITS.

In providing technical and financial assistance under sections 313 and 314, the Secretary of Commerce may sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against him or his property. Nothing in this section shall be construed to except the activities pursuant to sections 313 and 314 from the application of sections 507(b) and 2679 of title 28 of the United States Code, and of section 367 of the Revised Statutes (5 U.S.C., sec. 316).

CHAPTER 3—ASSISTANCE TO WORKERS

SEC. 321. AUTHORITY.

The Secretary of Labor shall determine whether applicants are entitled to receive assistance under this chapter and shall pay or provide such assistance to applicants who are so entitled.

Subchapter A—Trade Readjustment Allowances

SEC. 322. QUALIFYING REQUIREMENTS.

(a) Payment of a trade readjustment allowance shall be made to an adversely affected worker who applies for such allowance for any week of unemployment which begins after the 30th day after the date of the enactment of this Act and after the date determined under section 302(d), subject to the requirements of subsections (b) and (c).

(b) Total or partial separation shall have occurred—

(1) after the date of the enactment of this Act, and after the date determined under section 302(d), and

(2) before the expiration of the 2-year period beginning on the day on which the most recent determination under section 302(d) was made, and before the termination date (if any) specified under section 302(e).

(c) Such worker shall have had—

(1) in the 156 weeks immediately preceding such total or partial separation, at least 78 weeks of employment at wages of \$15 or more a week, and

(2) in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of \$15 or more a week in a firm or firms with respect to which a determination of unemployment or underemployment under section 302 has been made, or

if data with respect to weeks of employment are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary of Labor.

SEC. 323. WEEKLY AMOUNTS.

(a) Subject to the other provisions of this section, the trade readjustment allowance payable to an adversely affected worker for a week of unemployment shall be an amount equal to 65 percent of his average weekly wage or to 65 percent of the average weekly manufacturing wage, whichever is less, reduced by 50 percent of the amount of his remuneration for services performed during such week.

(b) Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary of Labor, including on-the-job training, shall receive for each week in which he is undergoing any such training, a trade readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

(c) The amount of trade readjustment allowance payable to an adversely affected worker under subsection (a) or (b) for any week shall be reduced by any amount of unemployment insurance which he has received or is seeking with respect to such week; but, if the appropriate State or Federal agency finally determines that the worker was not entitled to unemployment insurance with respect to such week, the reduction shall not apply with respect to such week.

(d) If unemployment insurance, or a training allowance under the Manpower Development and Training Act of 1962 or the Area Redevelopment Act, is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to subsection (c) or (e) or to any disqualification under section 327) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section 324(a) when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If the unemployment insurance or the training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

(e) Whenever, with respect to any week of unemployment, the total amount payable to an adversely affected worker as remuneration for services performed during such week, as unemployment insurance, as a training allowance referred to in subsection (d), and as a trade readjustment allowance would exceed 75 percent of his average weekly wage, his trade readjustment allowance for such week shall be reduced by the amount of such excess.

(f) 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.

(g)(1) If unemployment insurance is paid under a State law to an adversely affected worker for a week for which—

(A) he receives a trade readjustment allowance, or

(B) he makes application for a trade readjustment allowance and would be entitled (determined without regard to subsection

(c) or (e)) to receive such allowance,

the State agency making such payment shall, unless it has been reimbursed for such payments under other Federal law, be reimbursed from funds appropriated pursuant to section 337, to the extent such payment does not exceed the amount of the trade readjustment allowance which such worker would have received, or would have been entitled to receive, as the case may be, if he had not received the State payment. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the State agency.

(2) In any case in which a State agency is reimbursed under paragraph (1) for payments of unemployment insurance made to an adversely affected worker, such payments, and the period of unemployment of such worker for which such payments were made, may be disregarded under the State law (and for purposes of applying section 3303 of the Internal Revenue Code of 1954) in determining whether or not an employer is entitled to a reduced rate of contributions permitted by the State law.

SEC. 324. TIME LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) Payments of trade readjustment allowances shall not be made to an adversely affected worker for more than 52 weeks, except that, in accordance with regulations prescribed by the Secretary of Labor

(1) such payments may be made for not more than 26 additional weeks to an adversely affected worker to assist him to complete training approved by the Secretary of Labor, or

(2) such payments shall be made for not more than 13 additional weeks to an adversely affected worker who had reached his 60th birthday on or before the date of total or partial separation.

(b) Except for a payment made for an additional week specified in subsection (a), a trade readjustment allowance shall not be paid for a week of unemployment beginning more than 2 years after the beginning of the appropriate week. A trade readjustment allowance shall not be paid for any additional week specified in subsection (a) if such week begins more than 3 years after the beginning of the appropriate week. The appropriate week for a totally separated worker is the week of his most recent total separation. The appropriate week for a partially separated worker is the week in respect of which he first

receives a trade readjustment allowance following his most recent partial separation.

SEC. 325. APPLICATION OF STATE LAWS.

Except where inconsistent with the provisions of this chapter and subject to such regulations as the Secretary of Labor may prescribe, the availability and disqualification provisions of the State law—

(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance), or

(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated, shall apply to any such worker who files a claim for trade readjustment allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

Subchapter B—Training

SEC. 326. IN GENERAL.

(a) To assure that the readjustment of adversely affected workers shall occur as quickly and effectively as possible, with minimum reliance upon trade readjustment allowances under this chapter, every effort shall be made to prepare each such worker for full employment in accordance with his capabilities and prospective employment opportunities. To this end, and subject to this chapter, adversely affected workers shall be afforded, where appropriate, the testing, counseling, training, and placement services provided for under any Federal law. Such workers may also be afforded supplemental assistance necessary to defray transportation and subsistence expenses for separate maintenance when such training is provided in facilities which are not within commuting distance of their regular place of residence. The Secretary of Labor in defraying such subsistence expenses shall not afford any individual an allowance exceeding \$5 a day; nor shall the Secretary authorize any transportation expense exceeding the rate of 10 cents per mile.

(b) To the extent practicable, before adversely affected workers are referred to training, the Secretary of Labor shall consult with such workers' firm and their certified or recognized union or other duly authorized representative and develop a worker retraining plan which provides for training such workers to meet the manpower needs of such firm, in order to preserve or restore the employment relationship between the workers and the firm.

SEC. 327. DISQUALIFICATION FOR REFUSAL OF TRAINING, ETC.

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 of Labor shall not thereafter be entitled to trade readjustment allowances until he enters or resumes training to which he has been so referred.

Subchapter C—Relocation Allowances

SEC. 328. RELOCATION ALLOWANCES AFFORDED.

Any adversely affected worker who is the head of a family as defined in regulations prescribed by the Secretary of Labor and who has been totally separated may file an application for a relocation allowance, subject to the terms and conditions of this subchapter.

SEC. 329. QUALIFYING REQUIREMENTS.

(a) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary of Labor 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.

(b) 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 (determined without regard to section 323 (c) and (e)) to a trade readjustment allowance or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that he has obtained the employment referred to in subsection (a)(1), and

(2) such relocation occurs within a reasonable period after the filing of such application or (in the case of a worker who has been referred to training by the Secretary of Labor) within a reasonable period after the conclusion of such training.

SEC. 330. RELOCATION ALLOWANCE DEFINED.

For purposes of this subchapter, the term "relocation allowance" means—

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

(2) a lump sum equivalent to two and one-half times the average weekly manufacturing wage.

Subchapter D—General Provisions

SEC. 331. AGREEMENTS WITH STATES.

(a) The Secretary of Labor is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency. Under such an agreement, the State agency (1) as agent of the United States, will receive applications for, and will provide, assistance on the basis provided in this chapter, (2) where appropriate, will afford adversely affected workers who apply for assistance under this chapter testing, counseling, referral to training, and placement services, and (3) will otherwise cooperate with the Secretary of Labor and with other State and Federal agencies in providing assistance 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 the unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to allowances under this chapter.

SEC. 332. PAYMENTS TO STATES.

(a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has entered into an agreement under section 331(1) the sums necessary to enable such State as agent of the United States to make payments of allowances provided for by this chapter, and (2) the sums reimbursable to a State pursuant to section 323(g). 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. Sums reimbursable to a State pursuant to section 323(g) shall be credited to the account of such State in the Unemployment Trust Fund and shall be used only for the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(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 of Labor 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. 333. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.

(a) No person designated by the Secretary of Labor, 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 the payment of any allowance 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. 334. RECOVERY OF OVERPAYMENTS.

(a) If a State agency or the Secretary of Labor, 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 of allowances 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 of Labor, as the case may be, or either may recover such amount by deductions from any allowance payable to such person

under this chapter. Any such finding by a State agency or the Secretary of Labor 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 of Labor 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. 335. 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 or assistance authorized to be furnished under this chapter or pursuant to an agreement under section 331 shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

SEC. 336. REVIEW.

Except as may be provided in regulations prescribed by the Secretary of Labor to carry out his functions under this chapter, determinations under this chapter as to the entitlement of individuals for adjustment assistance shall be final and conclusive for all purposes and not subject to review by any court or any other officer. To the maximum extent practicable and consistent with the purposes of this chapter, such regulations shall provide that such determinations by a State agency will be subject to review in the same manner and to the same extent as determinations under the State law.

SEC. 337. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 338. DEFINITIONS.

For the 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 adjustment assistance 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 manufacturing wage" means the national gross average weekly earnings of production workers in manufacturing industries for the latest calendar year (as officially published annually by the Bureau of Labor Statistics of the Department of Labor) most recently published before the period for which the assistance under this chapter is furnished.

(4) The term "average weekly wage" means one-13th 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 4 of the last 5 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 of Labor.

(5) 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 (4).

(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 "remuneration" means wages and net earnings derived from services performed as a self-employed individual.

(8) 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.

(9) The term "State agency" means the agency of the State which administers the State law.

(10) The term "State law" means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(11) 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.

(12) The term "unemployment insurance" means the unemployment insurance payable to an individual under any State law or Federal unemployment insurance law, including title XV of the Social Security Act, the Railroad Unemployment Insurance Act, and the Temporary Extended Unemployment Compensation Act of 1961.

(13) The term "week" means a week as defined in the applicable State law.

(14) The term "week of unemployment" means with respect to an individual any week for which his remuneration for services performed during such week is less than 75 percent of his average weekly wage and in which, because of lack of work—

(A) if he has been totally separated, he worked less than the full-time week (excluding overtime) in his current occupation, or

(B) if he has been partially separated, he worked 80 percent or less of his average weekly hours.

CHAPTER 4—TARIFF ADJUSTMENT

SEC. 351. AUTHORITY.

(a)(1) After receiving an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, the President may proclaim such increase in, or imposition of, any duty or other import restriction on the article causing or threatening to cause serious injury to such industry as he determines to be necessary to prevent or remedy serious injury to such industry.

(2) If the President does not, within 60 days after the date on which he receives such affirmative finding, proclaim the increase in, or imposition of, any duty or other import restriction on such article found and reported by the Tariff Commission pursuant to section 301(e)—

(A) he shall immediately submit a report to the House of Representatives and to the Senate stating why he has not proclaimed such increase or imposition, and

(B) such increase or imposition shall take effect (as provided in paragraph (3)) upon the adoption by both Houses of the Congress (within the 60-day period following the date on which the report referred to in subparagraph (A) is submitted to the House of Representatives and the Senate), by the yeas and nays by the affirmative vote of a majority of the authorized membership of each House, of a concurrent resolution stating in effect that the Senate and House of Representatives approve the increase in, or imposition of, any duty or other import restriction on the article found and reported by the Tariff Commission.

For purposes of subparagraph (B), in the computation of the 60-day period there shall be excluded in the days on which either House is not in session because of adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die. The report referred to in subparagraph (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.

(3) In any case in which the contingency set forth in paragraph (2)(B) occurs, the President shall (within 15 days after the adoption of such resolution) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was found and reported by the Tariff Commission pursuant to section 301(e).

(4) The President may, within 60 days after the date on which he receives an affirmative finding of the Tariff Commission under section 301(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 120 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 paragraph (2), 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 with respect to such industry.

(b) No proclamation pursuant to subsection (a) shall be made—

(1) increasing any rate of duty to a rate more than 50 percent above the rate existing on July 1, 1934, or, if the article is dutiable but no rate existed on July 1, 1934, the rate existing at the time of the proclamation,

(2) in the case of an article not subject to duty, imposing a duty in excess of 50 percent ad valorem.

For purposes of paragraph (1), the term "existing on July 1, 1934" has the meaning assigned to such term by paragraph (5) of section 256.

(c)(1) Any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951—

(A) may be reduced or terminated by the President when he determines, after taking into account the advice received from the Tariff Commission under subsection (d)(2) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest, and

(B) unless extended under paragraph (2), shall terminate not later than the close of the date which is 4 years (or, in the case of any such increase or imposition proclaimed pursuant to such section 7, 5 years) after the effective date of the initial proclamation or the date of the enactment of this Act, whichever date is the later.

(2) Any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 may be extended in whole or in part by the President for such periods (not in excess of 4 years at any one time) as he may designate if he determines, after taking into account the advice received from the Tariff Commission under subsection (d)(3) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such extension is in the national interest.

(d)(1) So long as any increase in, or imposition of, any duty or other import restriction pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned, and shall make annual reports to the President concerning such developments.

(2) Upon request of the President or upon its own motion, the Tariff Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of the reduction or termination of the increase in, or imposition of, any duty or other import restriction pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951.

(3) Upon petition on behalf of the industry concerned, filed with the Tariff Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any increase or imposition referred to in paragraph (1) or (2) of subsection (c) is to terminate by reason of the expiration of the applicable period prescribed in paragraph (1) or an extension thereof under paragraph (2), the Tariff Commission shall advise the President of its judgment as to the probable economic effect on such industry of such termination.

(4) In advising the President under this subsection as to the probable economic effect on the industry concerned, the Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

(5) Advice by the Tariff Commission under this subsection 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.

(e) The President, as soon as practicable, shall take such action as he determines to be necessary to bring trade agreements entered into under section 350 of the Tariff Act of 1930 into conformity with the provisions of this section. No trade agreement shall be entered into under section 201(a) unless such agreement permits action in conformity with the provisions of this section.

SEC. 352. ORDERLY MARKETING AGREEMENTS.

(a) After receiving an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, the President may, in lieu of exercising the authority contained in section 351(a)(1) but subject to the provisions of sections 351(a)(2), (3), and (4), negotiate international agreements with foreign countries limiting the export from such countries and the import into the United States of the article causing or threatening to cause serious injury to such industry, whenever he determines that such action would be more appropriate to prevent or remedy serious injury to such industry than action under section 351(a)(1).

(b) In order to carry out an agreement concluded under subsection (a), the President is authorized to issue regulations governing the entry or withdrawal from warehouse of the article covered by such agreement. In addition, in order to carry out a multilateral agreement concluded under subsection (a) among countries accounting for a significant part of world trade in the article covered by such agreement, the President is also authorized to issue regulations governing the entry or withdrawal from warehouse of the like article which is the product of countries not parties to such agreement.

CHAPTER 5—ADVISORY BOARD

SEC. 361. ADJUSTMENT ASSISTANCE ADVISORY BOARD.

(a) There is hereby created the Adjustment Assistance Advisory Board, which shall consist of the Secretary of Commerce, as Chairman, and the Secretaries of the Treasury, Agriculture, Labor, Interior, and Health, Education, and Welfare, the Administrator of the Small Business Administration, and such other officers as the President deems appropriate. Each member of the Board may designate an officer of his agency to act for him as a member of the Board. The Chairman may from time to time invite the participation of officers of other agencies of the executive branch.

(b) At the request of the President, the Board shall advise him and the agencies furnishing adjustment assistance pursuant to chapters 2 and 3 on the development of coordinated programs for such assistance, giving full consideration to ways of preserving and restor-

ing the employment relationship of firms and workers where possible, consistent with sound economic adjustment.

(c) The Chairman may appoint for any industry an industry committee composed of members representing employers, workers, and the public, for the purpose of advising the Board. Members of any such committee shall, while attending meetings, be entitled to receive compensation and reimbursement as provided in section 401(3). The provisions of section 1003 of the National Defense Education Act of 1958 (20 U.S.C. 583) shall apply to members of such committee.

TITLE IV—GENERAL PROVISIONS

SEC. 401. AUTHORITIES.

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). Any individual so employed may be compensated at a rate not in excess of \$75 per diem, and, while such individual is away from his home or regular place of business, he may be allowed transportation and not to exceed \$16 per diem in lieu of subsistence and other expenses.

SEC. 402. REPORTS.

(a) The President shall submit to the Congress an annual report on the trade agreements program and on tariff adjustment and other adjustment assistance under this Act. Such report shall include information regarding new negotiations, changes made in duties and other import restrictions of the United States, reciprocal concessions obtained, changes in trade agreements in order to effectuate more fully the purposes of the trade agreements program (including the incorporation therein of escape clauses), the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports, remaining restrictions, and the measures available to seek their removal in accordance with the purposes of this Act, and other information relating to the trade agreements program and to the agreements entered into thereunder.

(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. 403. 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. 404. 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. 405. DEFINITIONS.

For purposes of this Act—

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

(2) The term "duty or other import restriction" includes (A) the rate and form of an import duty, and (B) a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of imports.

(3) 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. A firm, together with any predecessor, successor, or affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm where necessary to prevent unjustifiable benefits.

(4) 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.

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

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